

ePRIVACY: Broadcasters welcome the achievement of the PT Presidency on milestone reached. Call on trilogues to take stock of context & how to ensure crisis hit media ecosystem is able to deliver on media pluralism.

BRUSSELS, 11 FEBRUARY 2021. The European broadcasting sector welcomes the adoption by the Council of the EU of a General Approach on the ePrivacy regulation. Ensuring that EU citizens' data is collected and used safely is a priority for the broadcasting sector, as privacy and the respect of personal data are paramount to retaining viewers' trust.

As the major producers of original and diverse content, broadcasters are at the forefront of Europe's cultural and entertainment space, providing the news, information, and educational output that underpins the democratic structures essential to our way of life. Advertising revenues enable us to make high quality content, including news, available offline and online to all EU audiences.

We welcome the Portuguese Presidency's efforts to ensure that responsible use of data, based on the consent of the end-user, continues to be possible for the purpose of advertising. We recognise that negotiations have been difficult and that not all critical issues raised by broadcasters could be addressed, and look forward to the Council's ongoing considerations of these critical issues in the Trilogues.

To this end, we call on all parties involved in the forthcoming negotiations - Council, Parliament and Commission - to recognise the impact that e-privacy will have on a media environment that increasingly relies on online advertising and is faced by an ongoing crisis and transformation exercise due to the pandemic. Consumers will be the first impacted by measures that impoverish Europe's media ecosystem, whilst missing the intended targets of these measures. Privacy is a key issue, but it should not be instrumentalised in a way that allows online platforms to reinforce their position on the advertising market. They already do so through various initiatives, regulation should not reinforce this.

Broadcasters need to actually benefit from the only legal basis which supports online advertising in the proposed text: end-user consent. It is crucial that broadcasters be explicitly allowed to make access to their ad-funded content conditional on consent. Any deviation from this would severely affect broadcasters' ability to offer free-to-air, free online and on-demand models and choose freely how to monetise their content. This would eventually be to the detriment of media pluralism and independence and cultural diversity, greatly undermining Article 11 and 16 of the Charter of Fundamental Rights. In this regard, we regret the last minute changes made to recital 20aaaa which undermines the overall balance of the text.

It will also be crucial to ensure that the legal basis foreseen in article 8 (Protection of end-users' terminal equipment information) are able to be used in practice. In this regard, we welcome the recent changes to article 4a (consent) which says that "consent directly expressed by an end-user (...) shall prevail over software settings" and the deletion of article 8(1a). Broadly, we would caution against any provisions that would further consolidate the grasp that gatekeeping platforms have over end-users through software settings and prevent broadcasters from establishing a direct link with their users.

For the above reasons, we thank the Portuguese and next Presidencies of the Council and encourage them to continue to scrutinise the issues raised above, taking into account the considerably negative impact that the Parliament's position would have on Europe's media environment. Europe's actions to address abuses by online platforms should avoid unintentionally impacting European media players, the jobs they support and the audiences they inform, educate and entertain.

Grégoire Polad

ACT Director General

gp@acte.be

Matt Payton

AER Secretary General

aer@aereurope.org

Conor Murray

egta Director Regulatory and Public Affairs

conor.murray@egta.com

Daniela Beaujean

VAUNET Managing Director and Legal Advisor

beaujean@vau.net

About the Association of Commercial Television in Europe (ACT)

ACT member companies finance, produce, promote and distribute content and services benefiting millions of Europeans across all platforms. At ACT we believe that the healthy and sustainable commercial broadcasting sector has an important role to play in Europe's economy, society and cultures. For further enquiries: Greg Polad | Director General | gp@acte.be

About the Association of European Radios (AER)

The Association of European Radios (AER) is the Europe-wide trade body for commercial radio, representing the interests of companies operating over 5,000 commercial radio stations to the EU Institutions. AER promotes the development of commercially-funded radio broadcasting in Europe, by ensuring a fair and sustainable economic framework for radio so it can continue to thrive.

About the European association of television and radio sales houses (egta)

egta is the media trade body for television and radio advertising, representing 150 companies in Europe and beyond. egta members come from both public and private sectors and cover respectively 75% and 50% of the total TV and radio ad spend in Europe, thus playing a fundamental role in the sustainable funding of the European audiovisual and radio industries.

About the German Media Association (VAUNET)

VAUNET is the leading organisation for audiovisual media in Germany. The fields of business in which its 150 member companies operate are highly varied, ranging from TV and radio to internet and streaming offerings. VAUNET represents the interests of the commercial audio-visual industry, which is one of the largest business sectors in Germany. The Association's activities focus on development in the markets for audiovisual media and play an active role in shaping the relevant parameters at both a national and European level. The aim of the trade association is to create acceptance for the economic concerns of audiovisual media and raise awareness of the major socio-political and cultural significance of this industry in the digital age. For more information see www.vau.net and follow @VAUNET_Presse Contact: Daniela Beaujean | Managing Director | beaujean@vau.net; Anne Peigné de Beaucé | Senior European Affairs Manager | peigne@vau.net