



# Digital Economy Act 2017

## 2017 CHAPTER 30

### PART 6

#### MISCELLANEOUS

##### *Direct marketing code*

#### 96 Direct marketing code

- (1) The Data Protection Act 1998 is amended as follows.
- (2) After section 52A insert—

##### **“52AA Direct marketing code**

- (1) The Commissioner must prepare a code of practice which contains—
  - (a) practical guidance in relation to the carrying out of direct marketing in accordance with the requirements of this Act and the Privacy and Electronic Communications (EC Directive) Regulations 2003 ([S.I. 2003/2426](#)), and
  - (b) such other guidance as the Commissioner considers appropriate to promote good practice in direct marketing.
- (2) For this purpose “good practice” means such practice in direct marketing as appears to the Commissioner to be desirable having regard to the interests of data subjects and others, and includes (but is not limited to) compliance with the requirements mentioned in subsection (1)(a).
- (3) Before a code is prepared under this section, the Commissioner must consult such of the following as the Commissioner considers appropriate—
  - (a) trade associations (within the meaning of section 51);
  - (b) data subjects;
  - (c) persons who appear to the Commissioner to represent the interests of data subjects.

- (4) In this section “direct marketing” has the meaning given by section 11(3).”
- (3) In section 51(5A) (general duties of Commissioner) at the end insert “or section [52AA](#) (direct marketing code)”.
- (4) In the title of each of sections 52B to 52E for “data-sharing code” substitute “data-sharing and direct marketing codes”.
- (5) In section 52B (procedure for making code)—
- (a) in subsection (1) after “52A” insert “or [52AA](#)”;
  - (b) in subsection (6) omit “under section 52A”.
- (6) In section 52C (alteration or replacement of code)—
- (a) in subsection (1)(a) after “data-sharing code” insert “and the direct marketing code”;
  - (b) in subsection (1)(b) for “may prepare an alteration to that code” substitute “in either case, may prepare an alteration to the code”;
  - (c) in subsection (4) after “52A” insert “or [52AA](#)”;
  - (d) in subsection (5) for “means the code” substitute “and “the direct marketing code” mean the codes respectively prepared under sections 52A and [52AA](#) and”.
- (7) In section 52D (publication of code) in subsection (1) for “the code” substitute “any code”.
- (8) In section 52E (effect of code)—
- (a) in subsection (1) after “data-sharing code” insert “or the direct marketing code”;
  - (b) in subsection (2) for “The data-sharing code is” substitute “Those codes are”;
  - (c) in subsection (3) for “the data-sharing code” substitute “those codes”;
  - (d) in subsection (3)(a) after “Act” insert “or the Privacy and Electronic Communications (EC Directive) Regulations 2003 ([S.I. 2003/2426](#))”;
  - (e) in subsection (3)(c) after “Act” insert “or those Regulations”;
  - (f) in subsection (4) for “means the code” substitute “and “the direct marketing code” mean the codes respectively prepared under sections 52A and [52AA](#) and”.