
STATUTORY INSTRUMENTS

1998 No. 3170

The Telecommunications (Data Protection and Privacy) (Direct Marketing) Regulations 1998

PART II

**USE OF TELECOMMUNICATIONS SERVICES
FOR DIRECT MARKETING PURPOSES**

Use of fax for direct marketing purposes—unsolicited communications on lines of individual or corporate subscribers

7.—(1) This regulation applies in relation to the use of publicly available telecommunications services for the unsolicited communication of material, for direct marketing purposes, by means of facsimile transmission, whether the called line is that of a subscriber who is an individual or that of a corporate subscriber.

(2) A person shall not use, or instigate the use of, publicly available telecommunications services, and a subscriber to such services shall not permit his line to be used, as mentioned in paragraph (1) where—

- (a) the called line is that of a subscriber who has previously notified the caller (notwithstanding, in the case of a subscriber who is an individual, that he enjoys the benefit of regulation 8) that such unsolicited communications as are there mentioned should not be sent on that line, or
- (b) the number allocated to a subscriber in respect of the called line is one listed in the record kept under paragraph (4).

(3) For the purposes of paragraphs (1) and (2), the communication of material as mentioned in paragraph (1) shall not be treated as unsolicited where the called line is that of a subscriber who has notified the caller that he does not object to receiving on that line such communications as are so mentioned from the caller in question.

(4) For the purposes of this regulation—

- (a) the Director shall maintain and keep up-to-date, in printed form or in electronic form, a record of the numbers allocated to subscribers, in respect of particular lines, who have notified him (notwithstanding, in the case of individuals, that they enjoy the benefit of regulation 8) that they do not for the time being wish to receive such communications as are mentioned in paragraph (1) on the lines in question, and he shall remove a number from the record where he has reason to believe that it has ceased to be allocated to the subscriber by whom he was so notified, and
- (b) on the request of—
 - (i) a person wishing to send, or instigate the sending of, such communications, or
 - (ii) a subscriber wishing to permit the use of his line for the sending of such communications,

for information derived from that record, the Director shall, unless it is not reasonably practicable so to do, on the payment to him of such fee as is applicable and is, subject to paragraph (5), required by him, make the information requested available to that person or that subscriber.

- (5) For the purposes of paragraph (4)(b) the Director may require different fees—
- (a) for making available information derived from the record in different forms or manners, or
 - (b) for making available information derived from the whole or from different parts of the record,

but the fees required by him shall be ones in relation to which the Secretary of State has notified the Director that he is satisfied that they are designed to secure, as nearly as may be and taking one year with another, that the aggregate fees received, or reasonably expected to be received, equal the costs incurred, or reasonably expected to be incurred, by the Director, in discharging his duties under paragraph (4).

(6) The functions of the Director under paragraph (4), other than the function of determining the fees to be required for the purposes of sub-paragraph (b) thereof, may be discharged on his behalf by some other person in pursuance of arrangements in that behalf made by the Director with that other person.