

To: [REDACTED]  
Subject: FW: Meeting report - Coalition of European Companies Data Protection

> From: MARTENCZUK Bernd (CAB-TIMMERMANS)  
> Sent: Friday, February 13, 2015 7:01 PM  
> To: SMULDERS Ben (CAB-TIMMERMANS); SUTTON Michelle (CAB-TIMMERMANS);  
BALTA Liene (CAB-TIMMERMANS); BRAUN Daniel (CAB-JOUROVA); O'CONNELL Kevin (CAB-JOUROVA)  
> Cc: [REDACTED]  
> Subject: Meeting report - Coalition of European Companies Data Protection

> With apologies for late circulation, please find the attached meeting report.

> Best regards,

> Bernd Martenczuk

> -----

> Meeting Cabinet Timmermans and "Coalition of European Companies" on the Data Protection reform, Brussels, 2/2/2015

> COM:

> . Mr Bernd Martenczuk (CAB VP Timmermans),

> . [REDACTED]

> Coalition representatives:

> . [REDACTED]

> . [REDACTED]

> . [REDACTED]

> . [REDACTED]

> . [REDACTED]

> The scope of the meeting was to convey the position of the "Coalition of European Companies"1 on the on-going revision of the EU's data protection framework.

> The new functioning of the Commission was presented as well as the interactions between the services and the political level (new synergies and dynamics). The key objective for the revision of the data protection reform was also recalled (finalisation during 2015) by COM, and should include a meaningful one-stop-shop.

> The members of the Coalition indicated their general support for a Regulation directly applicable to the private and public sector alike (instead of a Directive currently implemented in various ways in the 28 MS). However, they pointed out to some issues of the Regulation which they judge of critical importance for the industries they represent. The handed over a document setting out their key concerns

(attached).

>

> A critical point for members seemed to be the joint liability of controllers and/or processors (unless they prove that they are not responsible for the event giving rise to the damage). This aspect was perceived as "poor regulation" and not "in sync" with the business reality thus creating economic and legal risks for EU companies. The members of the Coalition did not acknowledge the advancements made in terms of clearer splitting of responsibilities between controllers and processors done both in the Commission proposal for a Regulation as well as in the Council partial general approach from October 2014. COM representatives explained the reasoning behind joint liability as a major advantage for data subjects confronted with today's multi-faceted processing operations which make it very hard to distinguish between all the involved controllers and processors. In any case, that liability extended only towards the exterior, towards the data subject ("Aussenhaftung") and did not exclude recuperation between controller and processor. Similar concepts existed in EU and MS law and had been applied in the COM standard contractual clauses for data transfers to third countries (e.g. clause 6 of COM decision C(2010)593).

> Other areas of concern/interest for the Coalition were the provisions concerning data protection impact assessments, and the one stop shop, which the coalition representatives deemed "key" for the reform.

>

> The more political message of the Coalition was a need to keep interests of European companies in mind in the negotiations of the Regulation and to ensure that the Regulation will not "block" their current business model and bring them a competitive disadvantage.

>

>

> 1 The Coalition of European companies is made up of fifteen European organisations, from SMEs to global multinationals and NGOs operating in a variety of sectors, on a national, regional and global scale. They have an aggregated turnover of over € 100 billion and some 520,000 employees worldwide (cf. attached document).

>

>

>

> <Keep EU growing.pdf>