

Brussels, 24 September 2018

Dear Member of the WP TELE,

The undersigned organisations would like to re-state our support for the ongoing and much-needed efforts to reform Europe's ePrivacy legislation. More than 600 days after the proposal was launched by the European Commission, the Council has failed to agree on a general approach that can be discussed with the European Parliament. We believe that finalising the reform under the Austrian Presidency would be a great step towards strengthening of individuals' right to privacy and freedom of expression across the EU, reinforcing trust in online services and providing legal clarity to businesses and individuals. This will also benefit of competition and innovation.

After our last open letters ([here](#) and [here](#)), our meeting in May and our [follow up letter](#) on 13 July, we would like to remind you of our key recommendations:

- The EU must step up its work to address the intrusive and abusive practices in the digital market, affecting the right to privacy, freedom of expression, trust, innovation and take-up of new services. The weaknesses in current regulation of privacy and confidentiality is helping build monopolies. By not curtailing the way in which tech monopolies use personal data in the electronic communications sector, we are allowing them to relentlessly build an ever-stronger position in which innovative EU businesses cannot compete and where EU citizens have less and less control of their private communications.
- Despite their assertions, [online tracking companies are not publishers](#). Misrepresentations of Google/Facebook revenue as "publisher" revenue have seriously undermined discussions of the proposed Regulation. The EU must carefully scrutinise such false assertions and misrepresentations, ensuring a fact-based reform of the ePrivacy regulation.
- The lack of privacy and security protections remain key concerns for citizens around the world. Both the [Eurobarometer on ePrivacy](#) and the United States National Telecommunications and Information Administration of the US Department of Commerce (NTIA) show this. The [NTIA spoke of privacy and security worries creating a "chill on discourse and economic activity"](#) in 2016, following a major survey of consumer attitudes.

We ask you to:

1. **Strengthen the EU legal framework** . Since more and more data is transmitted, accessed, stored and processed by digital devices, there is an urgent need to update the current rules regulating electronic communications, which were adopted when most of the communications technologies dominant today did not even exist. Confidentiality of communications and protection of personal data should not depend on whether European citizens use traditional telecommunications services or internet-based "over the top" services. An updated framework will bring legal certainty for business and will strengthen individuals' trust in online communications.

2. **Protect privacy and competition.** In order to ensure the protection of fundamental rights and ensure business competitiveness, the EU needs to implement clear and predictable rules to engender trust, thereby enhancing competition, innovation and privacy.

3. **Ensure privacy by design and by default:** Privacy by design and default are core principles that need to be defended. Privacy by design ensures that privacy is built into new services, driving innovation and security. Similarly, privacy by default ensures transparency, without impeding the provision of more data-intensive services, if the user chooses to use them.

For all of the above reasons, we call on you to adopt a general approach as soon as possible, in order to enter into negotiations with the European Parliament, with a view of completing a comprehensive and strong reform of the ePrivacy Regulation in early 2019.

Best regards,

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European Digital Rights

On behalf of:

