
STATUTORY INSTRUMENTS

2002 No. 2013

The Electronic Commerce (EC Directive) Regulations 2002

Interpretation

2.—(1) In these Regulations and in the Schedule—

“commercial communication” means a communication, in any form, designed to promote, directly or indirectly, the goods, services or image of any person pursuing a commercial, industrial or craft activity or exercising a regulated profession, other than a communication—

- (a) consisting only of information allowing direct access to the activity of that person including a geographic address, a domain name or an electronic mail address; or
- (b) relating to the goods, services or image of that person provided that the communication has been prepared independently of the person making it (and for this purpose, a communication prepared without financial consideration is to be taken to have been prepared independently unless the contrary is shown);

“the Commission” means the Commission of the European Communities;

“consumer” means any natural person who is acting for purposes other than those of his trade, business or profession;

“coordinated field” means requirements applicable to information society service providers or information society services, regardless of whether they are of a general nature or specifically designed for them, and covers requirements with which the service provider has to comply in respect of—

- (a) the taking up of the activity of an information society service, such as requirements concerning qualifications, authorisation or notification, and
- (b) the pursuit of the activity of an information society service, such as requirements concerning the behaviour of the service provider, requirements regarding the quality or content of the service including those applicable to advertising and contracts, or requirements concerning the liability of the service provider,

but does not cover requirements such as those applicable to goods as such, to the delivery of goods or to services not provided by electronic means;

“the Directive” means 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 (Directive on electronic commerce)(**1**);

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2 May 1992 as adjusted by the Protocol signed at Brussels on 17 March 1993(**2**);

“enactment” includes an enactment comprised in Northern Ireland legislation and comprised in, or an instrument made under, an Act of the Scottish Parliament;

“enforcement action” means any form of enforcement action including, in particular—

(1) O.J. L178, 17.7.2000, p.1.

(2) O.J. L1, 3.1.94, p.3 and p.572.

- (a) in relation to any legal requirement imposed by or under any enactment, any action taken with a view to or in connection with imposing any sanction (whether criminal or otherwise) for failure to observe or comply with it; and
- (b) in relation to a permission or authorisation, anything done with a view to removing or restricting that permission or authorisation;

“enforcement authority” does not include courts but, subject to that, means any person who is authorised, whether by or under an enactment or otherwise, to take enforcement action;

“established service provider” means a service provider who is a national of a member State or a company or firm as mentioned in Article 48 of the Treaty and who effectively pursues an economic activity by virtue of which he is a service provider using a fixed establishment in a member State for an indefinite period, but the presence and use of the technical means and technologies required to provide the information society service do not, in themselves, constitute an establishment of the provider; in cases where it cannot be determined from which of a number of places of establishment a given service is provided, that service is to be regarded as provided from the place of establishment where the provider has the centre of his activities relating to that service; references to a service provider being established or to the establishment of a service provider shall be construed accordingly;

“information society services” (which is summarised in recital 17 of the Directive as covering “any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service”) has the meaning set out in Article 2(a) of the Directive, (which refers to Article 1(2) of Directive [98/34/EC](#) of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations⁽³⁾, as amended by Directive [98/48/EC](#) of 20 July 1998⁽⁴⁾);

“member State” includes a State which is a contracting party to the EEA Agreement;

“recipient of the service” means any person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible;

“regulated profession” means any profession within the meaning of either Article 1(d) of Council Directive [89/48/EEC](#) of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration⁽⁵⁾ or of Article 1(f) of Council Directive [92/51/EEC](#) of 18 June 1992 on a second general system for the recognition of professional education and training to supplement Directive [89/48/EEC](#)⁽⁶⁾;

“service provider” means any person providing an information society service;

“the Treaty” means the treaty establishing the European Community.

(2) In regulation 4 and 5, “requirement” means any legal requirement under the law of the United Kingdom, or any part of it, imposed by or under any enactment or otherwise.

(3) Terms used in the Directive other than those in paragraph (1) above shall have the same meaning as in the Directive.

(3) O.J. L204, 21.7.98, p.37.

(4) O.J. L217, 5.8.98, p.18.

(5) O.J. L19, 24.1.89, p.16. Directive as last amended by Directive [2001/19/EC](#); O.J. L206, 31.7.2001, p.1.

(6) O.J. L209, 24.7.92, p.25. Directive as last amended by Directive [2001/19/EC](#); O.J. L206, 31.7.2001, p.1.