

Steering brief

Scene setter

You are hosting, together with Commissioner Jourová, a roundtable with industry on the implementation of the General Data Protection Regulation (GDPR). This meeting takes stock of compliance work of companies in view of the application of the GDPR from 25 May 2018 onwards. It follows a stakeholder meeting in July on icons and certification.

Reason for redaction: outside the scope of the request.

An early proposal of the upcoming e-Privacy Regulation was leaked on 13 December. Overall, industry is more sceptical about the need for special privacy rules for electronic communications (only 26% of industry respondents in the public consultation support this). 43% of industry want rules to be extended to OTTs, 42% are against. Only 31% see the need for rules on confidentiality.

Line to take

GDPR

- With solid common standards for data protection, people can be sure they are in control of their personal information and enjoy the services of DSM.
- Next steps: review of e-Privacy Directive and free flow of data communication on 11 January.

Reason for redaction: outside the scope of the request.

Privacy Shield

*Reason
for
redaction:
outside
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e-Privacy

- The main objective of the review of the e-Privacy Directive is to adapt the current rules which apply to electronic communications services to the new GDPR.
- We plan to adopt a proposal on 11 January.
- We foresee:
 - All players will abide by same rules, but they will be more flexible (rules on confidentiality of communications extended to OTT which consumers consider as functionally equivalent, e.g. instant messaging and VoIP)
 - Simpler rules on cookies: more user-friendly mechanism to signify consent, e.g. mandating browser settings to provide for an easy way to accept or refuse tracking cookies.
 - Some obligations that were adopted in the GDPR, for example, the obligation to notify personal data breaches in the ePrivacy Directive could be repealed.
- Citizens support innovative solutions (89% agree that default settings of their browser should stop their information from being shared).

If raised - coverage of OTTs stifling innovation

- All industry players should have the same opportunities to develop their business within the limits set by the respect of fundamental rights.
- OTTs should still be able to process data with the consent of the users. The new rules should not prohibit business models based on revenue from advertisement or targeted advertisement, enabled by tracking.
- Users should be empowered to make an informed choice about the acceptance of these practices. Transparency is important. People must know with which currency they pay: monetary, by data, the advertisements one views, or a combination.

If raised - Will the proposal lead to more surveillance?

- It is inaccurate that the future proposal extends national security obligation to OTTs.
- There is no EU legal instrument on data retention. Any future instrument on Privacy of Electronic Communications regulating data will not directly regulate national data retention laws.
- Like the e-Privacy Directive, the new instrument should contain a provision acknowledging MS competence on national security and MS right to limit to the confidentiality of communications for strictly limited purposes under strict safeguards.
- We expect a CJEU judgement that will provide greater clarity on MS national security law – it may impact the draft proposal.