



Brussels, 20 December 2016

Re: e-Privacy Directive Review and the risk of excluding the European industry from the data economy

Dear First Vice-President Timmermans,

Dear Vice-President Ansip,

Dear Commissioner Oettinger,

Dear Commissioner Jourová,

Our Associations, who represent the leading players in the telecoms industry, have been closely following the progress of the Review of the e-Privacy Directive.

As our industry tirelessly works on building a 5G and Internet of Things-ready Europe, we would like to express our deep concern with recent media reports on the policy direction taken by the Review. According to reporting, the policy under discussion does not take into account the evolution of networks and services in a 5G world, but it appears to be rooted in outdated assumptions on the functioning of networks.

A restrictive and conservative policy approach would effectively exclude the European telecoms industry from the data economy, hence slowing down innovation and economic growth. This would also create a competitive disadvantage for the European industry compared to other areas of the world. More specifically, we believe that the use of data held by telecom companies as well as data collected from mobile apps, IoT devices, smart homes, connected cars and many other emerging systems will be crucial in realising the societal and economic benefits of the digital economy.

Any restrictive approach would also contradict one of the fundamental goals of the Digital Single Market strategy (DSM), which aims at creating a uniform digital market where both innovation and trust can flourish. Contradicting such DSM objective would place the EU at a disadvantage compared to other economies.

The General Data Protection Regulation (GDPR) will be applicable as from 2018 to provide a future-oriented, technologically neutral framework, which ensures a high-level standard of protection for personal data and privacy. In this context, the European industry is committed to contributing to a strong Digital Single Market by building trust in digital services.

For this reason we would like to offer our view on the following crucial aspects:

Firstly, it is important that we protect individuals' privacy and increase trust through transparency and control. However, the reliance on consent or full anonymisation cannot be the only answer to addressing privacy concerns. The Review should seek a stronger alignment with the GDPR both with regard to the concept of legitimate interest and with regard to further data processing. As stipulated in the GDPR, when compatible with the initial purpose, such additional processing should be allowed. In addition to this, we should consider that the risks incurred by data subjects can also be further mitigated by appropriate safeguards like pseudonymisation.



Secondly, there seems to be no justification to single out Communication Services by applying stricter requirements than those imposed on other service providers that process data of similar sensitivity – such as data that reveals the source, destination, date, time and/or location of the data, device or individual. This does not seem coherent and would provide inconsistent protection for individuals. All such processing activities should abide by the same rules.

We would urge you to consider these points to strike the right balance to enable European businesses to innovate, whilst providing European citizens with a wide range of choice of trustworthy and the highest quality services.

Yours Faithfully,

Lise Fuhr

A handwritten signature in black ink, appearing to read "Lise Fuhr".

Director General – ETNO

Afke Schaart

A handwritten signature in black ink, appearing to read "Afke Schaart".

Vice-President Europe – GSMA