

JOINT LETTER FROM BROADCASTERS ACROSS EUROPE E-PRIVACY

Dear Ministers,
Dear Deputy Permanent Representatives,

We are writing to you ahead of your Telecoms Council meeting this Friday, 8 June where you will hold a debate on a Proposal for e-Privacy Regulation currently discussed between the Member States at the technical level.

As important stakeholders in this debate, broadcasters all over Europe who will all be very much affected by the outcome of this revised law, we wanted to strongly highlight the main issues and potential negative consequences for the industry as well as European viewers in case some of the current suggestions are accepted and if some of the additional modifications are not introduced.

As you may know, broadcasters are the main investors in original content who finance, promote and distribute it across all platforms. Many of them are also leading in online video and have made significant efforts and investments to develop new procedures (adapting data collection, storage and analysis process) following the adoption of GDPR. In fact, online bits of their businesses are a crucial part of the overall economics of continued original content investment which is not the case for the online data driven rivals. They also rely on advertising revenues as they are the main source of remuneration for online content to be free. However, to be able to respond to viewers' preferences and interest as tailored as possible, sustain content investment and most of all to be able to stay competitive in this new media ecosystem, access to data and their responsible use is crucial¹.

For regulatory consistency and clarity we urge for a solution that is aligned with GDPR without new undue burdens. Further, to effectively implement current enforcement (IPRED) dispositions, national law enforcement should continue to have the means to investigate IP infringements and member states should ensure that right holders are still able to effectively pursue related civil law claims.

Being proud to be recognised with radio as the most trusted and responsible medium² and at the same time being subject to heavy regulation already, it does not need to be underlined further that we do not see our viewers as products. As said, we see them as our viewers whose loyalty, satisfaction and experience matter the most. This is also the mind-set or the reasoning behind cookies which help understand how to improve the experience, become more efficient when/which one/how many and how often a certain ad should appear and very importantly to ensure ads do not degrade the user experience or even push them away.

Additionally, access to data is equally important for non-advertising purposes which is linked to the ability to provide more personalised video viewing experience, more tailored to the users' taste, ability to provide content recommendations and to ensure continuity of user experience across devices as they may switch devices watching the same content.

For these reasons, we first want to thank the Council for working hard on shaping Article 8 in a positive direction by introducing some of the important elements such as an exception on audience measurement already. At the same time, we would like to strongly emphasise the need to add a few further exceptions when processing of data would still be possible, as written above (personalisation of services, content recommendation). Examining

¹ "Data is clearly the most valuable resource in the online economy and the majority of so called free services and digital products are only free in exchange for access to the users data." Commercial communications in the AVMSD revision, 2017, p.7

² Eurobarometer 2017.

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a potential sector exemption for media businesses may be required to ensure they can continue to finance and innovate Europe's creative and cultural space.

When it comes to the new role of browsers (referred in Article 10), it is crucial the new Regulation takes challenges for European media market operators seriously and does not allow centralisation of consent at the browser level. This would concentrate users' information ending up with companies owning the browsers and as such make them become gatekeepers of user data. This would create strong disadvantage for European media service providers which should not become a result of the overall need to simplify the management of user consent.

We appreciate the efforts made by the Council so far on this point which however still needs to be further modified in order not to reinforce already dominant players in the data economy. Article 10 therefore clearly needs to state that consent requested by a service provider and given by an end-user should prevail over the privacy settings chosen at the installation of the software.

We hope you will consider the above points during your discussion on Thursday and treat them as crucial ones when deciding upon the future of European industry competitiveness for the benefit of European citizens.

Yours sincerely,

Signed associations

Association of Commercial Television in Europe (ACT)
Association of the Bulgarian Broadcasters (ABBRO)
Association of Commercial Television in Czech Republic (AKTV)
Romanian Association for Audiovisual Communications (ARCA)
Commercial Broadcasters Association in UK (COBA)
Confindustria Radio Televisioni (CRTV)
European association of Television and Radio Sales houses (egta)
Association of Commercial Broadcasters in Austria (VÖP)

