



PROTECTING DIGITAL FREEDOM



Open letter to European member states on the ePrivacy reform

27 March 2018

Dear Minister,
Dear Member of the WP TELE,

We, the undersigned organisations, support the ongoing and much-needed efforts to reform Europe's ePrivacy legislation. The reform is essential in order to strengthen individuals' right to privacy and freedom of expression across the EU and reinforcing trust in online services. We are therefore concerned by the slow progress of the Council towards finalising a General Approach.

The proposal was launched by the European Commission in January 2017, supported by the results of an EU public survey which clearly showed that individuals want privacy and security when communicating online. More than a year after the proposal was launched, a strong ePrivacy Regulation is needed more urgently than ever to complement and particularise the General Data Protection Regulation (GDPR).

Despite the clear and urgent need to strengthen the privacy and security of electronic communications, the Council's negotiations have been inconclusive. Worse still, some Member States seem willing to prioritise the narrow business interests of, ultimately, a small number of major online companies over fundamental rights of individuals and trust to the European online economy as a whole.¹

Not concluding or undermining the objectives of the reform creates significant risks for individuals' rights to privacy, freedom of expression and trust in the online economy. The risks have been brought into sharp focus recently. The Facebook/Cambridge Analytica scandal shows that abusive, trust-corrosive practices must be robustly tackled with clear rules. The societal implications are profound as this case is further proof that when individuals are tracked and profiled, not only is their privacy at risk, but information can be used for political and economic manipulation. By adopting a strong ePrivacy Regulation, the EU can put an end to these pervasive abuses of individuals' electronic communications data.

In that context, we welcome the conclusions from last week's European Council where EU leaders reiterated that EU and national legislation on privacy and personal data must be respected and enforced and undertook to ensure the adoption of the ePrivacy reform in 2018.

Civil society organisations in Europe thus call on Member States to:

- Prioritise the finalisation of their "General Approach" so that negotiations can begin with the European Parliament with the view of an adoption of a strong ePrivacy Regulation by end of 2018 that aligns with and strengthens the protections foreseen in the GDPR;
- Ensure that the Council's position supports the effective protection of the privacy and security of communications, including by supporting a provision that ensures privacy by design and by default in both software and hardware.

Yours sincerely,

Access Now

Antigone, Italy

¹ See National Telecommunications and Information Administration report in the United States (<https://www.ntia.doc.gov/blog/2016/lack-trust-internet-privacy-and-security-may-deter-economic-and-other-online-activities>) and similar figures in the ePrivacy barometer (<https://ec.europa.eu/digital-single-market/en/news/eurobarometer-eprivacy>) regarding the concerns on current lack of strong privacy and data protection laws.

Association for Technology and Internet, ApTi, Romania
Associação D3 - Defesa dos Direitos Digitais, Portugal
Bits of Freedom, the Netherlands
CILD, Italian Coalition for Civil Liberties, Italy
Civil Liberties Union for Europe
Digitalcourage, Germany
Digitale Gesellschaft e.V., Germany
Digital Rights Ireland, Ireland
EDRI
Electronic Foundation Norway
epicenter.works, Austria
Estonian Human Rights Center, Estonia
FAlmaison, France
Federation FDN, France
Förderverein Informationstechnik und Gesellschaft (FITUG e.V.), Germany
Hermes Center, Italy
Hungarian Civil Liberties Union, Hungary
The IT Political Association of Denmark, IT Pol, Denmark
Max Schrems, founder, Europe vs Facebook, Austria
Open Rights Group, U.K.
Panoptikon Foundation, Poland
Privacy International
Quintessenz, Austria
Vrijschrift, the Netherlands
Xnet, Spain
Web Foundation