

SIINDA, the Search and Information Industry Association, is the European association of search, digital and information providers and represents with its company- and national association members more than 200 providers of publicly available directories and –services from nearly all European countries and ipso facto more than 80 % of the total European directory market. Search and information providers secure putting the right people in contact in the right place and with the right partners by offering search and information media such as publicly available directories as print, online-, voice- and mobile services. More information on www.siinda.com

EUROPEAN COMMISSION PROPOSAL FOR A REGULATION ON THE RESPECT FOR PRIVATE LIFE AND THE PROTECTION OF PERSONAL DATA IN ELECTRONIC COMMUNICATIONS (e-Privacy regulation)

SIINDA Comments on remaining points for trilogue discussions – art 15

SIINDA- the Search and information industry association- representing the directory and database publishers in Europe welcomes the European Parliament and Council' s work on the e-privacy regulation and thanks the Presidency for its working document. SIINDA favours some of the points outlined by the latest positions about article 15 but would also like to insist on some remaining issues which would need to be considered. Below is an outline of the 3 major remaining issues and also a recap of the points which should remain sustained in the trilogue discussions

Points needing clarification or re-wording

- **Enabling search functions not based on name only – art 15.2:** The Council proposal wording in article 15.2 circumvents the search patterns possibilities to search functions based on name and asks for additional consent for any other search functions : this would in practice be totally impossible to manage and even counterproductive as for example in some countries, restricting searches on name would entail too many results or in others number-to-name are of great value to the directory industry ("who is calling"-service is based on this), and it's very close to impossible to gather this consent. Furthermore, reverse search is important for emergency services: in emergency situations caller can be identified because of their phone number; help can quickly be organized, lives can be saved.
SIINDA recommends you to remove in article 15.2 the reference to search functions "that are not based on name" and to let the possibility to enable all search functions in directories
- **Enabling the possibility for subscribers to be unlisted of directories – art 15 :** As there has been no privacy complaints on directory inclusion, the management of directory listings should keep the status quo of the e-Privacy directive (article 12(2)) by letting end-users the opportunity to determine if they are listed. Based on this many EU countries have today a functioning and well-regulated opt-out system, which should not be jeopardised and should have a level playing field for all players. ***SIINDA recommends keeping the wording of the e-privacy directive for management of directory listings.***
- **Align the reference with the European Communications Code and be technologically neutral – art 15 :** SIINDA members believe that restricting directory information to number-based services is **NOT** future proof and not the way to ensure technological neutrality. This can only be done if the scope is extended to all electronic communication services providers, thus being

aligned with the European Electronic Communications Code and recital 31 of the e-privacy regulation by putting in place a fair level playing field and a technology neutral regulation. ***SIINDA members therefore urge you to align with the EECC and to replace number-based interpersonal communication services with interpersonal electronic communication services in recital 30 and 31, article 4 d and article 15.***

- **Differentiate directory information and use for direct marketing:** the information that is collected and used for directory listings differs from the one that is used for direct marketing, mainly because the directory information is very basic and cannot serve as a basis for direct marketing. In many EU countries, information provided for directories purpose is for this sole purpose only and cannot legally be reused for direct marketing. Moreover, direct marketing is dealt with by article 16 of the e-privacy regulation which is very clear and there are more effective ways to manage information used for direct marketing such as Robinson lists. On the other hand, removing all information from directories would mean delisting a lot of persons also acting in business capacity who need to be found and to find contacts, and would absolutely not solve any issue that may arise with direct marketing. ***We therefore urge you not to mix information which is used for directory purposes and for direct marketing.***

Points of convergence that should be sustained

- **Make providers responsible for managing inclusion in subscribers' listings – art 15 :** SIINDA members **support** the EP and the Council proposal to keep electronic communication service providers responsible for providing the user with the possibility to be listed in directories as proposed with article 15.1, but this would have to be applicable to all electronic communication services providers.
- **Ensure that natural persons acting in business capacity are equated to legal persons – art 15.4 :** SIINDA supports the EP and Council clarification in article 15.4 and recital 30 that end-users who are natural persons acting in a professional capacity should be treated as legal persons.
- **Ensure the access requirement as enshrined in EEC in kept :** SIINDA members like to ensure that the access requirement outlined in the EECC is mirrored in the e-privacy, ie the obligation for electronic communication service providers to grant directory providers access to their users' data in a non-discriminatory manner and at cost-oriented price.
- **Guarantee that a carve-out for existing databases remain in place- art 15.4 a**

In light of the above, we urge you to consider the following small language amendments for article 15 which would ensure privacy of users is protected whilst at the same time enabling directories to continue to connect people and businesses.

We remain at your disposal for any further information and thank you for your support

Yours sincerely,



[Redacted]

[Redacted]

SIINDA (Search and Information Industry Association)

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Language amendment proposals (in yellow)

Council paper 11001/19	SIINDA proposed amendment
<p>30</p> <p>Publicly available directories of end-users of electronic communications services are widely distributed. Publicly available directories means any directory or service containing categories of information on end-users information personal data of number-based interpersonal communication services such as name, phone numbers (including mobile phone numbers), email address contact details, home address and includes inquiry services, the main function of which is to enable to identify such end-users. The right to privacy and to protection of the personal data of a natural person requires that end-users that are natural persons are asked for consent before their personal data are included in a directoryable to determine per category of personal data whether their personal data are included in a directory. The legitimate interest of legal entities persons requires that end-users that are legal entities persons have the right to object to the data related to them being included in a directory. End-users who are natural persons acting in a professional capacity should be treated as legal persons for the purpose of the provisions on publicly available directories.</p>	<p>(30). Publicly available directories means any directory or service containing categories of information on end-users information of interpersonal electronic communication services such as name, phone numbers (including mobile phone numbers), email address, home address and includes inquiry services, the main function of which is to enable to identify such end-users. The right to privacy and to protection of the personal data of a natural person requires that end-users that are natural persons are able to determine per category of personal data whether their personal data are included in directories. The legitimate interest of legal persons requires that end-users that are legal entities persons have the right to object to the data related to them being included in a directory. End-users who are natural persons acting in a professional capacity should be treated as legal persons.</p>

<p>(31) If end-users that are natural persons give their consent to their data being included in such directories, they should be able to determine on a consent basis which categories of personal data are included in the directory (for example name, email address, home address, user name, phone number). In addition, Providers of publicly available directories number-based interpersonal communications services and/or providers of publicly available directories should inform the end-users who are natural persons of the purposes of the directory and of the search functions of the directory and obtain their additional consent before including them in that directory enabling such search functions related to their personal data. End-users should be able to determine by consent on the basis of which categories of personal data their contact details can be searched. The categories of personal data included in the directory and the categories of personal data on the basis of which the end-user's contact details can be searched should not necessarily be the same.</p>	<p>(31) Providers of interpersonal electronic communications services and/or providers of publicly available directories should inform the end-users who are natural persons of the purposes of the directory and of the search functions of the directory and enable end-users to object on search functions related to their own data.</p>
<p><i>Article 4 Definitions</i></p> <p>...</p> <p>(d) 'publicly available directory' means a directory of end-users of electronic number-based interpersonal interpersonal communications services, whether in printed or electronic form, which is published or made available to the public or to a section of the public, including by means of a directory enquiry service and the main function of which is to enable identification of to identify such end-users;</p>	<p><i>Article 4 Definitions</i></p> <p>...</p> <p>(d) 'publicly available directory' means a directory of end-users of interpersonal electronic communications services, whether in printed or electronic form, which is published or made available to the public or to a section of the public, including by means of a directory enquiry service and the main function of which is to enable identification of such end-users;</p>
<p><i>Article 15 Publicly available directories</i></p> <p>The providers of publicly available directories number-based interpersonal communications services shall obtain the consent of inform end-users who are natural persons about the possibility to include their personal data in a publicly available directory and give end-users who are natural persons them to include their personal data in the directory and, consequently, shall obtain consent from these end-users for inclusion of such data per category of personal data the opportunity to determine per category of personal data whether their personal data are included in</p>	<p><i>Article 15 Publicly available directories</i></p> <p>The providers of interpersonal electronic communications services shall obtain the consent of inform end-users who are natural persons about the possibility to include their personal data in publicly available directories and give end-users who are natural persons them to include their personal data in the directory and, consequently, shall obtain consent from these end-users for inclusion of such data per category of personal data the opportunity to determine per category of personal data whether their personal data are included in the publicly available directories to</p>

the publicly available directory , to the extent that such data are relevant for the purpose of the directory as determined by the provider of the directory.	the extent that such data are relevant for the purpose of the directory as determined by the provider of the directory.
1aa. Notwithstanding paragraph 1, Member States may provide by law that the inclusion of personal data of an end-user who is a natural person in a publicly available directory can take place provided that he end-user who is a natural person shall have the right to object to such inclusion.	1aa. Notwithstanding paragraph 1, Member States may provide by law that the inclusion of personal data of an end-user who is a natural person in a publicly available directory can take place provided that he end-user who is a natural person shall have the right to object to such inclusion.
Art 15 2. The providers of a publicly available directory number-based interpersonal communications services and/or providers of publicly available directory shall inform end-users who are natural persons whose personal data are in the directory of the available any search functions that is not based on name of in the directory and obtain the additional consent of end-users' consent before enabling such search functions related to their own data.	Art 15 2. The providers of interpersonal electronic communications services shall inform end users who are natural persons whose personal data are in the directory of any search functions that were not included in the directories before the regulation came into force that is not based on name of and obtain the additional consent of enable end-users' consent to object on before enabling such search functions related to their own data.
Art 15. 3. The providers of publicly available directories number-based interpersonal communications services and/or providers of publicly available directory shall provide end-users that are legal persons with the possibility to object to data related to them being included in the directory.	Art 15.3. The providers of interpersonal electronic communications services shall provide end-users that are legal persons with the possibility to object to data related to them being included in the directories.
Art 15 3a. The Pproviders of number-based interpersonal communications services and/or providers of publicly available directory shall give such end-users that are legal persons the means to verify, correct and delete such data included in a publicly available directory.	Art 15 3a. The providers of interpersonal electronic communications services shall give such end-users that are legal persons the means to verify, correct and delete such data included in publicly available directories.
3aa. Notwithstanding paragraphs 1aa to 3a, Member States may provide by law that the requirements under those paragraphs apply to providers of publicly available directories, in addition to or instead of, providers of number-based interpersonal communications services.	3aa. Notwithstanding paragraphs 1aa to 3a, Member States may provide by law that the Requirements under those paragraphs apply to providers of publicly available directories, in addition to or instead of, providers of number-based interpersonal communications services.
4. The possibility for end-users not to be included in a publicly available directory, or to verify, correct and delete any data related to them shall be provided free of charge.	4. The possibility for end-users not to be included in a publicly available directory, or to verify, correct and delete any data related to them shall be provided free of charge.

<p>Art 15 . 4 a</p> <p>Where the personal data of the end-users of number based interpersonal communications services have been included in a publicly available directory before this Regulation enters into force, the personal data of such end-users may remain included in a publicly available directory, including version with search functions, unless the end-users have expressed their objection against their data being included in the directory or against the use of available search functions related to their data.</p>	<p>Art 15.4 a</p> <p>Where the personal data of the end-users of number based interpersonal communications services have been included in publicly available directories before this Regulation enters into force, the personal data of such end-users may remain included in a publicly available directory, including version with search functions, unless the end-users have after being included in publicly available directories expressed their objection against a further inclusion of their data in the directories or against the further use of available search functions related to their data.expressed their objection against their data being included in the directory or against the use of available search functions related to their data.</p>
	<p>Art 15.5 new</p> <p>The electronic communication service providers shall make users' data available for directory providers in an immediate, non-discriminatory and fair manner.</p>