



FEDERATION OF EUROPEAN DIRECT AND INTERACTIVE MARKETING

PUBLIC AFFAIRS & SELF-REGULATION

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FEDMA Sum-up position on the review of the Data Protection Directive

The Legitimate interest of the data controller is an existing legitimate ground for data processing and allows a right balance between protection of personal data and economic interest. Indeed, processing data on the basis of the legitimate interest imposes on the data controller to respect the right and interest of the data subject, while **consent** based data would bring the burden on data subject.

Profiling is a fundamental part of commercial, ideal and charitable business processes and is essential for the functioning of the internal market. Legitimate profiling does not produce negative (legal) effects for the data subject.

In order for a data subject to exercise his full right of access, correction and deletion while having his data efficiently protected, it is of importance that the **definition of personal data** stick to identifiable data. Broadening such a definition would lead to a situation where data controller is not certain to give a data subject access to data really relating to him.

FEDMA understand the importance of a **Right to be forgotten** as a mean of control over once data in particular in certain context such as social networks, where data subject voluntarily upload data. However, an unconditional right to be forgotten would have harmful consequences for the data subject, whose choice to not be contacted for commercial purposes (opt-out) would not be respected anymore. The existing right of access, rectification and deletion provides better protection of the data subject while respecting his choice.

The principle of **Breach Notification** is an incentive for companies to secure data and enhance data subject' confidence his data is secured by a data controller. However, the application of such a system should be governed by the principles of proportionality and subsidiarity which would prevent heavy burden on SMEs (fidelity program in your local bakery).

The processing of **Children's data** requires specific cares which are better enforced via codes of conduct, as they allow a tailor-made approach for each specific situation, ensuring the rights and protection of minors.

Codes of conduct and **Self Regulation** are a real complement to a technology neutral data protection legislation, flexible enough to adapt rules for each and every sectors. While, the procedure should be simplified, FEDMA is the example of successful Self-regulation, with 2 codes of conduct adopted by the Article 29 Working party.

In today's global context, economic activities are generally worldwide coordinated, thus **International data transfers** are of utmost importance and need to be simplified. While the development of the digital economy is strongly encouraged, excessive data protection rules would hamper the EU industry facing giant overseas tech companies, preventing fair competition and encouraging the monopoly of certain existing companies.