Subject: FW: IAB Europe European executive policy fly-in - following up
Attachments: Confidential letter to D. Spanou, 29 September 2017, ePrivacy & GDPR.pdf

From: Townsend Feehan [mailto:feehan@iabeurope.eu]
Sent: Friday, September 29, 2017 10:59 AM
To: SPANOU Despina (CNECT)
Cc: Townsend Feehan (CNECT); Townsend Feehan (CNECT); Townsend Feehan (CNECT); Townsend Feehan (CNECT)
Subject: IAB Europe European executive policy fly-in - following up

Dear Despina,

Further to my message of this morning, please find attached the promised paper attempting to explain where our understanding of the potential impact of the proposed ePrivacy regulation differs from that of DG CNECT. With respect to the EP's first reading of the proposal and concrete actions that would address the issues called out in the paper, there are some amendments that would go some way toward addressing our concerns. An example is Amendment No. 576 from LIBE. This amendment would introduce a new paragraph 1a into Article 8 of the proposed regulation, as follows:

"Wherever a clearly formulated declaration of consent is presented before use of a service or access to online content, and if absence of consent for processing prevents a provider from collecting remuneration through their usual means, the provider shall not be obliged to provide the full access to the service or content."

We would respectfully request that at a minimum, the Commission confirm its support for this amendment. Other, similar amendments that DG CNECT could usefully support are AM 609, AM 611, AM 612, AM 613 and AM 614 from LIBE.

At the same time, it is important for us that amendments that would introduce an explicit prohibition on making access a condition, such as AM 78, AM 83, AM 523, AM 524 AM 555, AM 563, and AM 575 are not endorsed.

We are at your disposal for any questions you may have on the paper or the amendments.

Yours sincerely,

Towney
Objet : IAB Europe European executive policy fly-in - following up
Importance : Haute

Dear Despina,

Thanks again to you and for taking the time to meet our group on Tuesday. We will come back later today or latest on Monday with a short paper that captures where we believe we make a different analysis from DG CNECT on what it will mean for companies to go from 95/46/EC + the current ePrivacy Directive to GDPR + either the current ePrivacy Directive OR a future ePrivacy Regulation. In either scenario, the issue we were trying to articulate on Tuesday results from the combination of GDPR + ePrivacy/cookie rules, and not from the fact that a future ePrivacy regulation will mean more uniform application of the law from one Member State to the next.

We will include concrete suggestions with respect to minimal amendments of the proposed ePrivacy regulation that would achieve the aim of ensuring that the future rules do not effectively eliminate, or outright prohibit, data-assisted advertising as a revenue stream for online media and other services.

Yours sincerely,

Towney

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