



# Privacy & Data Protection

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- Budget promises, p.16
- EU airline passenger records to be made available to US government, p.16

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## New Data Protection Laws for Email Marketing

New legislation, introduced by the UK last month, is set to dramatically change the law on email marketing.

The draft laws, which must be in force by 31st October 2003, require anyone sending marketing emails to have first obtained “opt-in” consent from all intended recipients of the emails.

The huge change to existing practices, forced on all businesses in Europe, by the 2002 European Directive on the Processing of Personal Data in the

Electronic Communications Sector, is set to create upheaval in the marketing industry

The new Directive, passed after an intensive two-year debate between the European Parliament and the European Council, not only changes the law on electronic marketing from an “opt-out” to an “opt-in” regime, but also restricts the use of cookies on commercial websites.

The practical effect of the new law is that, beginning on 31st October, electronic marketing will

be unlawful without the prior “opt-in” permission of all targeted persons. Exceptions to the marketing ban are available for emails sent to existing customers of businesses in certain circumstances—but any new customers obtained by a business after the deadline must have given “opt-in” consent.

This shift in the law follows a pattern of ever more restrictive data protection laws in Europe. Under the Data Protection Act 1998 most marketing emails could  
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## Zeta-Jones wins action against Hello! — but it’s not about privacy

On 11th April, in the High Court, Catherine Zeta-Jones and Michael Douglas heard that they had won, in part, their legal battle against *Hello!* Magazine.

Although the Douglasses won their case in the legal action of ‘breach of confidence,’ they failed to persuade the judge to make a finding that their personal privacy had been unlawfully invaded.

The action by the Holly-

wood couple against the celebrity magazine was commenced after *Hello!* published unofficial photographs of the couple taken at their wedding reception at the Plaza Hotel in New York—the official contract had been sold to rival *OK!* for a price of £1million

Justice Lindsay said that the Douglasses had a valuable trade asset, “a commodity the value of which depended, in part

at least, upon its content at first being kept secret and then of its being made public in ways controlled by Miss Zeta-Jones and Mr Douglas for the benefit of them and of [the publishers of *OK!*].

“So far as concerns *OK!*, the right to exclusivity of photographic coverage of the wedding was, in contrast with nature of the confidence as to [the Douglasses], even more plainly a right in the  
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