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- Data protection prosecution in Nottingham, p.14
- ASA rules marketing email breached Code, p.15

Inside this issue:

New email marketing laws add to confusion

The publication of the Privacy and Electronic Communications (EC Directive) Regulations 2003 has thrown businesses into a panic over how they can use emails for marketing.

The new measures, discussed in recent editions of *Privacy & Data Protection*, update existing legislation to cope with an era of new and rapidly changing technology.

In particular, the Regulations:

- ban unsolicited commercial emails and text messages (SMS) to individual subscribers without their prior agreement—such communications may only be sent if the recipient has given prior opt-in consent (there is an exception to this rule in the context of an existing customer relationship).
- require firms using cookies and similar Internet tracking devices to provide information and an opportunity for the user to refuse them.
- allow the use of traffic and location data for subscription and advertising services provided that the consent of the relevant subscriber has been obtained.

Communications Minister Stephen Timms, announcing publication of the new Regulations in mid-September, said, "Electronic communications are transforming the way we do business and the way we communicate with each other. It's crucial that people feel safe and have confidence in utilising electronic communication technologies. These regulations will help combat the global nuisance of unsolicited emails and texts by enshrining in law rights that give con-

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Blunkett publishes new snoopers code

The long awaited code on the interception of communications has finally been published, making the UK potentially the most snooped on society on Earth.

The code effectively forces Internet Service Providers and telephone companies to keep a record of all text messages, emails and telephone calls for a 12 month period for ready access by the authorities.

The old code was scrapped after it enraged citizens and civil liberties groups. The new code gives unfettered access to communications data to six law enforcement bodies:

- UK Atomic Energy Constabulary;
- Scottish Drug Enforcement Agency;
- Maritime and Coastguard Agency;
- Financial Services Authority;
- Office for the Police Ombudsman in Northern Ireland; and
- Radio Communications Agency.

The ambulance and fire services will be given unrestricted access for the purpose of investigating hoax calls.

The code is ostensibly voluntary. But communications companies say that they have no choice but to comply—the government has indicated that if voluntary regulation does not work, it will pass laws to force companies to keep the records.

In addition to the above agencies, the 486 UK local authorities will be given access to a more limited form of information—subscriber data—and only with the approval of the Interception of Communications Commissioner, Sir Swinton Thomas.

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