

BRUSSELS, 23rd November 2015

RE: Data Protection and the data-driven economy

Dear Minister Braz,

Europe needs to build and protect a strong, future-proof data-driven economy

For this reason, as the Data-Driven Marketing industry, we support the Digital Single Market (DSM) strategy and objectives of the European Commission. We cannot afford to miss the ambitious goals promised by the DSM such as the 250 billion euros of additional growth and the target of creating the extra hundreds of thousands of jobs, in today's economic climate. Our industry has a value of 47 billion euros¹ for the European economy and we want to contribute to the European Commission's objective of economic growth. We believe in the knowledge-based society based on the potential of data as described by Mr Juncker², President of the European Commission.

However, as the data-driven Marketing industry, we have concerns over the current texts of the General Data Protection Regulation (GDPR). The DSM aims at shaping the future for the next ten years and is based on the collective societal need for organisations to be able to process data balanced with the individual's right to privacy. However in some of the current texts of the GDPR, the focus is solely on the individual's right to privacy rather than balancing it with the need for organisations to be able to process data, thus looking at data uses from the past decade.

If digital is the key to growth, one has to understand that digital is data as much as data is digital. Limiting access to data, will limit the efficiency of the digital economy, thus reducing economic growth. The data-driven marketing industry relies on consumer trust and confidence to supply it with the consumer data it needs in order to deliver targeted, relevant, timely messages and enhance the consumer experience. We fully agree on the need to protect consumer data and individuals' fundamental right to privacy. We accept that this is non-negotiable. However, it is also the duty of legislators to balance this fundamental right with the need for organisations to be able to process data in order for Europe to meet its goals of promoting job creation, growth, competitiveness and investment.

For these reasons, we would like to draw your attention to the following issues, which we believe constitute the 'tipping point' of the GDPR to ensure that the final text takes a balanced approach between the protection of individual rights and the need for organisations to be able to process data. As Minister for Justice of Luxembourg and holding the Presidency of the Council of the European Union, we urge you to call upon the European Commission, European Parliament and the Justice and Home Affairs Council to preserve the following points in the final version of the GDPR text:

- A balance between an organisation's access to data, which is crucial for innovation and generating economic growth, and the need to maintain individuals' trust and confidence and protect their fundamental right to privacy.
- The ability to create added value from data through profiling activities which are to the benefit of individuals should be maintained, in particular in light of the potential of big data.
- The importance of international data transfers in a global networked economy, including transatlantic transfer to the US should be recognised, and a solution to the Safe Harbor issue must be found to prevent any disruption in the provision of services to EU citizens.
- Maintaining a flexible, technology neutral and principle based text is crucial to ensure the longevity of the legal framework, and its applicability to any future innovations.

¹ Source Deloitte study: Economic impact assessment of the proposed European General Data Protection Regulation: <http://www2.deloitte.com/content/dam/Deloitte/uk/Documents/about-deloitte/deloitte-uk-european-data-protection-tmt.pdf>

² Mission letter of President Juncker to Andrus Ansip, Vice President for the Digital Single Market https://ec.europa.eu/commission/sites/cwt/files/commissioner_mission_letters/ansip_en.pdf



We are
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- A risk-based approach provides an effective level of protection to individuals, while giving flexibility to organisations in different data processing situations.
- All organisations, from large ones to SMEs should be able to fully benefit from the potential of data, contributing to Europe's innovation.
- Consumer trust should be strengthened through the provision of a reasonable level of relevant information provided upfront.
- Guidance for interpretation of the new rules should be provided by Data Protection authorities in dialogue with the industry the rules apply to, thus acting as a reliable partner.
- The concept of the free flow of data promoted by the DSM, and supported by the use of a Regulation for the new EU data protection legal framework should be reflected in other relevant EU legislation, including the revision of the e-Privacy directive.

We hope that these concerns will be addressed during the final negotiations of the GDPR text so that Europe is able to create a data protection regime that will enhance the development of the DSM, while ensuring that a high level of data protection exists across the continent.

Yours sincerely,



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