

Unofficial Translation

4 April 2003. – Royal Decree towards the regimentation of the sending of publicity by electronic mail

Source: <http://www.staatsblad.be>

Published on 28 May 2003.

Albert II, King of the Belgians,
To each that now is and hereafter shall be, Our Salutation.

Paying attention to the law of 11 March 2003 concerning certain legal aspects of information society services, especially to article 14, § 1, second paragraph and article 14, § 2, second paragraph;

Given the deliberation to the request for urgent handling, motivated by the fact that the information society service providers must know the exceptions to the prohibition to use electronic mail for publicity purposes without authorization of the recipient, from the coming into force of the law, and short of such exceptions, the activity of certain service providers may be paralyzed.

Given the deliberation to advice 35.077/1 of the Council of the State, given on 20 March 2003, with application of Article 84, first paragraph, 2°, of the coordinated laws of the Council of the State;

On the recommendation of Our Minister of Economy and of Our Minister of Justice, We have determined and We conclude:

Article 1: Contrary to Article 14, § 1, first paragraph of the law of 11 March 2003 concerning certain legal aspects of information society services, and subject to that which is stipulated in Article 2 of this decision, every information society service provider is exempted from requesting the preceding authorization for the receipt of publicity by electronic mail:

1° from its clients, natural or legal persons, if each of the following conditions is fulfilled:

- a) he has directly obtained their electronic contact data within the framework of a sale of a product or a service, provided the legal and lawful conditions concerning the protection of private life are observed;
- b) he uses the concerned electronic contact data exclusively for similar products or services which he himself provides;
- c) he gives the clients, on the moment on which their electronic contact data are collected, the possibility to resist against the use of such data free of charge and in an easy manner.

2° from legal persons if those electronic contacts data that he intends to use are impersonal.

Article 2: Every person can directly announce to the particular service provider without cost and without giving any reason that he wants to receive no more publicity by electronic mail from him. The service provider is obliged:

1° to give a receipt by electronic mail to the person involved within a reasonable period which confirms the recording of his request;

2° to take the necessary measures within a reasonable period to observe the will of this person;

3° to update lists of persons who have expressed their will to receive no publicity from him by electronic mail.

Art. 3. This decision becomes effective on the day in which it is announced in the Belgian Bulletin of Acts, Orders and Decrees.

Art. 4. Our Minister responsible for Justice and Our Minister competent for Economy are, what each concerns him, charged with the implementation of this decision.

Presented at Brussels, 4 April 2003.

ALBERT
As King of Belgium:
The Minister of Economy,
Ch. PICQUE

The Minister of Justice,
M. VERWILGHEN