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STATUTORY INSTRUMENTS

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**2001 No. 2778**

**UNSOLICITED GOODS AND SERVICES**

**The Unsolicited Goods and Services Act 1971  
(Electronic Communications) Order 2001**

<i>Made</i>	- - - -	<i>30th July 2001</i>
<i>Laid before Parliament</i>		<i>1st August 2001</i>
<i>Coming into force</i>	- -	<i>31st August 2001</i>

Whereas the Secretary of State considers that the authorisation of the use of electronic communications by this Order for any purpose is such that the extent (if any) to which records of things done for that purpose will be available will be no less satisfactory in cases where use is made of electronic communications than in other cases;

Now, therefore, the Secretary of State, in exercise of the powers conferred upon her by sections 8 and 9 of the Electronic Communications Act 2000<sup>(1)</sup> hereby makes the following Order:

1. This Order may be cited as the Unsolicited Goods and Services Act 1971 (Electronic Communications) Order 2001 and shall come into force on 31st August 2001.

2. Section 3 of the Unsolicited Goods and Services Act 1971<sup>(2)</sup> is amended as follows:

3. For subsection (1) there shall be substituted—

“(1) A person (“the purchaser”) shall not be liable to make any payment, and shall be entitled to recover any payment made by him, by way of charge for including or arranging for the inclusion in a directory of an entry relating to that person or his trade or business, unless—

- (a) there has been signed by the purchaser or on his behalf an order complying with this section,
- (b) there has been signed by the purchaser or on his behalf a note complying with this section of his agreement to the charge and before the note was signed, a copy of it was supplied, for retention by him, to him or a person acting on his behalf, or
- (c) there has been transmitted by the purchaser or a person acting on his behalf an electronic communication which includes a statement that the purchaser

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<sup>(1)</sup> 2000 c. 7.

<sup>(2)</sup> 1971 c. 30; section 3(2) was amended by the Unsolicited Goods and Services (Amendment) Act 1975 (c. 13), section 3. Section 3(3) of the 1971 Act was amended by section 2 of the 1975 Act, as from a day to be appointed.

agrees to the charge and the relevant condition is satisfied in relation to that communication.”.

4. In subsection (2)—

- (a) after “complying with this section” there shall be inserted “and in the absence of an electronic communication in relation to which the relevant condition is satisfied”; and
- (b) for the words from “that” to the end there shall be substituted

“that—

- (a) the entry to which the charge relates was ordered in accordance with this section,
- (b) a proper note of the agreement has been duly signed, or
- (c) the requirements set out in subsection (1)(c) above have been met.”.

5. In subsection (3), for the words from “person to whom” to “that person;” there shall be substituted “purchaser and bearing, in print, his name and address (or one or more of his addresses);”.

6. After subsection (3) there shall be inserted—

“(3A) In relation to an electronic communication which includes a statement that the purchaser agrees to a charge for including or arranging the inclusion in a directory of any entry, the relevant condition is that—

- (a) before the electronic communication was transmitted the information referred to in subsection (3B) below was communicated to the purchaser, and
- (b) the electronic communication can readily be produced and retained in a visible and legible form.

(3B) that information is—

- (a) the following particulars—
  - (i) the amount of the charge;
  - (ii) the name of the directory or proposed directory;
  - (iii) the name of the person producing the directory;
  - (iv) the geographic address at which that person is established;
  - (v) if the directory is or is to be available in printed form, the proposed date of publication of the directory or of the issue in which the entry is to be included;
  - (vi) if the directory or the issue in which the entry is to be included is to be put on sale, the price at which it is to be offered for sale and the minimum number of copies which are to be available for sale;
  - (vii) if the directory or the issue in which the entry is to be included is to be distributed free of charge (whether or not it is also to be put on sale), the minimum number of copies which are to be so distributed;
  - (viii) if the directory is or is to be available in a form other than in printed form, adequate details of how it may be accessed; and
- (b) reasonable particulars of the entry in respect of which the charge would be payable.

(3C) In this section “electronic communication” has the same meaning as in the Electronic Communications Act 2000.”.

30th July 2001

*Patricia Hewitt,*  
Secretary of State,  
Department of Trade and Industry

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is made under section 8 of the Electronic Communications Act 2000 and amends the Unsolicited Goods and Services Act 1971 (the 1971 Act) so as to make provision for orders to be placed electronically for directory entries.

Section 3 of the 1971 Act provides that a directory publisher may not lawfully demand payment in respect of a directory entry without first having obtained from the prospective purchaser one of two alternative forms of agreement, in written paper form, to the charge to be made for the entry. If a publisher demands payment or asserts a present or prospective right to payment without knowing or having reasonable cause to believe that the directory entry was ordered in accordance with the provisions of section 3, then he commits an offence.

This Order provides that the publisher will comply with section 3 of the 1971 Act if he receives an electronic communication in the prescribed form from the person seeking to place an entry, on the condition that, before the electronic communication is transmitted by that person, the publisher has communicated specified information to that person.

A Regulatory Impact Assessment has been drawn up by the Department of Trade and Industry and is available from the Consumer Affairs Directorate of the Department of Trade and Industry, Room 420, 1 Victoria Street, London SW1H 0ET, telephone 020 7215 5014. Copies have been placed in the libraries of both Houses of Parliament.