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Government lays out six options for electoral roll

Unregulated version of the roll available for sale

Public awareness of unregulated version low

Legal and Regulatory Update

Ministry of Justice consults on the future of the electoral roll

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The Ministry of Justice has published a public consultation paper on the future of the Edited Register after a review of Government data handling recommended that it be scrapped.

In response to the Data Sharing Review, carried out last year by the then Information Commissioner Richard Thomas and Dr. Mark Walport, calling for the abolition of the Edited Register, the Government has now laid out six options ranging from the immediate abolition of the register to doing nothing more than increase public awareness of it, and has requested responses to its consultation.

The consultation closed on 23 February 2010 and the Ministry of Justice intends to publish a paper summarizing the responses to the consultation in May 2010.

The context

The Edited Register came into existence in 2002 when the Government introduced the Representation of the People (England and Wales) (Amendment) Regulations to establish a new framework governing access to and the supply and sale of electoral registers. Since then there have been two versions of the electoral register: a full version and an edited version of the full register (the 'Edited Register'). The Edited Register shows only the names and addresses of those on the full register who have not 'opted out' of inclusion in the edited version.

Unlike the full electoral register, the supply and use of which is strictly regulated by law, the Edited Register is available for sale to anyone for any purpose. The Edited Register is used by a number of groups such as charities and businesses for a variety of purposes, including compiling mailing lists for direct marketing.

Considerations

The Government has made it clear that it takes the issues of data protection, the privacy of citizens and democratic engagement, including electoral registration, very seriously, and it has highlighted concerns about data sharing. Importantly, the Government considers that the language used on electoral registration forms does not properly inform the public about either the existence of the Edited Register or their ability to be excluded from it. This creates a risk that people are not sufficiently aware that data provided on electoral registration forms could be sold or that they have a choice about whether they are included on the Edited Register.

Awareness of right to 'opt out' low

A further risk is that people do not realize that they have been entered in the Edited Register because they missed their opportunity to 'opt out'. This is of particular concern given that the Edited Register can be sold to anyone for any purpose and as such, individuals lose control of their proprietary rights over personal data if they do not opt out of inclusion.

The options

The Government has accepted the findings of the 2008 review that members of the public are often insufficiently aware of the existence and uses of the Edited Register, and considers that some reform of the current arrangements is desirable. In light of this, the consultation does not propose a 'do nothing' option.

Instead, the Government has identified the following options for the future of the Edited Register:

The six options

Options abolishing the Edited Register

- Option 1: Abolish the Edited Register as soon as practicable.
- Option 2: Set a timescale or trigger for abolition of the Edited Register.
- Option 3: Abolish the Edited Register as soon as practicable, but extend access to the full electoral register for other purposes to be decided.

Options retaining the Edited Register

- Option 4: Retain the Edited Register, but impose restrictions in legislation on who can purchase it and for what purposes.
- Option 5: Replace the current 'opt out' provision for an 'opt in'.
- Option 6: Improve guidance for the public about the Edited Register.

Why this matters

Obviously, abolition of the Edited Register would mean that it would no longer be available to those businesses and charities that currently use it. There are, of course, alternative sources of information available to those currently using the Edited Register, but direct marketers have indicated that the Edited Register is likely to be the cheapest source of information of this kind.

Abolition of unregulated roll would impact on marketers

The Government is yet to be convinced of the best course of action, and does not wish to make a final decision to act until all the available evidence about the potential impact of abolition has been considered carefully. However, if the Government does take the decision to abolish the Edited Register, it is likely that many direct marketing businesses will need to innovate and change their existing methods and practices. Any delay in abolition could give them much needed time to consider and develop their options.

The full text of the consultation paper can be found at <http://www.justice.gov.uk/consultations/docs/electoral-registers-changes-edited-register-consultation.pdf>

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