



ICLG

The International Comparative Legal Guide to:

Telecoms, Media and Internet Laws and Regulations 2013

6th Edition

A practical cross-border insight into telecoms, media and internet laws and regulations

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Cyprus

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1 Overview

- 1.1 Please describe the: (a) telecoms; (b) audio-visual media distribution; and (c) internet infrastructure sectors in Cyprus, in particular by reference to each sector's: (i) importance (e.g. measured by annual revenue); (ii) 3-5 most important companies; (iii) whether they have been liberalised and are open to competition; and (iv) whether they are open to foreign investment.**

Since almost a decade ago and after various public consultations, Cyprus carried out all of the necessary changes in order to bring the national laws of Cyprus and policies into line with the European laws, directives and regulations. A main aspect of the new framework was the establishment of the Office of the Commissioner of Telecommunications and Postal Regulation (the 'OCTPR') in 2002 under Act 19(I)/2002. Parallel to this, legislation was enacted in order to ensure full compliance and harmonisation with the applicable EU framework regarding telecommunications. The main legislative avenue is the Act on the Regulation of Electronic Communications and Postal Services Act 112(I)/2004 ('Act'), after which, the Act 19(I)/2002 was abolished and the OCTPR was renamed as the Office of the Commissioner of Electronic Communications and Postal Regulation (the 'OCECPR').

The regulation of telecommunications and information technology in Cyprus is kept separate from regulation of media and broadcasting regulations. In regard to media and broadcasting, the relevant authority is the Cyprus Radio/Television Authority (the 'CRTA'), which was established and operates as an independent regulatory body. The independence of the Authority was affirmed by the jurisprudence of the Supreme Court (see *Dias Publishing Co v. Cyprus Radiotelevision Authority, Rev. Appeal Ap. 54/2006* and *Sigma Radio TV Ltd v. Cyprus Radiotelevision Authority, Case No. 1158/2002*). The relevant national laws in relation to radio and television are the Radio and Television Stations Law 1998 and the Radio and Televisions Stations Regulations of 2000.

With the exception of the incumbent state owned operator, the Cyprus Telecommunications Authority (the 'CYTA'), all other available operators in Cyprus are privately owned. Within the past decade, television and radio broadcasting experienced a substantial development and the services that can now be provided to customers have been modernised. Viewers and listeners today are more likely to face difficulty in making a selection from the vast number of channels and options that are now available to them.

- 1.2 List the most important legislation which applies to the: (a) telecoms; (b) audio-visual media distribution; and (c) internet, sectors in Cyprus.**

In regard to telecoms, the Act constitutes the framework for the regulation of electronic communications networks and services that are provided by persons within the territory of Cyprus. Any restrictions on the provision of electronic communications networks and services may only be imposed on the grounds of safeguarding of public order, public security and public health.

Regarding the audio-visual media distribution, the Radio and Television Stations Act of 1998 (Act 7(I)/1998) regulates the relevant issues and establishes the CRTA. Under article 51 of the Act 7(I)/1998, the CRTA may issue regulations in order to regulate matters relating to Radio and Television Stations. For example, the Radio-Television Authority Regulations of 2000 provide for the conditions of the establishment and the operation of a station. The internet is regulated firstly by the Act on Regulation of the Electronic Communications and Postal Services and secondly, by the Act on Certain Legal Aspects of Information Society Services, in Particular Electronic Commerce and Associated Matters of 2004 (Act 156(I)/2004). The Act has been enacted on 30 April 2004 for the purpose of implementing Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce in the Internal Market.

- 1.3 List the government ministries, regulators, other agencies and major industry self-regulatory bodies which have a role in the regulation of the: (a) telecoms; (b) audio-visual media distribution; and (c) internet, sectors in Cyprus.**

The Ministry of Communications and Works has a significant role in the regulation of the telecoms. The OCECPR is the national regulatory authority, entrusted by the law to apply the provisions of the Act. The Commissioner is appointed by the Council of Ministers for a period not exceeding six years and s/he heads the Office. A Deputy Commissioner and an Advisory Committee are also appointed to assist and advise the Commissioner in the exercise of his/her duties and deal with matters referred to them for this purpose. The competences and powers of the Commissioner are set out in article 20 of the Act.

As regards the audio-visual distribution, the responsible Ministry is the Ministry of Interior. The CRTA has a considerable role in the regulation of broadcasting issues. The principal aspects falling under the supervision of the CRTA are highlighted in article 3 of the Act on Radio and Television Stations, Act 7(I)/1998.

1.4 Are there any restrictions on foreign ownership or investment in the: (a) telecoms; (b) audio-visual media distribution; and (c) internet, sectors in Cyprus?

The services provided do not restrict ownership on to Cyprus nationals, which means that foreign ownership is permitted. So long as the required aspects in the law are upheld, and so long as general authorisation is granted, foreign ownership is welcome. In the case of electronic communication networks and services, the services provided are not exclusively granted to any one operator. Exclusive rights are granted only for the use of radio spectrum and numbers, if necessary.

Any person who intends to provide an electronic communications network or an electronic communications service shall notify the commissioner of their intention. This notification must be given in advance of the proceeding to provide such services. The provision of these services is not restricted to nationals of Cyprus and therefore does not exclude foreign ownership, as long as the provisions in the relevant laws are fulfilled and are adhered to in the provision of and maintenance of such services. As long as a general authorisation has been granted, any undertaking may provide electronic communications networks or services in Cyprus.

A licence for the establishment, installation and operation of a broadcasting station is only provided to a company or partnership or public body established under the laws of Cyprus or any other Member State of the European Union. A natural person can only apply for a licence provided that this does not involve television broadcasting and only contemplates the operation of a local station with small coverage. The ownership of a broadcasting entity is also subject to considerable restrictions. Primarily, a natural person may not control, either alone or through members of his or her immediate family, more than 25 per cent of the share capital of the broadcasting company. Also, non-EU natural persons may only be granted a special leave to own a percentage in a broadcasting entity, provided that this shall not exceed 5 per cent and provided that the total percentage of the share capital owned by non-EU persons may not exceed 25 per cent. Additional impediments are provided for persons with criminal convictions, press owners, etc. Relaxations are provided with regard to the operation of local radio stations with small coverage.

2 Telecoms

General

2.1 Is Cyprus a member of the World Trade Organisation? Has Cyprus made commitments under the GATS/GATT regarding telecommunications and has Cyprus adopted and implemented the telecoms reference paper?

Cyprus has been a member of the World Trade Organisation since the 30 of July 1995. In addition, Cyprus committed to the WTO Basic Telecommunications Agreement upon its accession to the European Union.

2.2 How is the provision of telecoms (or electronic communications) networks or services regulated?

In regard to telecoms, the Act constitutes the framework for the regulation of electronic communications networks and services that are provided by persons within the territory of Cyprus.

2.3 Who are the regulatory and competition law authorities in Cyprus? How are their roles differentiated? Are they independent from the government?

The Commissioner of Electronic Communications and Postal Regulation has the duty, under article 18(1) of the Act 112(I)/2004 to promote effective competition as regards the provision of electronic communications and postal services. The Commission for the Protection of Competition is an independent authority of the Republic of Cyprus, responsible for the harmonious operation of the market within the rules of fair competition. On the 18 of April 2008, the new legislation on the Protection of Competition (Law no. 13(I)/2008), came into force.

2.4 Are decisions of the national regulatory authority able to be appealed? If so, to which court or body, and on what basis?

Decisions issued by the Commissioner of electronic communications and postal regulation or the Cyprus Radio-Television Authority, are subject to review by the Supreme Court of Cyprus. A recourse has to be filed within 75 days from the date when the decision is notified to the aggrieved party. A recourse to the Supreme Court is in the form of an administrative recourse, which essentially denotes that the Supreme Court will decide whether the decision was duly reasoned, resolved further to a due investigation of all material facts and, eventually, whether it was reasonably open to be adopted as a matter of law. Procedural defects or irregularities may also lead to invalidation of an administrative decision, for example, as a result of erroneous composition of the authority.

Licences and Authorisations

2.5 What types of general and individual authorisations are used in Cyprus?

Any undertaking may provide electronic communications networks and/or services in Cyprus subject to a general authorisation or, in exceptional circumstances, to an individual right of use relating to the use of radio frequencies or numbers, irrespective of whether they are of a commercial or non-commercial nature and irrespective of whether or not they are provided for profit. The Commissioner is responsible for the provision of any general authorisation, other than any general authorisation relating to the use of radio frequencies, and the granting of any individual right of use relating to the use of numbers.

2.6 Please summarise the main requirements of Cyprus's general authorisation.

Other than those situations requiring an individual right of use or general authorisation relating to the use of radiofrequencies, no administrative act is required on the part of the Commissioner as a precondition for the provision of electronic communications networks and services in Cyprus. Any person who intends to provide an electronic communications network or an electronic communications service shall notify the Commissioner of their intention to provide same in advance of doing so. A notification shall be in such form as prescribed by the order and shall contain basic information. The notification shall be registered in a special Register of bodies providing Electronic Communications Networks and Services maintained for this purpose by the Commissioner.

2.7 In relation to individual authorisations, please identify their subject matter, duration and ability to be transferred or traded.

Where it is deemed by the Commissioner to be necessary to grant individual rights to use numbers from the Numbering Plan of the Republic of Cyprus, these rights are provided by Decision of the Commissioner following a written request by the interested party providing or using electronic communications networks or services, which claims that it requires the numbers in question for the provision of such networks or services. The Commissioner will issue rights of use for numbers and/or a series of numbers to providers of electronic communications networks and/or services for their own use and for further allocation to their subscribers. Where the provision of the service in question requires the grant of an individual right to use radiofrequencies, the written request for an individual right to use numbers shall occur after the Director of the Department of Electronic Communications of the Ministry of Communications and Works has granted such an individual right of use under the Radiocommunications Laws of 2002 to 2004. The Commissioner may impose one or more obligations on any undertaking operating under an individual right of use for numbers.

The Decisions of the Commissioner which concern the granting of rights to use numbers should be notified to the applicant, with the relevant information being made available to the Office and published on the website of the Office within three (3) weeks of the date of submission of the complete application in the case of numbers which have been allocated for specific purposes under the Cyprus Numbering Plan. In the case of numbers which have previously been characterised by a Decision of the Commissioner as numbers with exceptional commercial value, if the Office decides, following consultation with the interested parties, to grant rights to use these numbers with competitive or comparative selection procedures, the period of three weeks may be extended by another three weeks. The undertaking to which a series of numbers is assigned must not discriminate against other undertakings which provide electronic communications services regarding the sequence of numbers used for access to their services. Numbers which are not used within one year of the date provided for by the relevant right of use may be reassigned by the Commissioner. The Commissioner may extend the maximum period of six weeks as is necessary to ensure that such procedures are fair, reasonable, open and transparent to all interested parties, but by no longer than three months.

At reasonable intervals or at the reasonable request of affected undertakings, the Commissioner may review the limitation on the number of rights of use by withdrawing any limitation or increasing or decreasing the relevant number. If it is found that it is possible to expand the scope of the relevant rights of use to include additional numbers, the Commissioner shall amend his Decision and will determine the type of procedure to be followed for such amendment.

Public and Private Works

2.8 Are there specific legal or administrative provisions dealing with access and/or securing or enforcing rights to public and private land in order to install telecommunications infrastructure?

An undertaking operating pursuant to a general authorisation notified in accordance with the Act may apply for the necessary rights to be granted by the competent authorities, including the Commissioner to install facilities on, over or under public or private

property for the purposes of providing public communications networks or electronic communications networks other than those supplied to the public. The policy regulating access to public and private land for the purpose of installing telecommunications infrastructure has been codified since July 2006 and approved by the Council of Ministers in August 2006 (Decision No. 64.278).

The codified document regulating access to public and private land for the purpose of installing telecommunications infrastructure stipulates the procedures on submitting applications, collection and assessment of needs of electronic communication providers, the conduct of the required studies and the co-operation of public authorities. In addition, it regulates the time framework for the process.

Access and Interconnection

2.9 How is network-to-network interconnection and access mandated?

Where an authorised undertaking is providing an electronic communications service or network to the public, the general authorisation also gives them the right to negotiate interconnection with, and where applicable, to obtain access to, or interconnection from, another undertaking authorised in Cyprus or in another Member State to provide a publicly available electronic communication network or service. In addition, the Commissioner may confer rights and impose obligations on undertakings in relation to access to, and/or interconnection of, electronic communications networks and services and associated facilities, in order to achieve the interoperability of electronic communications services and produce sustainable competition on the merits between undertakings.

2.10 How are interconnection or access disputes resolved?

The Commissioner undertakes dispute resolution/case management either on his own initiative or following the submission of a complaint. Customarily, the Commissioner communicates a copy of the complaint to the provider concerned and such a complaint may constitute the object of an enquiry and/or investigation by the Commissioner if he is not satisfied with the response of the provider or if the complainant gives notice in writing that the complaint has not been dealt with satisfactorily. The Commissioner may issue a decision which is binding on the said provider.

2.11 Which operators are required to publish their standard interconnection contracts and/or prices?

According to s. 56(1), (2) of the Act, the Commissioner may impose on enterprises obligations of transparency regarding interconnection and/or access, which may require such enterprises to publish particular information, such as information of accounting nature, technical specifications, network characteristics, terms and conditions of provision of service or use, as well as pricing. The transparency obligations are met through the submission of a Model Interconnection Offer, which is forwarded to the Commissioner. The Commissioner reserves the right, *inter alia*, to impose amendments on such Model Interconnection Offer, in order to safeguard compliance with possible obligations imposed by the law. The Commissioner has exercised such right of imposing obligations of transparency and imposing amendments on the Model Interconnection Offer of the Cyprus Telecommunications Authority.

2.12 Looking at fixed, mobile and other services, are charges for interconnection (e.g. switched services) and/or network access (e.g. wholesale leased lines) subject to price or cost regulation and, if so, how?

The Commissioner has issued two orders, which stem from the implementation of Directive 2002/19/EK of the European Parliament and Council of 7 March 2002, regarding access to electronic communications networks and related facilities, as well as their interconnection. The Order on Calculation of Interconnection Charges of 2005 (KAN 16/2005) makes reference to the methodology of calculating Interconnection Charges, which must be cost-oriented and also entrenches accounting separation per sector of enterprise of the interested organisation. It also specifies the general principles of imposing the costs in interconnection services and the process of public deliberation which must be followed regarding separate accounts. The Order on the Process of Imposing Amendments on Model Interconnection Offers of 2007 (K.A.N.112/2007) aims at the analysis of the process of imposing amendments on Model Interconnection Offers, which must be published by the interested organisations following the issuance of a relevant order of the Commissioner.

Where an authorised undertaking is providing an electronic communications service or network to the public, the general authorisation also gives them the right to negotiate interconnection with, and where applicable, obtain access to, or interconnection from, another undertaking authorised in Cyprus or in another Member State to provide a publicly available electronic communication network or service.

2.13 Are any operators subject to: (a) accounting separation; (b) functional separation; and/or (c) legal separation?

This is not applicable to Cyprus.

2.14 Are owners of existing copper local loop access infrastructure required to unbundle their facilities and if so, on what terms and subject to what regulatory controls? Are cable TV operators also so required?

This is not applicable to Cyprus.

2.15 How are existing interconnection and access regulatory conditions to be applied to next generation (IP-based) networks? Are there any regulations or proposals for regulations relating to next-generation access (fibre to the home, or fibre to the cabinet)? Are any 'regulatory holidays' or other incentives to build fibre access networks proposed? Are there any requirements to share passive infrastructure such as ducts or poles?

This is not applicable to Cyprus.

Price and Consumer Regulation

2.16 Are retail price controls imposed on any operator in relation to fixed, mobile, or other services?

In order to promote and extend available options in the electronic communications services and enhance the consumer's interests, the Commissioner on the basis of the principles of transparency and provision of timely information regulates issues pertaining to consumer protection. The relevant legislative orders were issued in 2005.

2.17 Is the provision of electronic communications services to consumers subject to any special rules and if so, in what principal respects?

This is not applicable to Cyprus.

Numbering

2.18 How are telephone numbers and network identifying codes allocated and by whom?

Where it is deemed by the Commissioner to be necessary to grant individual rights to use numbers from the Numbering Plan of the Republic of Cyprus, these rights are provided by Decision of the Commissioner following a written request according to the procedures described in a relevant Order issued by the Commissioner. The Commissioner will issue rights of use for numbers and/or a series of numbers to providers of electronic communications networks and/or services for their own use and for further allocation to their subscribers. When adopting a Decision, the Commissioner shall take into consideration international Numbering Regulations and shall ensure adequate flexibility in the Numbering Plan of the Republic of Cyprus in order to establish a Numbering Plan that may facilitate the introduction of new electronic services, the permanency of numbering arrangements and the provision to rights use of numbers in a non-discriminatory and transparent manner. The Commissioner shall ensure the publication of open, transparent and non-discriminatory procedures for the provision of rights of use.

2.19 Are there any special rules which govern the use of telephone numbers?

Where it is deemed by the Commissioner to be necessary to grant individual rights to use numbers from the Numbering Plan of the Republic of Cyprus, these rights are provided by Decision of the Commissioner following a written request according to the procedures described in a relevant Order issued by the Commissioner. The Commissioner will issue the rights of use for numbers and/or a series of numbers to providers of electronic communications networks and/or services for their own use and for further allocation to their subscribers. When adopting a Decision, the Commissioner shall take into consideration international Numbering Regulations and shall also ensure adequate flexibility in the Numbering Plan of the Republic of Cyprus in order to establish a Numbering Plan that may facilitate the introduction of new electronic services, the permanency of numbering arrangements and the provision to rights of use of numbers in a non-discriminatory and transparent manner. The Commissioner shall ensure the publication of open, transparent and non-discriminatory procedures for the provision of rights of use.

2.20 What are the basic rules applicable to the 'porting' (i.e. transfer) of telephone numbers (fixed and mobile)?

Number Portability obligation as provided by the directive 2002/22/EC, as well as by the Law 112(1)/2004, article 75, was implemented in Cyprus on 12 July 2004 under the supervision of the OCECPR. Its operation is governed by the (Telecommunications) Number Portability Order of 2003 (P.I. 565/03) as it was amended by the Order no P.I. 216/2004, the (Electronic Communications) Number Portability Order of 2004 (P.I 850/04) and the decision of 2004 regarding the Introduction of

an Interim Solution for the Implementation of (Telecommunications) Number Portability of 2004 (P.I. 343/2004).

Number portability enables a subscriber who wishes to change service provider to retain his subscriber number. It also enables the subscribers of a specific provider to port their numbers within a specified geographical area. This applies to fixed telephony numbers within the same geographical area, non-geographical numbers and mobile numbers.

3 Radio Spectrum

3.1 Is the use of radio spectrum specifically regulated and if so, by which authority?

The use of radio frequency spectrum is separately regulated by the Radio communications Laws of 2002 to 2004. The competent authority is the Director of the Department of Electronic Communications of the Ministry of Communications and Works.

3.2 How is the use of radio spectrum authorised in Cyprus? What procedures are used to allocate spectrum between candidates - i.e. spectrum auctions, comparative 'beauty parades', etc.?

The use of radio frequencies in Cyprus is subject to the grant of an individual right of use or a general authorisation. The procedures available include spectrum auctions and comparative selection of candidates.

3.3 Are distinctions made between mobile, fixed and satellite usage in the grant of spectrum rights?

The basic distinctions in radio communications activities entrenched in the applicable legal framework concern private mobile radio (PMR) systems, public access mobile radio (PAMR) systems, public and private paging systems, satellite earth stations, amateur radio services, fixed radio services and other terrestrial, aeronautical or maritime stations.

3.4 How is the installation of satellite earth stations and their use for up-linking and down-linking regulated?

This is not applicable to Cyprus.

3.5 Can the use of spectrum be made licence-exempt? If so, under what conditions?

The broad categories of licence-exempt use include: radio and television stations which have been authorised in accordance with the Radio and Television Stations Laws, as well as use by public servants which are made for purposes related to national or public safety, defence or state activities.

3.6 If licence or other authorisation fees are payable for the use of radio frequency spectrum, how are these applied and calculated?

The calculation of fees related to authorisation and other related issues is governed by detailed provisions, which can be found within the Regulations on Radio Communications (Fees) of 2004 (K.A.N.464/2004).

3.7 Are spectrum licences able to be traded or sub-licensed and if so on what conditions?

Spectrum licences can be traded or sub-licensed. The relevant procedure and conditions are regulated by the Regulations on Radio Communications (Competition and Negotiation) of 2002 (K.A.N.382/2002), as amended.

4 Data Retention and Interception

4.1 Are operators obliged to retain any call data? If so who is obliged to retain what and for how long?

The matter is regulated by the recent Act on Preservation of Telecommunications Data for the Purpose of Investigating Serious Criminal Offences (Act 183(I)/2007). The relevant section came into effect on the 15 of March 2009 and imposes an obligation on service providers to maintain data in regard to fixed network telephony, mobile telephony, internet, web call and email services for a period of six months. This period has been criticised by the Police Authorities as too short and a suggestion has already been included in a Parliamentary forum for maintenance to extend it for a period of 12 months.

4.2 Are operators obliged to maintain call interception (wire-tap) capabilities?

This is not applicable to Cyprus.

5 Distribution of Audio-Visual Media

5.1 How is the distribution of audio-visual media regulated in Cyprus?

Regarding the audio-visual media distribution, the Radio and Television Stations Act of 1998 (Act 7(I)/1998), regulates the relevant issues and it establishes the Cyprus Radio-Television Authority. According to the article 51 of the Act 7(I)/1998, the Authority may issue regulations in order to regulate matters relating to Radio and Television Stations. For example, the Radio-Television Authority Regulations of 2000 provide for the licensing conditions for the establishment and the operation of a station. In addition, Cyprus Broadcasting Corporation Law Cap 300 A, provides the foundation and the establishment of the Cyprus Broadcasting Corporation.

5.2 Is there a distinction between the linear and non-linear content and/or content distributed over different platforms?

There are different regulations about linear and non-linear content. Moreover, the content is distributed over different platforms. The non-linear content is distributed over the platforms of Velister and PIK. On the other hand, the linear content is distributed over the platforms of Caplenet, Primetel and Cytavision.

5.3 Describe the different types of licences for the distribution of audio-visual media and their key obligations.

According to article 14 of the Act 7(I)/1998, there are seven types of licences for the distribution of audio-visual media:

- (a) Licence for a panyprian television station.

- (b) Licence for a local television station.
- (c) Licence for a thematic television station.
- (d) Licence for a television station with encoded television programmes which must be of general interest.
- (e) Licence for a television station which maintains installations for satellite uplinks in the Republic and whose programmes are not addressed exclusively to the public of the Republic, but they are accessible to the territory of the Republic and/or other Member States.
- (f) Licence for a provider of services about video on demand.
- (g) Licence for a radio station which may be a nationwide/local or a small local organisation.

6 Internet Infrastructure

6.1 Are conveyance services over the internet regulated in any different way to other electronic communications services? Which rules, if any, govern access to the internet at a wholesale (i.e. peering or transit) and/or retail (i.e. broadband access) level? Are internet service providers subject to telecommunications regulation?

Services over the internet are regulated similarly to other electronic communications services. The competent authority is the OCECPR, but other authorities may also be involved, such as the Office of the Commissioner for Personal Data Protection.

6.2 How have the courts interpreted and applied any defences (e.g. 'mere conduit' or 'common carrier') available to protect telecommunications operators and/or internet service providers from liability for content carried over their networks?

Cyprus Courts did not address this issue and there is no jurisprudence on this matter.

6.3 Are telecommunications operators and/or internet service providers under any obligations (i.e. provide information, inform customers, disconnect customers) to assist content owners whose rights may be infringed by means of file-sharing or other activities?

The Commissioner is under obligation to ensure transparent processes which regulate the ability of telecommunications operators and/or service providers can negate the possibility of undisclosed numbers, upon request of a subscriber that involves tracing of vexatious calls. Such information that discloses the caller's identity is stored and is available to such persons as may be nominated by the Commissioner. The same applies for calls related to emergency services, such as police, fire squads and first aid desks.

6.4 Are telecommunications operators and/or internet service providers able to differentially charge and/or block different types of traffic over their networks? Are there any 'net neutrality' requirements?

This is not applicable to Cyprus.

6.5 Are telecommunications operators and/or internet service providers under any obligations to block access to certain sites or content?

This is not applicable to Cyprus.

6.6 How are 'voice over IP' services regulated?

The use of automated calling systems without human intervention, (automatic calling machines), facsimile machines (fax), electronic mail, or SMS messages, for the purposes of direct marketing, may only be allowed in respect to subscribers who have given their prior consent. Unsolicited communications for the purposes of direct marketing are not allowed without the consent of the subscribers concerned. The Commissioner may, after consultation with the Personal Data Protection Commissioner, issue an order in order to safeguard that legitimate interests of legal persons, regarding unsolicited communications, are adequately protected. In cases where a natural or legal person obtains, from its customers, contact details for electronic mail, in the context of the sale of a product or a service, the same natural or legal person may use these electronic details for direct marketing of its own similar products or services, provided that customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use of their electronic contact details when they are collected and on the occasion of each message in case the customer has not initially refused such use. In any event, the practice of sending electronic mail for the purposes of direct marketing, disguising or concealing the identity of the sender, or the person on whose behalf the communication is made, or without a valid address to which the recipient may send a request that such communication cease, shall be prohibited.



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