

Commission proposal	Parliament text	Presidency text <i>(version from 5 December)</i>	FEDMA proposal
<i>DEFINITIONS AND SCOPE</i>			
<i>Article 4.3 (f)</i>	<i>Article 4.3 (f)</i>	<i>Article 4.3 (f)</i>	
'Direct marketing communications' means any form of advertising, whether written <b>or oral, sent</b> to one or more identified or identifiable end-users of electronic communications services, including the use of automated calling and communication systems with or without human interaction, electronic mail, SMS, etc.;	'Direct marketing communications' means any form of advertising, whether <b>in</b> written, <b>oral or video format, sent, served or presented</b> to one or more identified or identifiable end-users of electronic communications services, including the use of automated calling and communication systems with or without human interaction, electronic mail, SMS, <b>fax machines</b> etc.;	'direct marketing communications' means any form of advertising, whether written or oral, sent <b>or presented</b> to one or more identified or identifiable end-users of electronic communications services, including the use of automated calling and communication systems with or without human interaction, electronic <b>mail message</b> , SMS, etc.;	'direct marketing communications' means any form of advertising, whether written or oral, sent to one or more identified or identifiable end-users of electronic communications services, including the use of automated calling and communication systems with or without human interaction, electronic mail, SMS, etc.; <b>communication using an interpersonal communication service of any advertising or marketing material, which is carried out by the Direct Marketer itself or on its behalf and which is directed to particular individuals.</b>
<i>Article 4.3(g)</i>	<i>Article 4.3(g)</i>	<i>Article 4.3(g)</i>	<i>Article 4.3(g)</i>
(g) 'direct marketing voice-to-voice calls' means live calls, which do not entail the use of automated calling systems and communication systems;	(g) 'direct marketing voice-to-voice calls' means live calls, which do not entail the use of automated calling systems and communication systems, <b>including calls made using automated calling and communications systems which connect the called person to an individual;</b>	(g) 'direct marketing voice-to-voice calls' means live calls, which do not entail the use of automated calling systems and communication systems;	(g) 'direct marketing voice-to-voice calls' means live calls, which do not entail the use of automated calling systems and communication systems;
<i>Article 4.3(h)</i>	<i>Article 4.3(h)</i>	<i>Article 4.3(h)</i>	<i>Article 4.3(h)</i>
(h) 'automated calling and communication systems' means systems capable of automatically initiating calls to one or more recipients in accordance with instructions set	(h) 'automated calling and communications systems' means systems capable of automatically initiating calls to one or more	(h) 'automated calling and communication systems' means systems capable of automatically initiating calls to one or more recipients	(h) 'automated calling and communication systems' means systems capable of automatically initiating calls to

<p>for that system, and transmitting sounds which are not live speech, including calls made using automated calling and communication systems which connect the called person to an individual.</p>	<p>recipients in accordance with instructions set for that system, and transmitting sounds which are not live speech <del>including calls made using automated calling and communication systems which connect the called person to an individual.</del></p>	<p>in accordance with instructions set for that system, and transmitting sounds which are not live speech, including calls made using automated calling and communication systems which connect the called person to an individual.</p>	<p>one or more recipients in accordance with instructions set for that system, and transmitting sounds which are not live speech, <b>including calls made using automated calling and communication systems which connect the called person to an individual.</b></p>
<p>Article 9</p>	<p>Article 9</p>	<p>new article 4a</p>	
<p>1. The definition of and conditions for consent provided for <b>under Articles 4(11) and 7 of</b> Regulation (EU) 2016/679/EU shall apply.</p> <p>2. Without prejudice to paragraph 1, where technically possible and feasible, for the purposes of point (b) of Article 8(1), consent may be expressed by using <b>the appropriate technical settings of a software application enabling access to the internet.</b></p>	<p>1. The definition of and conditions for consent provided for <b>in</b> Regulation (EU) 2016/679/EU shall apply.</p> <p>2. Without prejudice to paragraph 1, where technically possible and feasible, for the purposes of point (b) of Article 8(1), consent may be expressed <b>or withdrawn</b> by using technical <b>specifications for electronic society services which allow for specific consent for specific purposes and with regard to specific service providers actively selected by the user in each case, pursuant to paragraph 1. When such technical specifications are used by the user's terminal equipment or the software running on it, they may signal the user's choice based on previous active selections by him or her. These signals shall be binding on, and enforceable against, any other party.</b></p>	<p>1. The <del>definition of and conditions</del> <b>provisions</b> for consent provided for <del>under Articles 4(11) and 7 of</del> Regulation (EU) 2016/679/EU shall apply <b>to natural persons and, mutatis mutandis, to legal persons.</b></p> <p><b>1a. Paragraph 1 is without prejudice to national legislation on determining the persons who are authorised to represent a legal person in any dealing with third parties or in legal proceedings.</b></p> <p>2. Without prejudice to paragraph 1, where technically possible and feasible, for the purposes of point (b) of Article 8(1), consent may be expressed by using the appropriate technical settings of a software application enabling access to the internet <b>placed on the market permitting electronic communications, including the retrieval and presentation of information on the internet.</b></p>	<p>1. The <del>definition of and conditions for consent provided for under Articles 4(11) and 7(1), 7(2) and 7(3) of</del> Regulation (EU) 2016/679/EU shall apply.</p> <p><b>1a. (new) Access to information society services may be made conditional on the well-informed consent of end-users.</b></p> <p>2. <del>Without prejudice to paragraph 1,</del> where technically possible and feasible, for the purposes of point (b) of Article 8(1), consent may be expressed by using the appropriate technical settings of a <b>browser as provided for in Article 10(1) software application enabling access to the internet.</b> This form of consent is without prejudice to information society service providers ability to ask for end-user consent.</p>

<p>3. <b>End-users</b> who have consented to the processing of electronic communications data as set out in point (c) of Article 6(2) and points (a) and (b) of Article 6(3) shall be given the possibility to withdraw their consent at any time as set forth under Article 7(3) of Regulation (EU) 2016/679 <b>and be reminded of this possibility at periodic intervals of 6 months</b>, as long as the processing continues.</p>	<p>3. <b>Users</b> who have consented to the processing of electronic communications data as set out in point (c) of Article 6(2) and points (a) and (b) of Article 6(3), <b>point (b) of Article 8(1) and point (aa) of Article 8(2)</b> shall be given the possibility to withdraw their consent at any time as set forth under Article 7(3) of Regulation (EU) 2016/679 as long as the processing continues.</p> <p><b>3 a. Any processing based on consent must not adversely affect the rights and freedoms of individuals whose personal data are related to or transmitted by the communication, in particular their rights to privacy and the protection of personal data.</b></p>	<p>3. End-users who have consented to the processing of electronic communications data as set out in point (c) of Article 6(2) and points (a) and (b) of Article 6(3) shall be given the possibility to withdraw their consent at any time as set forth under Article 7(3) of Regulation (EU) 2016/679 and be reminded of <del>this</del> <b>the possibility to withdraw their consent</b> at periodic intervals of <b>[no longer than 6-12 months]</b>, as long as the processing continues <b>unless the end-user requests not to receive such reminders.</b></p>	<p><del>3. End-users who have consented to the processing of electronic communications data as set out in point (c) of Article 6(2) and points (a) and (b) of Article 6(3) shall be given the possibility to withdraw their consent at any time as set forth under Article 7(3) of Regulation (EU) 2016/679 and be reminded of this possibility at periodic intervals of 6 months, as long as the processing continues.</del></p>
<p><i>Information stored in terminal equipment &amp; privacy settings</i></p>			
<p><i>Article 8</i></p>	<p><i>Article 8</i></p>	<p><i>Article 8</i></p>	<p><i>Article 8</i></p>
<p>1. <i>The use of processing and storage capabilities of terminal equipment and the collection of information from end-users' terminal equipment, including about its software and hardware, other than by the end-user concerned shall be prohibited, except on the following grounds:</i></p> <p><b>(a)</b> <i>it is necessary for the sole purpose of carrying out the transmission of an electronic communication over an electronic communications network; or</i></p>	<p>1. <i>The use of processing and storage capabilities of terminal equipment and the collection of information from <b>end-users'</b> terminal equipment, including about its software and hardware, other than by the <b>user</b> concerned shall be prohibited, except on the following grounds:</i></p> <p>(a) it is <b>strictly</b> necessary for the sole purpose of carrying out the transmission of an electronic communication over an electronic communications network; or</p>	<p>1. The use of processing and storage capabilities of terminal equipment and the collection of information from end-users' terminal equipment, including about its software and hardware, other than by the end-user concerned shall be prohibited, except on the following grounds:</p> <p>(a) it is necessary for the sole purpose of carrying out the transmission of an electronic communication over an electronic communications network; or</p>	<p>1. The use of processing and storage capabilities of terminal equipment and the collection of information from end-users' terminal equipment, including about its software and hardware, other than by the end-user concerned shall be prohibited, except on the following grounds:</p> <p><i>(a) it is necessary for the sole purpose of <b>establishing, carrying out or demonstrating</b> the transmission of an electronic communication over an electronic communications network; or</i></p>

<p>(b) the end-user has given his or her consent; or</p> <p>(c) it is necessary for providing an information society service requested by the end-user; or</p> <p>(d) if it is necessary for web audience measuring, provided that such measurement is carried out by the provider of the information society service requested by the end-user.</p>	<p>(b) the <b>user</b> has given his or her <b>specific</b> consent; or</p> <p>(c) it is <b>strictly technically</b> necessary for providing an information society service <b>specifically</b> requested by the <b>user</b>; or</p> <p>(d) if it is <b>technically</b> necessary for measuring <b>the reach of an information society service requested by the user</b>, provided that such measurement is carried out by the provider, <b>or on behalf of the provider, or by a web analytics agency acting in the public interest including for scientific purpose; that the data is aggregated and the user is given a possibility to object; and further provided that no personal data is made accessible to any third party and that such measurement does not adversely affect the fundamental rights of the user; Where audience measuring takes place on behalf of an information society service provider, the data collected shall be processed only for that provider and shall be kept separate from the data collected in the course of audience measuring on behalf of other providers; or</b></p> <p>(da) it is necessary to ensure security, confidentiality, integrity, availability and authenticity of the terminal equipment of the end-user, by means of updates, for the duration necessary for that purpose, provided that:</p> <p>(i) this does not in any way change the functionality of the hardware or software or the privacy settings chosen by the user;</p>	<p>(b) the end-user has given his or her specific consent; or</p> <p>(c) it is necessary for providing an information society service requested by the end-user; or</p> <p>(d) <del>if</del> it is necessary for <del>web</del> audience measuring, provided that such measurement is carried out by the provider of the information society service requested by the end-user <b>or by a third party on behalf of the provider of the information society service provided that conditions laid down in Article 28 of Regulation (EU) 2016/679 are met or;</b></p> <p>(e) it is necessary for a security update provided that:</p> <p>(i) <u>security updates are necessary and do not in any way change</u> the privacy settings chosen by the end-user are not changed <del>in any way</del></p> <p>(ii) the end-user is informed in advance <u>each time an update is being installed</u> and</p> <p>(iii) <u>the end-user</u> is given the possibility to postpone or turn off the automatic installation or these updates; <u>or</u></p> <p>(f) it is necessary to locate, at the time of the incident, a caller of an emergency call from the terminal by organisations dealing with emergency communications.</p>	<p>(b) the end-user has given his or her consent; or</p> <p>(c) it is necessary for providing an information society service requested by the end-user; or</p> <p>(d) if it is necessary for <del>web</del> <b>verifying, invoicing or valuing</b> audience <del>measuring; or,</del> provided that <del>such measurement is carried out is</del> <b>authorized by, or on behalf of</b> the provider of the information society service, <b>and the data processing is strictly limited to the primary purpose requested by the end-user.</b></p> <p>(d)a. (new) if it is necessary for pursuing a legitimate interest and the person responsible undertakes to comply with specific privacy safeguards such as pseudonymisation; or</p> <p>(d)b. (new) it is necessary to maintain or restore the security of information society services, or detect technical faults and/or errors in the functioning of information society services, for the duration necessary for that purpose.</p>
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	<p><i>(ii) the user is informed in advance each time an update is being installed; and</i></p> <p><i>(iii) the user has the possibility to postpone or turn off the automatic installation of these updates;</i></p> <p><i>(d b) in the context of employment relationships, it is strictly technically necessary for the execution of an employee's task, where:</i></p> <p><i>(i) the employer provides and/or is the user of the terminal equipment;</i></p> <p><i>(ii) the employee is the user of the terminal equipment; and</i></p> <p><i>(iii) it is not further used for monitoring the employee.</i></p> <p><i>1a. No user shall be denied access to any information society service or functionality, regardless of whether this service is remunerated or not, on grounds that he or she has not given his or her consent under Article 8(1)(b) to the processing of personal information and/or the use of processing or storage capabilities of his or her terminal equipment that is not necessary for the provision of that service or functionality.</i></p>		
<i>Article 10</i>	<i>Article 10</i>	<i>Article 10</i>	
1. Software placed on the market permitting electronic communications, including the retrieval and presentation of information on the internet, shall offer the option to prevent third parties from storing information on the	1. Software placed on the market permitting electronic communications, including the retrieval and presentation of information on the internet, shall:	1. Software placed on the market permitting electronic communications, including the retrieval and presentation of information on the internet, shall offer the option to prevent <del>third</del> <b>any other</b>	1. Software <del>placed on the market</del> permitting electronic communications, including the retrieval and presentation of information on the internet, shall

<p>terminal equipment of an end user or processing information already stored on that equipment.</p>	<p><b><i>(a) by default, have privacy protective settings activated to prevent other parties from transmitting to or storing information on the terminal equipment of a user and from processing information already stored on or collected from that equipment, except for the purposes laid down by Article 8(1), points (a) and (c);</i></b></p> <p><b><i>(b) upon installation, inform and offer the user the possibility to change or confirm the privacy settings options defined in point (a) by requiring the user's consent to a setting and offer the option to prevent other parties from processing information transmitted to, already stored on or collected from the terminal equipment for the purposes laid down by Article 8(1) points (a), (c), (d) and (da);</i></b></p> <p><b><i>(c) offer the user the possibility to express specific consent through the settings after the installation of the software.</i></b></p> <p><b><i>Before the first use of the software, the software shall inform the user about the privacy settings and the available granular setting options according to the information society service accessed. These settings shall be easily accessible during the use of the software and presented in a manner that gives the user the possibility for making an informed decision.</i></b></p> <p><b><i>1a. For the purpose of.:</i></b>  <b><i>(a) points (a) and (b) of paragraph 1,</i></b>  <b><i>(b) giving or withdrawing consent pursuant to Article 9(2) of this Regulation, and</i></b>  <b><i>(c) objecting to the processing of personal data pursuant to Article 21(5) of Regulation (EU) 2017/679,</i></b></p>	<p>parties <b>than the end-user</b> from storing information on the terminal equipment of an end-user or processing information already stored on that equipment.</p>	<p>offer the option-<b>to choose appropriate technical settings referred to in article 9(2) option to prevent third parties from storing information on the terminal equipment of an end-user or processing information already stored on that equipment.</b></p>
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<p>2. Upon installation, the software shall inform the end-user about the privacy settings options and, to continue with the installation, require the end-user to consent to a setting.</p>	<p><i>the settings shall lead to a signal based on technical specifications which is sent to the other parties to inform them about the user's intentions with regard to consent or objection. This signal shall be legally valid and be binding on, and enforceable against, any other party.</i></p> <p><i>1b. In accordance with Article 9 paragraph 2, such software shall ensure that a specific information society service may allow the user to express specific consent. A specific consent given by a user pursuant to point (b) of Article 8(1) shall prevail over the existing privacy settings for that particular information society service. Without prejudice to paragraph 1, where a specified technology has been authorised by the data protection board for the purposes of point (b) of Article 8(1), consent may be expressed or withdrawn at any time both from within the terminal equipment and by using procedures provided by the specific information society service.</i></p>	<p>2. Upon installation <b>or first usage</b>, the software <b>referred to in paragraph 1</b> shall inform the end-user about the privacy settings options and, to continue with the installation <b>or usage</b>, require the end-user to consent to a setting.</p> <p><b>2.(a)</b> The software referred to in paragraph 1 shall provide in a clear manner easy ways for end-users to change the privacy setting consented to under paragraph 2 at any time during the use.</p>	<p><del>2. Upon installation, t</del>The software shall inform the end-user <del>data subject</del> about the privacy settings options <del>and, to continue with the installation, require the end-user to consent to a setting.</del></p> <p><b>2a. (NEW)</b> The software shall provide easy ways for information society services to request consent from end-users in accordance with Article 9(1) and to change the technical settings referred to in Article 9(2). The software shall ensure that consent given by an end-user under</p>
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<p>3. In the case of software which has already been installed on 25 May 2018, the requirements under paragraphs 1 and 2 shall be complied with at the time of the first update of the software, but no later than 25 August 2018.</p>	<p>3. In the case of software which has already been installed on <del>[xx.xx.xxxx]</del>, the requirements under paragraphs 1, <b>1a and 1b</b> shall be complied with at the time of the first update of the software, but no later than <b>six months after [the date of entry into force of this Regulation]</b>.</p>	<p><b>3.</b> In the case of software which has already been installed on [25 May 2018], the requirements under paragraphs 1 and 2 shall be complied with at the time of the first update of the software, but no later than [25 August 2018].</p>	<p><b>Article 8(1) point (b) prevails over the privacy settings.</b></p> <p><del>3. In the case of software which has already been installed on 25 May 2018, the requirements under paragraphs 1 and 2 shall be complied with at the time of the first update of the software, but no later than 12 months after the application of this regulation.</del></p>
<i>Direct Marketing</i>			
<i>Article 16</i>	<i>Article 16</i>	<i>Article 16</i>	
<p>1. Natural or legal persons may use electronic communications services for the purposes of sending direct marketing communications to end-users who are natural persons that have given their consent.</p> <p>2. Where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own similar products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The right to object shall be given at the time of collection and</p>	<p><b>1. The use by n</b>Natural or legal persons of <b>electronic communications services, including automated calling, communications systems, semi-automated systems that connect the call person to an individual, faxes, e-mail or other use of <del>may use</del></b> electronic communications services for the purposes of <b>presenting or sending <del>unsolicited or</del></b> direct marketing communications to <b>end-users who are natural persons, shall be allowed only in respect of users who <del>that</del></b> have given their <b>prior</b> consent.</p> <p>2. Where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own <del>similar</del> products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The <b>customer shall be informed about the right to object and shall be given an easy way to exercise it</b> at the</p>	<p>1. Natural or legal persons may use electronic communications services for the purposes of [sending or <b>presenting</b>] direct marketing communications to end-users who are natural persons that have given their consent.</p> <p>2. Where a natural or legal person obtains <del>electronic</del> contact details for electronic <del>mail</del> <b>message</b> from <del>its customer</del> <b>end-users who are natural persons</b>, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own similar products or services only if <del>customer</del> <b>such end-users</b> are clearly and distinctly given the opportunity to object, free of charge</p>	<p>1. communications services for the purposes of sending direct marketing communications, <b>Using interpersonal communication service</b> to end-users who are natural persons that have given their consent.</p> <p>2. Where a natural or legal person obtains electronic contact details for electronic mail <b>or phone number</b> from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own similar products or services <b>only if Provided that</b></p>



<p>each time a message is sent.</p> <p>3. Without prejudice to paragraphs 1 and 2, natural or legal persons using electronic communications services for the purposes of placing direct marketing calls shall:</p> <p>(a) present the identity of a line on which they can be contacted; or</p> <p>(b) present a specific code/or prefix identifying the fact that the call is a marketing call.</p> <p>4. Notwithstanding paragraph 1, Member States may provide by law that the placing of direct marketing voice-to-voice calls to end-</p>	<p>time of collection and each time a message is sent.</p> <p>3. Without prejudice to paragraphs 1 and 2, natural or legal persons using electronic communications services for the purposes of placing direct marketing calls shall:</p> <p>(a) present the identity of a line on which they can be contacted; or</p> <p>(b) present a specific code/or prefix identifying the fact that the call is a marketing call.</p> <p><b>3a. The masking of the identity and the use of false identities, false return addresses or numbers while sending unsolicited communications for direct marketing purposes is prohibited.</b></p> <p>4. Notwithstanding paragraph 1, <del>Member States may provide by law that</del> the placing of direct marketing voice-to-voice</p>	<p>and in an easy manner, to such use. The right to object shall be given at the time of collection and each time <del>a message</del> <b>such direct marketing communication</b> is [sent or presented].</p> <p>3. Without prejudice to paragraphs 1 and 2, natural or legal persons using electronic communications services for the purposes of placing direct marketing calls shall:</p> <p><del>(a) present the identity of a line on which they can be contacted; or,</del></p> <p><del>(b)</del><b>3a. Member States may require natural or legal person using electronic communications services for the purposes of placing direct marketing calls to present a specific code/or prefix identifying the fact that the call is a direct marketing call in addition to the obligation set out in paragraph 3. Member State requiring the use of such a specific code or prefix shall make it available for the natural or legal persons who use electronic communications services for the purposes of direct marketing calls.</b></p> <p>4. Notwithstanding paragraph 1, Member States may provide by law that the placing of direct marketing voice-to-</p>	<p>customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use <b>of electronic contact details</b>. The right to object shall be given at the time of collection and <del>each time a message is sent on the occasion of each direct marketing communication in case the customer has not initially refused such use.</del></p> <p>3. Without prejudice to paragraphs 1 and 2, natural or legal persons using electronic communications services for the purposes of placing direct marketing calls shall:</p> <p><del>(a) present the identity of a line on which they can be contacted; or</del></p> <p><del>(b) present a specific code/or prefix identifying the fact that the call is a marketing call.</del></p> <p>4. Notwithstanding paragraph 1, Member States may provide by law that the placing of direct</p>
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<p>users who are natural persons shall only be allowed in respect of end-users who are natural persons who have not expressed their objection to receiving those communications.</p> <p>5. Member States shall ensure, in the framework of Union law and applicable national law, that the legitimate interest of end-users that are legal persons with regard to unsolicited communications sent by means set forth under paragraph 1 are sufficiently protected.</p> <p>6. Any natural or legal person using electronic communications services to transmit direct marketing communications shall inform end-users of the marketing nature of the communication and the identity of the legal or natural person on behalf of whom the communication is transmitted and shall provide the necessary information for recipients to exercise their right to withdraw their consent, in an easy manner, to receiving further marketing communications.</p>	<p>calls to <del>end-users who are natural persons</del> shall only be allowed in respect of <del>end-users who are natural persons</del> who have not expressed their objection to receiving those communications. <b>Member States shall provide that users can object to receiving the direct marketing voice-to-voice calls via a Do Not Call Register, thereby also ensuring that the user needs to opt-out only once.</b></p> <p>5. Member States shall ensure, in the framework of Union law and applicable national law, that the legitimate interest of end-users that are legal persons with regard to unsolicited communications sent by means set forth under paragraph 1 are sufficiently protected.</p> <p>6. Any natural or legal person using electronic communications services to transmit direct marketing communications shall inform end-users of the marketing nature of the communication and the identity of the legal or natural person on behalf of whom the communication is transmitted and shall provide the necessary information for recipients to exercise their right to withdraw their consent, in an easy manner <b>and free of charge</b>, to receiving further marketing communications.</p>	<p>voice calls to end-users who are natural persons shall only be allowed in respect of end-users who are natural persons who have not expressed their objection to receiving those communications.</p> <p>5. Member States shall ensure, in the framework of Union law and applicable national law, that the legitimate interest of end-users that are legal persons with regard to <del>unsolicited</del> <b>direct marketing</b> communications [sent or <b>presented</b>] by means set forth under paragraph are sufficiently protected.</p> <p>6. Any natural or legal person using electronic communications services to <del>transmit</del> [send or <b>present</b>] direct marketing communications shall inform end-users of the marketing nature of the communication and the identity of the legal or natural person on behalf of whom <b>the direct marketing</b> communication is <del>transmitted</del> [sent or <b>presented</b>] and shall provide the necessary information for <del>recipients</del> <b>end-users who are natural persons</b> to exercise their right to withdraw their consent, in an easy manner <b>and free of charge</b>, to receiving further <b>direct</b></p>	<p>marketing voice-to-voice calls to end-users who are natural persons <b>shall is only be</b> allowed in respect of end-users who are natural persons who have not expressed their objection to receiving those communications, <b>or is allowed with the consent of the subscriber.</b></p> <p><b><i>The choice between these options is to be determined by national legislation, taking into account that both options must be free of charge for the end-users.</i></b></p> <p>5. Member States shall ensure, in the framework of Union law and applicable national law, that the legitimate interest of end-users that are legal persons with regard to unsolicited communications sent by means set forth under paragraph 1 are sufficiently protected.</p> <p>6. Any natural or legal person using electronic communications services to transmit direct marketing communications shall inform end-users of the marketing nature of the communication and the identity of the legal or natural person on behalf of whom the communication is transmitted and shall provide the necessary information for recipients to exercise their right to withdraw their consent, in an easy manner, to receiving</p>
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<p>7. The Commission shall be empowered to adopt implementing measures in accordance with Article 26(2) specifying the code/or prefix to identify marketing calls, pursuant to point (b) of paragraph 3.</p>	<p>7. The Commission shall be empowered to adopt implementing measures in accordance with Article 26(12) specifying the code/or prefix to identify marketing calls, pursuant to point (b) of paragraph 3.</p>	<p>marketing communications.</p> <p><del>7. [The Commission shall be empowered to adopt implementing measures in accordance with Article 26(2) specifying the code/or prefix to identify marketing calls, pursuant to point (b) of paragraph 3.]</del></p>	<p>further marketing communications</p> <p><del>7. [The Commission shall be empowered to adopt implementing measures in accordance with Article 26(2) specifying the code/or prefix to identify marketing calls, pursuant to point (b) of paragraph 3.]</del></p>
<b>RECITALS</b>			
<i>Recital 21</i>	<i>Recital 21</i>	<i>Recital 21</i>	
<p>Exceptions to the obligation to obtain consent to make use of the processing and storage capabilities of terminal equipment or to access information stored in terminal equipment should be limited to situations that involve no, or only very limited, intrusion of privacy. For instance, consent should not be requested for <b>authorizing</b> the technical storage or access which is strictly necessary and proportionate for the legitimate purpose of enabling the use of a specific service explicitly requested by the <b>end-user</b>. This may include the storing of cookies for the duration of a single established session on a website to keep track of the end-user's input when filling in online forms over several pages. <b>Cookies</b> can also be a legitimate and useful tool, for example, in measuring web traffic to a website. Information society providers <b>that</b> engage in configuration checking to provide the service in compliance with the <b>end-user's</b> settings and the mere logging <b>of</b> the fact that the <b>end-user's</b> device is unable to receive content requested by the <b>end-user</b> should not constitute access to such a device or use of the device processing capabilities.</p>	<p>Exceptions to the obligation to obtain consent to make use of the processing and storage capabilities of terminal equipment or to access information stored in terminal equipment should be limited to situations that involve no, or only very limited, intrusion of privacy. For instance, consent should not be requested for <b>authorising</b> the technical storage or access which is strictly necessary and proportionate for the legitimate purpose of enabling the use of a specific service explicitly requested by the <b>user</b>. This may include the storing of <b>information (such as cookies and other identifiers)</b> for the duration of a single established session on a website to keep track of the end-user's input when filling in online forms over several pages. <b>Such techniques, if implemented with appropriate privacy safeguards</b>, can also be a legitimate and useful tool, for example, in measuring web traffic to a website. <b>Such measuring implies that the result of processing is not personal data, but aggregate data, and that this result or the personal data are not used in support of measures or decisions regarding any particular natural person.</b> Information</p>	<p>Exceptions to the obligation to obtain consent to make use of the processing and storage capabilities of terminal equipment or to access information stored in terminal equipment should be limited to situations that involve no, or only very limited, intrusion of privacy. For instance, consent should not be requested for authorizing the technical storage or access which is <u>strictly</u> necessary and proportionate for the legitimate purpose of enabling the use of a specific service <u>explicitly</u> requested by the end-user. This may include the storing of cookies for the duration of a single established session on a website to keep track of the enduser's input when filling in online forms over several pages, <u>authentication session cookies used to verify the identity of end-users engaged in online transactions or cookies used to remember items selected by the end-user and placed in shopping basket.</u> Cookies can also be a legitimate and useful tool, for example, in <u>assessing the effectiveness of a delivered information society service, for</u></p>	<p>(21) Exceptions to the obligation to obtain consent to make use of the processing and storage capabilities of terminal equipment or to access information stored in terminal equipment should be limited to situations that involve no, or only very limited, intrusion of privacy <b>of the end-user concerned and in accordance with Regulation (EU) 2016/679. In order to ascertain whether a situation involves no, or only limited, impact on the privacy of the end-user concerned, the entity responsible, after having met all the requirements for the lawfulness of using the end-user's terminal equipment, including with respect to transparency, should take into account inter alia: the purpose for which the processing and storage capabilities of the terminal equipment or information</b></p>

	<p>society providers <i>could</i> engage in configuration checking <i>in order</i> to provide the service in compliance with the <i>user's</i> settings and the mere logging <i>revealing</i> the fact that the user's device is unable to receive content requested by the <i>user</i>, should not constitute <i>illegitimate</i> access to such a device, or use of the device processing capabilities <i>for which consent is required</i>.</p>	<p><u>example by helping to measureing web traffic to the numbers of end-users visiting a website, certain pages of a website or the number of end-users of an application. This is not the case, however, regarding cookies and similar identifiers used to determine the nature of who is using the site.</u> Information society providers that engage in configuration checking to provide the service in compliance with the end-user's settings and the mere logging of the fact that the end-user's device is unable to receive content requested by the end-user should not constitute access to such a device or use of the device processing capabilities. <b>Consent should not be necessary either when the purpose of using the processing storage capabilities of terminal equipment is to fix security vulnerabilities and other bugs, provided that such updates do not in any way change the functionality of the hardware or software or the privacy settings chosen by the end-user and the end-user has the possibility to postpone or turn off the automatic installation of such updates. Software updates that do not exclusively have a security purpose, for example those intended to add new features to an application or improve its performance, should not fall under this exception.</b></p>	<p><i>accessed are used; the context in which information is collected, in particular the reasonable expectations of end-users based on their relationship with the controller as to the information's further use; the consequences of the intended processing for end-users; and the existence of appropriate safeguards such as encryption or pseudonymisation.</i> For instance, <del>consent should not be requested for authorizing</del> the technical storage or access which is strictly necessary and proportionate for <del>the legitimate purpose of</del> enabling the use of a specific service explicitly requested by the end-user <i>may be regarded as carried out for a legitimate interest</i>. This may include the storing of cookies for the duration of a single established session on a website to keep track of the end-user's input when filling in online forms over several pages. Cookies can also be a legitimate and useful tool for <i>other legitimate purposes</i>, for example, <i>helping to secure a service, in measuring web traffic to a website or delivering and measuring the effectiveness of advertisements.</i></p>
<i>Recital 32</i>	<i>Recital 32</i>	<i>Recital 32</i>	
<p>In this Regulation, direct marketing refers to any form of advertising by which a natural or legal person sends direct marketing</p>	<p>In this Regulation, direct marketing refers to any form of advertising by which a natural or legal person sends direct marketing</p>	<p>In this Regulation, direct marketing <b>communications</b> refers to any form of advertising by which a natural or legal</p>	<p>(32) In this Regulation, direct marketing refers to any <b>commercial communication</b></p>

<p>communications directly to one or more identified or identifiable end-users using electronic communications services. In addition to the offering of products and services for commercial purposes, this should also include messages sent by political parties that contact natural persons via electronic communications services in order to promote their parties. The same should apply to messages sent by other non-profit organisations to support the purposes of the organisation.</p>	<p>communications directly to one or more identified or identifiable end-users using electronic communications services, <b>regardless of the form it takes</b>. In addition to the offering of products and services for commercial purposes, this should also include messages sent by political parties that contact natural persons via electronic communications services in order to promote their parties. The same should apply to messages sent by other non-profit organisations to support the purposes of the organisation.</p>	<p>person sends <b>or presents</b> direct marketing communications directly to one or more identified or identifiable end-users using electronic communications services. <b>The provisions on direct marketing communications do not apply to any other form of marketing, e.g. displaying advertising to the general public on a website which is not directed to any specific identified or identifiable end-user.</b> In addition to the offering of products and services for commercial purposes, <del>this should</del> <b>direct marketing communications</b> also include messages sent by political parties that contact natural persons via electronic communications services in order to promote their parties. The same <del>should</del> <b>applies</b> to messages sent by other non-profit organisations to support the purposes of the organisation.</p>	<p><b>using an interpersonal communication service of any marketing material, which is carried out by the Direct Marketer itself or on its behalf and which is directed to particular individuals <del>form of advertising by which a natural or legal person sends direct marketing communications directly to one or more identified or identifiable data subjects by means of voice calls, electronic mail and/or SMS, but shall not apply to any form of online advertising, including on platforms (e.g., social networks, blogs, comments, posts etc).</del> end-users using electronic communications services.</b> In addition to the offering of products and services for commercial purposes, this should also include messages sent by political parties that contact natural persons via electronic communications services in order to promote their parties. The same should apply to messages sent by other non-profit organisations to support the purposes of the organisation.</p>
<i>Recital 34</i>	<i>Recital 34</i>	<i>Recital 34</i>	
<p>When end-users have provided their consent to receiving unsolicited communications for direct marketing purposes, they should still be able to withdraw their consent at any time in an easy manner. To facilitate effective enforcement of Union rules on unsolicited messages for direct marketing, it is necessary to prohibit the masking of the identity and the use of false identities, false</p>	<p>When end-users have provided their consent to receiving unsolicited communications for direct marketing purposes, they should still be able to withdraw their consent at any time in an easy manner. To facilitate effective enforcement of Union rules on unsolicited messages for direct marketing, it is necessary to prohibit the masking of the identity and the use of false identities, false</p>	<p>When end-users <b>who are natural persons</b> have provided their consent to receiving <del>unsolicited direct marketing communications for direct marketing purposes,</del> they should still be able to withdraw their consent at any time in an easy manner <b>and without any cost to them</b>. To facilitate effective enforcement of Union rules on</p>	<p>(32) In this Regulation, direct marketing refers to any <b>communication using an interpersonal communication service of any advertising or marketing material, which is carried out by the Direct Marketer itself or on its behalf and which is directed to</b></p>

<p>return addresses or numbers while sending unsolicited commercial communications for direct marketing purposes. Unsolicited marketing communications should therefore be clearly recognizable as such and should indicate the identity of the legal or the natural person transmitting the communication or on behalf of whom the communication is transmitted and provide the necessary information for recipients to exercise their right to oppose to receiving further written and/or oral marketing messages.</p>	<p>return addresses or numbers while sending unsolicited commercial communications for direct marketing purposes. Unsolicited marketing communications should therefore be clearly recognizable as such and should indicate the identity of the legal or the natural person transmitting the communication or on behalf of whom the communication is transmitted and provide the necessary information for recipients to exercise their right to oppose to receiving further written and/or oral marketing messages.</p>	<p><del>unsolicited messages for direct marketing</del> <b>communications</b>, it is necessary to prohibit the masking of the identity and the use of false identities, false return addresses or numbers while sending <b>or presenting unsolicited commercial direct marketing</b> communications for <del>direct marketing purposes</del>. Unsolicited <b>Direct</b> marketing communications should therefore be clearly recognizable as such and should indicate the identity of the legal or the natural person <del>transmitting</del> <b>sending or presenting</b> the communication or on behalf of whom the communication is <del>transmitted</del> <b>sent or presented</b> and provide the necessary information for recipients <b>end-users who are natural persons</b> to exercise their right to oppose <b>withdraw their consent</b> to receiving further <del>written and/or oral marketing messages</del> <b>direct marketing communications, such as valid contact details (e.g. link, e-mail address) which can be easily used by end-users who are natural persons to withdraw their consent free of charge.</b></p>	<p><b>particular individuals</b> <del>form of advertising by which a natural or legal person sends direct marketing communications directly to one or more identified or identifiable end-users using electronic communications services</del>. In addition to the offering of products and services for commercial purposes, this should also include messages sent by political parties that contact natural persons via electronic communications services in order to promote their parties. The same should apply to messages sent by other non-profit organisations to support the purposes of the organisation.</p>
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