



FEDERATION OF EUROPEAN DIRECT AND INTERACTIVE MARKETING

PUBLIC AFFAIRS & SELF-REGULATION

03 August 2011

To:

Mr. Jacob Kohnstamm
Chairman of the
Article 29 Working Party

Dear Mr Kohnstamm,
Dear members of the Article 29 Working Party,

Within your opinion 4/2010, the Article 29 Working Party specified that an amending the Annex might be required in view of new provisions developed by the implementation of the reviewed e-privacy Directive, particularly as far as cookies and spyware are concerned. There are important delays in implementing by several Member States, and the European Commission has recently send requests for information to 20 Member States. FEDMA considers as important to inform the Article 29 Working Party that we are closely monitoring the current process of implementation of the Annex of the FEDMA Code, and are considering the recommendation of the Group. FEDMA is willing to assess the need for a change in the Annex once the E-privacy Directive will be fully implemented by Member States. Such a delay is necessary to ensure that any changes added to the Annex will duly be in line with the new rules.

FEDMA is aware of the importance of the implementation of the Annex as a demonstration of the effectiveness of an industry self-regulation in the field of data protection. The annual report requested by the Article 29 Working Party will be the occasion to inform about the application of the Annex. Most of the national Direct Marketing Associations being in the process of integrating the Annex into their national code of conduct, the report will also have the occasion to emphasize the implementation process as well as the main difficulties encountered. In order to be successful in its objective, the annual report will usefully be delayed as to integrate a maximum of up-to-date aspects.

Although, FEDMA was already informed that the Telecommunication Supervisory Authority in The Netherlands, dealing with consent, is not in line with the Annex of the FEDMA code. This is a point FEDMA would like to discuss with the Working Party, because it seems counterproductive and inefficient to create codes of conduct at European level if individual Supervisory Authorities in Member States do not respect the opinions of the Article 29 Working Party on these codes of conduct.

Finally, in the future, FEDMA will also consider the interest of reporting to the Article 29 Working Party on the implementation of the European code of practice for the use of personal data in direct marketing.

Please do not hesitate to contact me in case you have any further questions or concerns.
Yours sincerely,

Dieter Weng
Chairman of FEDMA