

Brussels, 13 March 2019

Dear Vice-President Ansip, dear Commissioner Gabriel,

DIGITALEUROPE shares your goal of ensuring a high level of privacy in electronic communications. To this end, we are committed to a positive adoption of the ePrivacy Regulation. We want to make sure that high protection for individuals and business communications can stand hand in hand with innovation and growth for Europe's expanding IoT and artificial intelligence aspirations.

Together with other European trade associations representing interests as varied as energy, automotive, medical technology, construction equipment and home appliances, we were happy to engage in a fruitful meeting with the Vice-President's Cabinet and DG CONNECT. As highlighted during that meeting, we would like to put forward what we believe are workable proposals to address the key outstanding issues in current and future negotiations:

- i. **Who is the end-user?** – Clarifying that when end-users are legal persons, ePrivacy should apply only to such legal persons as opposed to the natural persons who may be using the related services or terminal equipment, to whom the General Data Protection Regulation (GDPR) should instead in any event apply;
- ii. **Relationship with the GDPR** – Clarifying that the ePrivacy Regulation only applies to the moment of collection of terminal equipment information, while the GDPR should apply to processing activities after the collection point; and
- iii. **Enabling beneficial IoT use cases** – Adding two legal bases (for anonymisation and for collection with by-design limited impact) for the use of processing and storage capabilities of terminal equipment and the collection of information from end-users' terminal equipment as recommended by the Article 29 Working Party in its Opinion 03/2016.

We believe that our suggestions are in line with the Commission's original intentions and we hope they can be considered promptly during the ongoing negotiations.

We provide text suggestions and more detailed background in the two documents attached to this letter.

We appreciate the opportunity to provide you with our input and would be glad to further discuss our suggestions with you.

We look forward to further engagement with the Commission to advance this important file.

Yours sincerely
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ABOUT DIGITALEUROPE

DIGITALEUROPE represents the digital technology industry in Europe. Our members include some of the world's largest IT, telecoms and consumer electronics companies and national associations from every part of Europe. DIGITALEUROPE wants European businesses and citizens to benefit fully from digital technologies and for Europe to grow, attract and sustain the world's best digital technology companies. DIGITALEUROPE ensures industry participation in the development and implementation of EU policies.

DIGITALEUROPE's members include in total 35,000 ICT companies in Europe represented by 63 corporate members and 40 national trade associations from across Europe. Our website provides further information on our recent news and activities: <http://www.digitaleurope.org>

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National Trade Associations

Austria: IOÖ

Belarus: INFOPARK

Belgium: AGORIA

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Croatia: Croatian Chamber of Economy

Cyprus: CITEA

Denmark: DI Digital, IT-BRANCHEN

Estonia: ITL

Finland: TIF

France: AFNUM, Syntec Numérique, Tech in France

Germany: BITKOM, ZVEI

Greece: SEPE

Hungary: IVSZ

Ireland: TECHNOLOGY IRELAND

Italy: Anitec-Assinform

Lithuania: INFOBALT

Luxembourg: APSI

Netherlands: Nederland ICT, FIAR

Norway: Abelia

Poland: KIGEIT, PIIT, ZIPSEE

Portugal: AGEFE

Romania: ANIS, APDETIC

Slovakia: ITAS

Slovenia: GZS

Spain: AMETIC

Sweden: Foreningen Teknikföretagen i Sverige, IT&Telekomföretagen

Switzerland: SWICO

Turkey: Digital Turkey Platform, ECID

Ukraine: IT UKRAINE

United Kingdom: techUK