



# Regulatory Update

Robert Bratby

Wilmer, Cutler & Pickering

Washington

London

Berlin

Brussels

Baltimore

Northern Virginia



# Agenda

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- New EU Electronic Communications Framework
- Privacy and Data Protection Developments
- Waste Electrical and Electronic Equipment Directive



# Electronic Communications Regulation

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- “New” EU Framework effective 25 July 2003
  - Framework Directive (2002/21/EC)
  - Authorisation Directive (2002/20/EC)
  - Access Directive (2002/19/EC)
  - Universal Service Directive (2002/22/EC)
  - plus recommendations, guidelines, decisions and regulations
- Implemented into local law
  - E.g. UK Communications Act 2003
  - Infringement action initiated for slow implementation in eight member states



# Licensing and Fees

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- General authorisations
  - No individual licence needed, no application
  - Light-touch conditions applicable
- Individual licences still may be required for:
  - Frequencies
  - Numbers
  - Rights of way
- Fees: administrative charge to recover cost of regulator



# Market Reviews

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- Presumption is no ex-ante regulation, unless:
  - Market review (18 initially recommended by Commission)
  - Finding of “significant market power” (dominance)
  - Imposition of appropriate remedies
- Likely to give incumbents more freedom
  - Impact cost base of new entrants
  - System more complaint driven



# Privacy and Data Protection

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- Data Protection Directive (95/46/EC)
  - “processing of personal data”
  - Sets out rules and principles
- European Convention for the protection of Human Rights and Fundamental Freedoms
  - Article 8 “right to respect for his private and family life, his home and his correspondence”
- Privacy Directive (2002/58/EC)
  - “particularise and complement” data protection directive
  - Effective from 31 October
  - Spam, cookies, specific data



# Prohibition of Unsolicited Email

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- Prior consent before sending direct marketing email
  - email: “any text, voice, sound or image message sent over a public communications network which can be stored in the network or the recipient’s terminal equipment until collected by recipient” - includes SMS, MMS
- Unless
  - electronic contact details obtained, in the context of the sale of a product or a service in accordance with Data Protection law
  - the same person uses these electronic contact details for direct marketing of its own similar products or services
  - provided that customers clearly and distinctly are given the opportunity to object, free of charge and in an easy manner, to such use of electronic contact details when they are collected
  - Each message has opt-out
- n.b. In UK mail, telephone and fax preference schemes are “opt-out” for non-email direct marketing



# Cookies

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- If electronic communications network is used to store information or to gain access to information stored in terminal equipment, then:
  - User must be told purpose of data processing
  - User must have right to refuse such processing
- Much wider than just cookies





# Waste Electrical and Electronic Equipment (WEEE) Directive

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- 13 February 2003: Waste Electrical and Electronic Equipment (WEEE) Directive came into force
- 13 August 2004: Implemented in member states
- September 2005: Start of Producer responsibility
- December 2006: Member states to meet targets



# Key Provisions

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- **Producer responsibility:**
  - Establish and finance systems to collect, transport, treat and recover WEEE from own products so private consumers can return WEEE free of charge
  - Historic v new products
    - Market share collective scheme v individually borne costs
    - Visible fee v no visible fee
  - Financial guarantee when products placed on market



# Thank you

[Robert.Bratby@wilmer.com](mailto:Robert.Bratby@wilmer.com)

+44 20 7872 1620

Wilmer, Cutler & Pickering

Washington

London

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Brussels

Baltimore

Northern Virginia