

2004 No. 1039

ELECTRONIC COMMUNICATIONS

**The Privacy and Electronic Communications (EC Directive)
(Amendment) Regulations 2004**

<i>Made</i> - - - -	<i>31st March 2004</i>
<i>Laid before Parliament</i>	<i>2nd April 2004</i>
<i>Coming into force</i> - -	<i>25th June 2004</i>

The Secretary of State, being a Minister designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in respect of matters relating to electronic communications, in exercise of the powers conferred upon her by that section, hereby makes the following Regulations:

1. These Regulations may be cited as the Privacy and Electronic Communications (EC Directive) (Amendment) Regulations 2004 and shall come into force on 25th June 2004.

2.—(1) Regulation 26 of the Privacy and Electronic Communications (EC Directive) Regulations 2003^(c) shall be amended as follows.

(2) In paragraph (1), the word “individual” shall be omitted.

(3) After paragraph (1), there shall be inserted the following provision—

“(1A) Notifications to OFCOM made for the purposes of paragraph (1) by corporate subscribers shall be in writing.”

(4) After paragraph (2), there shall be inserted the following provision—

“(2A) Where a number allocated to a corporate subscriber is listed in the register maintained under paragraph (1), OFCOM shall, within the period of 28 days following each anniversary of the date of that number being first listed in the register, send to the subscriber a written reminder that the number is listed in the register.”

(5) In paragraph (5), after (2) there shall be inserted “, (2A)”.

31st March 2004

Stephen Timms,
Minister of State for Energy, E-Commerce and Postal Services,
Department of Trade and Industry

^(a) S.I. 2001/3495.
^(b) 1972 c. 68.
^(c) S.I. 2003/2426.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Privacy and Electronic Communications (EC Directive) Regulations 2003 (“the Principal Regulations”).

Regulation 2 amends regulation 26 of the Principal Regulations, to enable corporate subscribers to register their telephone numbers on the register kept for the purposes of regulation 21 of the Principal Regulations. Regulation 21 of the Principal Regulations provides that persons may not make unsolicited calls for direct marketing purposes to numbers listed in the register kept for the purposes of that regulation. Prior to the commencement of these Regulations, only individual subscribers could ask for their numbers to be listed in this register.

The terms “corporate subscriber” and “individual” are defined in regulation 2 of the Principal Regulations.

OFCOM must remind corporate subscribers annually that their numbers are listed in the register. OFCOM may contract this function out, as they may some of their other functions relating to the register.

The Principal Regulations, together with these Regulations, implement Articles 2, 4, 5(3), 6 to 13, 15 and 16 of Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (“the Directive”). A transposition note setting out how the main elements of the Directive are transposed into law and a regulatory impact assessment have been placed in the libraries of both Houses of Parliament. Copies are also available from the Department of Trade and Industry, Bay 202, 151 Buckingham Palace Road, London SW1W 9SS and can also be found on www.dti.gov.uk.

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