

歐洲議會暨理事會準則 2002/58/EC

「關於電子通訊領域之個人資料處理及隱私保護」（隱私及電子通訊準則）

二〇〇二年七月十二日

**DIRECTIVE 2002/58/EC OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL**

**concerning the processing of personal data and
the protection of privacy in the electronic com-
munications sector (Directive on privacy and
electronic communications)**

of 12 July 2002

第一條 範圍與目標

1. 本準則在調和會員國要求確保相同等級基本權利及自由之維護，特別是有關電子通訊個人資料處理之隱私權，以及確保該資料與電子通訊設備及服務在共同體內自由流通之規定。
2. 本準則之條款基於第一項規定之目的，列舉並補充 95/46/EC 準則。且對法人用戶合法利益提供保護。
3. 本準則不適用於歐洲共同體所制定條約架構範圍以外之活動，如涵蓋於歐洲聯盟條約第五及第六篇之規定者，以及任何有關於公共安全、防衛、會員國之安全（包含當活動涉及國家安全事務，其國家之經濟狀況），及國家刑法規範之活動。

第二條 定義

除另有規定外，應適用 95/46/EC 準則之定義及歐洲議會與理事會 2002 年 3 月 7 日 2002/21/EC 電子通信網路與服務共同管制架構準則（架構準則）。

Article 1 Scope and aim

1. This Directive harmonises the provisions of the Member States required to ensure an equivalent level of protection of fundamental rights and freedoms, and in particular the right to privacy, with respect to the processing of personal data in the electronic communication sector and to ensure the free movement of such data and of electronic communication equipment and services in the Community.
2. The provisions of this Directive particularise and complement Directive 95/46/EC for the purposes mentioned in paragraph 1. Moreover, they provide for protection of the legitimate interests of subscribers who are legal persons.
3. This Directive shall not apply to activities which fall outside the scope of the Treaty establishing the European Community, such as those covered by Titles V and VI of the Treaty on European Union, and in any case to activities concerning public security, defence, State security (including the economic well-being of the State when the activities relate to State security matters) and the activities of the State in areas of criminal law.

Article 2 Definitions

Save as otherwise provided, the definitions in Directive 95/46/EC and in Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) shall apply.

以下定義應適用之：

- (a) 「使用者」係指任何自然人為私人或商業目的，在無需訂購該服務下，使用公眾可及電子通訊服務。
- (b) 「流量資料」係指在一電子通訊網路中以傳輸通訊為目的或為帳務所為之任何資料處理。
- (c) 「位置資料」係在電子通訊網路中任何資料處理，以指定公眾可及電子通訊服務使用者終端設備之地理位置。
- (d) 「通訊」係指在特定多數人間以公眾可及電子通訊服務方式所交換或傳輸之任何資訊；不包含以電子通訊網路向公眾進行廣播服務之一部份之資訊，但該資訊所涉及之範圍可確認接收該資訊之用戶或使用者時不在此限。
- (e) 「通話」係指藉由公眾可及電話服務方法允許雙向即時通訊之連結。
- (f) 使用者或用戶之「同意」，符合 95/46/EC 準則規定資料主體之同意。
- (g) 「加值服務」係指要求處理流量資料或處理非流量資料之位置資料，而其資料處理對通訊傳遞或結帳超過其所需之任何服務。

The following definitions shall also apply:

- (a) 'user' means any natural person using a publicly available electronic communications service, for private or business purposes, without necessarily having subscribed to this service;
- (b) 'traffic data' means any data processed for the purpose of the conveyance of a communication on an electronic communications network or for the billing thereof;
- (c) 'location data' means any data processed in an electronic communications network, indicating the geographic position of the terminal equipment of a user of a publicly available electronic communications service;
- (d) 'communication' means any information exchanged or conveyed between a finite number of parties by means of a publicly available electronic communications service. This does not include any information conveyed as part of a broadcasting service to the public over an electronic communications network except to the extent that the information can be related to the identifiable subscriber or user receiving the information;
- (e) 'call' means a connection established by means of a publicly available telephone service allowing two-way communication in real time;
- (f) 'consent' by a user or subscriber corresponds to the data subject's consent in Directive 95/46/EC;
- (g) 'value added service' means any service which requires the processing of traffic data or location data other than traffic data beyond what is necessary for the transmission of a communication or the

- (h) 「電子郵件」係指以公眾通訊網路寄送任何文字、語音、聲音或影像訊息，其可被儲存於網路或接收者終端設備中直到接受者收取為止。

第三條 有關服務

1. 本準則應適用於共同體中公眾通訊網路之公眾可及電子通訊服務有關個人資料處理之條款。
2. 第八、十、十一條應適用於用戶線路與數位交換機之連結，在具技術可能性且無須要求不對稱經濟投入時，亦適用於用戶線路與類比交換機之連結。
3. 在技術不可行或需要求不對稱經濟投入以符合第八、十及十一條之要求時，會員國應告知執委會。

第四條 安全

1. 公眾可及電子通訊服務提供者應採取適當的技術及組織性方法以維護其服務安全，若有必要時須與公共通訊網路提供者共同維護網路安全。有關最先端技術及其執行之費用，其措施應確保與所顯示風險相對應之安全等級。

billing thereof;

- (h) 'electronic mail' means any text, voice, sound or image message sent over a public communications network which can be stored in the network or in the recipient's terminal equipment until it is collected by the recipient.

Article 3 Services concerned

1. This Directive shall apply to the processing of personal data in connection with the provision of publicly available electronic communications services in public communications networks in the Community.
2. Articles 8, 10 and 11 shall apply to subscriber lines connected to digital exchanges and, where technically possible and if it does not require a disproportionate economic effort, to subscriber lines connected to analogue exchanges.
3. Cases where it would be technically impossible or require a disproportionate economic effort to fulfil the requirements of Articles 8, 10 and 11 shall be notified to the Commission by the Member States.

Article 4 Security

1. The provider of a publicly available electronic communications service must take appropriate technical and organisational measures to safeguard security of its services, if necessary in conjunction with the provider of the public communications network with respect to network security. Having regard to the state of the art and the cost of their implementation, these measures shall ensure a level of se-

2. 當有違反網路安全之特殊風險時，公眾可及電子通訊服務提供者應通知用戶該風險，以及當風險是在服務提供者所採措施範圍以外時其任何可能之救濟，包含表示可能涉及的費用。

第五條 通訊秘密

1. 會員國應透過國家立法確保通訊秘密及以公共通訊網路及公眾電子通訊服務方法傳送之流量資料秘密。特別是其應禁止聽取、竊聽、儲存或其他類型通訊之攔截或監視，及在未經使用者同意之下，由非使用者之個人傳送流量資料，但有當局合法授權執行符合第十五條(1)之規定者除外。本項在不損及秘密原則下，不得妨礙有傳遞通訊必要時之技術儲存。
2. 為提供通訊交易或任何其他商業通訊證據之目的，所執行之合法商業行為過程時，第一項不應影響任何合法授權之通訊紀錄及相關之流量資料。
3. 會員國應確保，只有在符合 95/46/EC 準則之規定，除其他處理目的外並提供權利可拒絕由資料控制者之處

curity appropriate to the risk presented.

2. In case of a particular risk of a breach of the security of the network, the provider of a publicly available electronic communications service must inform the subscribers concerning such risk and, where the risk lies outside the scope of the measures to be taken by the service provider, of any possible remedies, including an indication of the likely costs involved.

Article 5 Confidentiality of the communications

1. Member States shall ensure the confidentiality of communications and the related traffic data by means of a public communications network and publicly available electronic communications services, through national legislation. In particular, they shall prohibit listening, tapping, storage or other kinds of interception or surveillance of communications and the related traffic data by persons other than users, without the consent of the users concerned, except when legally authorised to do so in accordance with Article 15 (1). This paragraph shall not prevent technical storage which is necessary for the conveyance of a communication without prejudice to the principle of confidentiality.
2. Paragraph 1 shall not affect any legally authorised recording of communications and the related traffic data when carried out in the course of lawful business practice for the purpose of providing evidence of a commercial transaction or of any other business communication.
3. Member States shall ensure that the use of electronic communications networks to store information or to gain access to information

理，對用戶或使用者提供清楚且可理解資訊之條件下，才可允許使用電子通訊網路來儲存資訊或得以進入儲存於用戶或使用者終端設備之資料。其不得妨礙以執行或促進電子通訊網路通訊傳遞為唯一目的之任何技術儲存或擷取，或在用戶或使用者明確要求之下有確實需要需提供資訊社會服務之情形。

第六條 流量資料

1. 由公共通訊網路或公眾電子通訊服務提供者所處理及儲存之流量資料相關之用戶及使用者，當不再有通訊傳送目的之需要時，在不損及本條第二、三及五項及第十五條(1)之規定下，應刪除或以匿名為之。
2. 為用戶結算及支付互連費用目的之所需得處理流量資料。只有在結算可能被質疑或是被請求支付費用期間結束時才得為該處理。
3. 為電子通訊服務市場銷售目的，或為增值服務之預備措施，若用戶或使用者對於資料相關者已給予其同意，公眾電子通訊服務提供者得處理第一項規定範圍內之資料及在該服務或市場銷售所須之期間內。使用者或用戶得於任何時間內取消其對處理流量資料之同意。

stored in the terminal equipment of a subscriber or user is only allowed on condition that the subscriber or user concerned is provided with clear and comprehensive information in accordance with Directive 95/46/EC, inter alia about the purposes of the processing, and is offered the right to refuse such processing by the data controller. This shall not prevent any technical storage or access for the sole purpose of carrying out or facilitating the transmission of a communication over an electronic communications network, or as strictly necessary in order to provide an information society service explicitly requested by the subscriber or user.

Article 6 Traffic data

1. Traffic data relating to subscribers and users processed and stored by the provider of a public communications network or publicly available electronic communications service must be erased or made anonymous when it is no longer needed for the purpose of the transmission of a communication without prejudice to paragraphs 2, 3 and 5 of this Article and Article 15 (1).
2. Traffic data necessary for the purposes of subscriber billing and interconnection payments may be processed. Such processing is permissible only up to the end of the period during which the bill may lawfully be challenged or payment pursued.
3. For the purpose of marketing electronic communications services or for the provision of value added services, the provider of a publicly available electronic communications service may process the data referred to in paragraph 1 to the extent and for the duration necessary for such services or marketing, if the subscriber or user to whom

4. 服務提供者應通知用戶或使用者其所處理流量資料之類型，該資料處理之期間，與為第二項所述之目的；及基於第三項所述之目的，於事前取得同意。
5. 依據第一、二、三及四項之規定處理流量資料時，應限制個人在公共通訊網路及公眾可及電子通訊服務提供者授權下運作，處理帳單或流量管理、客戶查詢、詐欺偵測，銷售電子通訊服務或提供加值服務，並應限制於該活動目的所需範圍內。
6. 第一、二、三及五項應在適用於無損於適當機關被通知流量資料係依據適當法律規定為以解決爭議為目的之可能性，特別是互連或帳務之爭議。

第七條 費用明細表

1. 用戶有權收取非明細表帳單。
2. 會員國應使用國家條款規定以調和用戶收取費用明細表之權利，其為撥話使用者及被撥話用戶之隱私權，例如確保對該使用者及用戶在通訊或付費有充分選擇加強隱私的方法。

- the data relate has given his/her consent. Users or subscribers shall be given the possibility to withdraw their consent for the processing of traffic data at any time.
4. The service provider must inform the subscriber or user of the types of traffic data which are processed and of the duration of such processing for the purposes mentioned in paragraph 2 and, prior to obtaining consent, for the purposes mentioned in paragraph 3.
 5. Processing of traffic data, in accordance with paragraphs 1, 2, 3 and 4, must be restricted to persons acting under the authority of providers of the public communications networks and publicly available electronic communications services handling billing or traffic management, customer enquiries, fraud detection, marketing electronic communications services or providing a value added service, and must be restricted to what is necessary for the purposes of such activities.
 6. Paragraphs 1, 2, 3 and 5 shall apply without prejudice to the possibility for competent bodies to be informed of traffic data in conformity with applicable legislation with a view to settling disputes, in particular interconnection or billing disputes.

Article 7 Itemised billing

1. Subscribers shall have the right to receive non-itemised bills.
2. Member States shall apply national provisions in order to reconcile the rights of subscribers receiving itemised bills with the right to privacy of calling users and called subscribers, for example by ensuring that sufficient alternative privacy enhancing methods of communications or payments are available to such users and subscribers.

第八條 撥話及被連接線路身分之顯示及限制

1. 當提供顯示撥話線路身分時，服務提供者應以簡單且免費之方式，以每一通話為基準，提供撥話使用者防止顯示撥話線路身分之可能性。撥話用戶以每一線路為基準應有防止顯示撥話線路身分之可能性。
2. 當提供顯示撥話線路身分時，服務提供者應以簡單方法及免費使防止來話撥話線路身分顯示之功能得以合理使用。
3. 當提供顯示撥話線路身分以及當撥話線在通話確立前被顯示時，當撥話線路身分之顯示被撥話使用者或用戶阻礙時，服務提供者應提供被通話用戶以簡單的方法拒絕來話。
4. 當提供顯示被連接線之身分時，服務提供者應以簡單且免費之方式，提供被通話用戶防止對撥話使用者顯示被連接線路身分之可能性。
5. 第一項亦應適用於有關由共同體對第三國家發話之通話。第二、三及四項亦應適用由第三國家發話之來話。
6. 會員國應確保提供撥話且／或被連接線路身分之顯示，

Article 8 Presentation and restriction of calling and connected line identification

1. Where presentation of calling line identification is offered, the service provider must offer the calling user the possibility, using a simple means and free of charge, of preventing the presentation of the calling line identification on a per-call basis. The calling subscriber must have this possibility on a per-line basis.
2. Where presentation of calling line identification is offered, the service provider must offer the called subscriber the possibility, using a simple means and free of charge for reasonable use of this function, of preventing the presentation of the calling line identification of incoming calls.
3. Where presentation of calling line identification is offered and where the calling line identification is presented prior to the call being established, the service provider must offer the called subscriber the possibility, using a simple means, of rejecting incoming calls where the presentation of the calling line identification has been prevented by the calling user or subscriber.
4. Where presentation of connected line identification is offered, the service provider must offer the called subscriber the possibility, using a simple means and free of charge, of preventing the presentation of the connected line identification to the calling user.
5. Paragraph 1 shall also apply with regard to calls to third countries originating in the Community. Paragraphs 2, 3 and 4 shall also apply to incoming calls originating in third countries.
6. Member States shall ensure that where presentation of calling and/

公眾可及電子通訊服務提供者告知大眾及第一、二、三及四項所規定之可能性。

第九條 非流量資料之位置資料

1. 有關公眾通訊網路及／或公眾可及電子通訊服務提供者之使用者或用戶處理非流量資料之位置資料，只能以其匿名為之、或基於對增值服務條款所需期間取得使用者或用戶同意之範圍，使得對該資料加以處理。服務提供者應通知使用者或用戶，取得其事前同意，就非流量資料之位置資料類型加以處理，其處理之目的、處理期間以及資料是否會傳遞第三人作為增值服務。應隨時給予使用者或用戶機會，以取消處理非流量資料之位置資料之同意。
2. 在取得使用者或用戶處理非流量資料之位置資料的同意時，使用者或用戶應得持續以簡單且免費之方法，暫時拒絕對每一網路連結或對每一通訊傳遞資料處理之可能性。
3. 根據第一項及第二項之規定，處理非流量資料之位置資料時，應限制在公眾通訊網路、公眾可及電子通訊服務提供者或為第三人所提供增值服務之授權下為個

or connected line identification is offered, the providers of publicly available electronic communications services inform the public thereof and of the possibilities set out in paragraphs 1, 2, 3 and 4.

Article 9 Location data other than traffic data

1. Where location data other than traffic data, relating to users or subscribers of public communications networks or publicly available electronic communications services, can be processed, such data may only be processed when they are made anonymous, or with the consent of the users or subscribers to the extent and for the duration necessary for the provision of a value added service. The service provider must inform the users or subscribers, prior to obtaining their consent, of the type of location data other than traffic data which will be processed, of the purposes and duration of the processing and whether the data will be transmitted to a third party for the purpose of providing the value added service. Users or subscribers shall be given the possibility to withdraw their consent for the processing of location data other than traffic data at any time.
2. Where consent of the users or subscribers has been obtained for the processing of location data other than traffic data, the user or subscriber must continue to have the possibility, using a simple means and free of charge, of temporarily refusing the processing of such data for each connection to the network or for each transmission of a communication.
3. Processing of location data other than traffic data in accordance with paragraphs 1 and 2 must be restricted to persons acting under the authority of the provider of the public communications network

人運作。

第十條 例外

對於公眾電子通訊網路及／或公眾可及電子通訊服務之提供者可能枉顧之情形，會員國應確保其在透明程序運作方法下為之：

- (a) 以暫時基準，依據用戶要求追蹤惡意或騷擾電話之申請，排除撥話線路身分之顯示。在該情形下，依據國家法律之規定，擁有撥話用戶身分的資料將會由公共通訊網路及／或公眾電子通訊服務提供者儲存及利用之情形。
- (b) 排除撥話線路身分顯示及暫時否定或欠缺用戶或使用者對處理位置資料之同意，以每一線路為基準，對處理緊急通話之組織，以及由會員國認定為該組織者，包含執法機關、救護服務及消防隊，為回應該通話目的之情形。

第十一條 自動轉接

會員國應確保任何用戶能以簡單且免費之方法，停

or publicly available communications service or of the third party providing the value added service, and must be restricted to what is necessary for the purposes of providing the value added service.

Article 10 Exceptions

Member States shall ensure that there are transparent procedures governing the way in which a provider of a public communications network and/or a publicly available electronic communications service may override:

- (a) the elimination of the presentation of calling line identification, on a temporary basis, upon application of a subscriber requesting the tracing of malicious or nuisance calls. In this case, in accordance with national law, the data containing the identification of the calling subscriber will be stored and be made available by the provider of a public communications network and/or publicly available electronic communications service;
- (b) the elimination of the presentation of calling line identification and the temporary denial or absence of consent of a subscriber or user for the processing of location data, on a per-line basis for organisations dealing with emergency calls and recognised as such by a Member State, including law enforcement agencies, ambulance services and fire brigades, for the purpose of responding to such calls.

Article 11 Automatic call forwarding

Member States shall ensure that any subscriber has the possibil-

止由第三人自動轉接至用戶終端之可能性。

第十二條 用戶名錄

1. 有關向大眾公開或透過名錄查詢服務取得用戶之印刷或電子名錄為目的，其包含其個人資料及在電子版本名錄中內建搜尋功能而有任何附加使用可能性，會員國應確保用戶在其被收錄於名錄前能接獲免費之通知。
2. 會員國應確保給予用戶機會決定是否要將其個人資料收錄於公共名錄中；即使同意，仍可決定與名錄提供者所決定之名錄目相關資料之範圍，以及修改、更正或取消該資料。對於不被收錄於公共用戶名錄、修改、更正或取消個人資料之行為應為免費。
3. 會員國得要求無論其目的，非以個人姓名為基礎來搜尋個人詳細內容之公共名錄，若有需要時對其他識別有最低要求時，應取得用戶額外之同意。
4. 第一項及第二項應適用於自然人用戶。會員國亦應確保，在共同體法律架構下及適用國家法律之下，非自然人之用戶關於其收錄進公共名錄之合法利益應受充分保護。

ity, using a simple means and free of charge, of stopping automatic call forwarding by a third party to the subscriber's terminal.

Article 12 Directories of subscribers

1. Member States shall ensure that subscribers are informed, free of charge and before they are included in the directory, about the purpose(s) of a printed or electronic directory of subscribers available to the public or obtainable through directory enquiry services, in which their personal data can be included and of any further usage possibilities based on search functions embedded in electronic versions of the directory.
2. Member States shall ensure that subscribers are given the opportunity to determine whether their personal data are included in a public directory, and if so, which, to the extent that such data are relevant for the purpose of the directory as determined by the provider of the directory, and to verify, correct or withdraw such data. Not being included in a public subscriber directory, verifying, correcting or withdrawing personal data from it shall be free of charge.
3. Member States may require that for any purpose of a public directory other than the search of contact details of persons on the basis of their name and, where necessary, a minimum of other identifiers, additional consent be asked of the subscribers.
4. Paragraphs 1 and 2 shall apply to subscribers who are natural persons. Member States shall also ensure, in the framework of Community law and applicable national legislation, that the legitimate interests of subscribers other than natural persons with regard to their entry in public directories are sufficiently protected.

第十三條 非經請求之通訊

1. 使用非人工操作之自動通話系統（自動通話機器）、傳真機器（傳真）或電子郵件，作為直接市場銷售之目的，須經用戶事前同意，方得為之。
2. 除第一項規定外，當自然人或法人從其客戶中取得他們的電子郵件聯絡詳細內容，在銷售產品或服務之情形時，根據 95/46/EC 準則之規定，同一自然人或法人得使用該電子聯絡詳細內容，作為直接銷售其所擁有類似產品或服務之提供，對於所收集之電子聯絡詳細資料，當客戶未在開始時便拒絕該使用，應以免費且簡單方法，清楚且明確地給予客戶提出拒絕使用該電子聯絡詳細資料之機會。
3. 會員國應採取適當措施確保，對於非第一項及第二項規定之情形，而直接市場銷售為目的免費主動提供之通訊，在未取得用戶之同意或用戶不願意收取此通訊時，均不得為之，並由國家立法決定此選項之選擇。
4. 在任何情形下，以直接市場銷售為目的而寄發電子郵件之行為，以偽裝或隱匿製作通訊寄送者之身分，或非為有效地址使接收者可寄送請求停止該通訊者，應被禁止。

Article 13 Unsolicited communications

1. The use of automated calling systems without human intervention (automatic calling machines), facsimile machines (fax) or electronic mail for the purposes of direct marketing may only be allowed in respect of subscribers who have given their prior consent.
2. Notwithstanding paragraph 1, where a natural or legal person obtains from its customers their electronic contact details for electronic mail, in the context of the sale of a product or a service, in accordance with Directive 95/46/EC, the same natural or legal person may use 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 and on the occasion of each message in case the customer has not initially refused such use.
3. Member States shall take appropriate measures to ensure that, free of charge, unsolicited communications for purposes of direct marketing, in cases other than those referred to in paragraphs 1 and 2, are not allowed either without the consent of the subscribers concerned or in respect of subscribers who do not wish to receive these communications, the choice between these options to be determined by national legislation.
4. In any event, the practice of sending electronic mail for purposes of direct marketing disguising or concealing the identity of the sender on whose behalf the communication is made, or without a valid address to which the recipient may send a request that such communi-

5. 第一項及第三項亦應適用於用戶為自然人之情形。會員國亦應確保，在共同體法律架構下及適用國家立法之下，非自然人之用戶有關非經請求通訊之合法利益應受充分保護。

第十四條 技術規格及標準化

1. 執行本準則時，會員國應確保在不違反第二及三項之規定下，在終端設備或其他電子通訊設備上並無強制要求課以特殊技術規格，其可阻礙設備在市場上銷售，與在會員國間該設備之自由流通。
2. 當本準則之條款只在電子通訊網路要求特殊技術規格方可執行時，會員國應依據歐洲議會與理事會 1998 年 6 月 22 日 98/34/EC 技術標準領域及規則與資訊社會服務規範通知條款之程序，以其提供之程序通知執委會。
3. 當被要求時，應採取確保終端設備之措施係依據 1999/5/EC 準則及 1986 年 11 月 22 日 87/95/EEC 理事會資訊技術及通訊領域之標準化決定，建構在相容於使用者保護及控制其個人資料之使用權之權利。

cations cease, shall be prohibited.

5. Paragraphs 1 and 3 shall apply to subscribers who are natural persons. Member States shall also ensure, in the framework of Community law and applicable national legislation, that the legitimate interests of subscribers other than natural persons with regard to unsolicited communications are sufficiently protected.

Article 14 Technical features and standardisation

1. In implementing the provisions of this Directive, Member States shall ensure, subject to paragraphs 2 and 3, that no mandatory requirements for specific technical features are imposed on terminal or other electronic communication equipment which could impede the placing of equipment on the market and the free circulation of such equipment in and between Member States.
2. Where provisions of this Directive can be implemented only by requiring specific technical features in electronic communications networks, Member States shall inform the Commission in accordance with the procedure provided for by 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 and of rules on information society services⁶.
3. Where required, measures may be adopted to ensure that terminal equipment is constructed in a way that is compatible with the right of users to protect and control the use of their personal data, in accordance with Directive 1999/5/EC and Council Decision 87/95/EEC of 22 December 1986 on standardisation in the field of infor-

第十五條 適用 95/46/EC 準則特定條款

1. 會員國得採用立法措施，限制指本準則第五條、第六條、第八條(1),(2),(3)及(4)以及第九條規定提供權利與義務之範圍，在民主社會中該限制係為有必要、適當及符合比例之措施，以保護國家安全（亦國家安全）、防衛、公共安全以、偵測、防止、調查、偵測及起訴刑法犯罪、或 95/46/EC 準則第十三條(1)所規定未經授權使用電子通訊系統。會員國得採取合法方式在本準則制定有限期間之內提供資料保留。在本項所指之任何方法應依照共同體一般法律原則為之，包含歐洲聯盟條約第六條(1)及(2)之規定。
2. 在 95/46/EC 準則第三章條文中關於法定賠償責任以及附加條款，應適用於各會員國依本指令所制定之條文，及自本指令中所衍生出之個人權利事項。
3. 95/46/EC 準則第二十九條規定所成立之個人資料處理之人身保護工作小組，亦應執行該準則第三十條有關該準則所涵蓋之情勢的規定，亦即保護基本權利與自由在電子通訊領域之合法權利

mation technology and communications⁹.

Article 15 Application of certain provisions of Directive 95/46/EC

1. Member States may adopt legislative measures to restrict the scope of the rights and obligations provided for in Article 5, Article 6, Article 8 (1), (2), (3) and (4), and Article 9 of this Directive when such restriction constitutes a necessary, appropriate and proportionate measure within a democratic society to safeguard national security (i.e. State security), defence, public security, and the prevention, investigation, detection and prosecution of criminal offences or of unauthorised use of the electronic communication system, as referred to in Article 13 (1) of Directive 95/46/EC. To this end, Member States may, inter alia, adopt legislative measures providing for the retention of data for a limited period justified on the grounds laid down in this paragraph. All the measures referred to in this paragraph shall be in accordance with the general principles of Community law, including those referred to in Article 6 (1) and (2) of the Treaty on European Union.
2. The provisions of Chapter III on judicial remedies, liability and sanctions of Directive 95/46/EC shall apply with regard to national provisions adopted pursuant to this Directive and with regard to the individual rights derived from this Directive.
3. The Working Party on the Protection of Individuals with regard to the Processing of Personal Data instituted by Article 29 of Directive 95/46/EC shall also carry out the tasks laid down in Article 30 of that Directive with regard to matters covered by this Directive,

第十六條 過渡條款

1. 第十二條之規定不適用於國家條款在本準則生效前，已製作的名錄或印製置於市場銷售之名錄版本或離線電子形式之名錄。
2. 用戶固定或行動式公共語音電話服務之個人資料，屬於 95/46/EC 準則條款及 97/66/EC 準則第十一條之規定者，在依據本準則制定國家條款之前，除用戶有其他指定之外，在接收到依據本準則第十二條有關目的及選擇之完整資訊後，該用戶之個人資料得以印刷或電子版本之形式保留於公共名錄中，包含反搜尋功能之版本。

第十七條 轉換

1. 在 2003 年 10 月 31 日之前，會員國應遵守本準則使條款生效執行。並應向執委會報備。

當會員國採行前述措施，其應列出該措施與本準則之參考比較表，或公告於政府公報上。前述參考比較表之方式應由各會員國制定。

namely the protection of fundamental rights and freedoms and of legitimate interests in the electronic communications sector.

Article 16 Transitional arrangements

1. Article 12 shall not apply to editions of directories already produced or placed on the market in printed or off-line electronic form before the national provisions adopted pursuant to this Directive enter into force.
2. Where the personal data of subscribers to fixed or mobile public voice telephony services have been included in a public subscriber directory in conformity with the provisions of Directive 95/46/EC and of Article 11 of Directive 97/66/EC before the national provisions adopted in pursuance of this Directive enter into force, the personal data of such subscribers may remain included in this public directory in its printed or electronic versions, including versions with reverse search functions, unless subscribers indicate otherwise, after having received complete information about purposes and options in accordance with Article 12 of this Directive.

Article 17 Transposition

1. Before 31 October 2003 Member States shall bring into force the provisions necessary to comply with this Directive. They shall forthwith inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.

2. 會員國制定與本準則相關之國家法規時，應將條款內容通知執委會。法規修正時亦同。

第十八條 審視

議會應於第十七條所規定之日期起 3 年之內向歐洲議會與理事會提交本準則實施之報告，以及對經濟經營者及消費者之衝擊，特別是與非經請求通訊條款相關者，應考量國際環境。為此，執委會得向會員國要求資訊，會員國應在合理時間給予支援。考量該報告之結果，任何部分的更改或任何其他提案確實為改善本準則效力所必需時，在適當情形下執委會應提出本準則修正案。

第十九條 廢止

97/66/EC 準則在第十七條生效之日起廢止。廢止之準則應視為由本準則持續執行。

第二十條 生效

本準則自公告於歐洲共同體官方公報之日起生效。

2. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field governed by this Directive and of any subsequent amendments to those provisions.

Article 18 Review

The Commission shall submit to the European Parliament and the Council, not later than three years after the date referred to in Article 17 (1), a report on the application of this Directive and its impact on economic operators and consumers, in particular as regards the provisions on unsolicited communications, taking into account the international environment. For this purpose, the Commission may request information from the Member States, which shall be supplied without undue delay. Where appropriate, the Commission shall submit proposals to amend this Directive, taking account of the results of that report, any changes in the sector and any other proposal it may deem necessary in order to improve the effectiveness of this Directive.

Article 19 Repeal

Directive 97/66/EC is hereby repealed with effect from the date referred to in Article 17 (1).

References made to the repealed Directive shall be construed as being made to this Directive.

Article 20 Entry into force

This Directive shall enter into force on the day of its publication in the Official Journal of the European Communities.

第二十一條 提交

本準則適用於各會員國。

（戴豪君譯，蔡宗珍校正）

Article 21 Addressees

This Directive is addressed to the Member States.

Done at Brussels, 12 July 2002.

For the European Parliament

The President

P. COX

For the Council

The President

T. PEDERSEN

註釋

① OJ L 108, 24.4.2002, p. 33.

① OJ L 204, 21.7.1998, p. 37. Directive as amended by Directive 98/48/EC (OJ L 217, 5.8.1998, p. 18).

② OJ L 36, 7.2.1987, p. 31. Decision as last amended by the 1994 Act of Accession.