



FEDERATION OF EUROPEAN DIRECT AND INTERACTIVE MARKETING

PUBLIC AFFAIRS & SELF-REGULATION

07 October 2011

To:

Ms. Marie-Helene Boulanger, Head of Unit
Mr. Jose Manuel De Frutos Gomez, Policy Officer
European Commission
DG Justice
Directorate C - Unit C3

Dear Ms. Boulanger,
Dear Mr. De Frutos Gomez,

Within the context of the drafting of the legislative proposal for the review of the Directive 95/46/EC on Data Protection, FEDMA would like to inform the European Commission of her stand regarding the important role of self-regulation in clarifying and extending the provisions of the Data Protection Directive.

FEDMA is the only European Trade Organisation that has two Codes of Conduct – on the collection of personal data for direct marketing and online marketing - approved by the Article 29 Working Party. These Codes states clear and unambiguous rules, telling organisation how to implement privacy principles in their organizational marketing processes. The Code provides specific consent and information requirements and also limits purposes for which children's data can be used. As the Code is approved by the Article 29 Working Party it applies directly in all member states since 2003 and has become an accepted business practice. FEDMA will present a paper regarding EU implementation to the Article 29 Working Party before the end of this year.

In her 2010 publication 'A comprehensive approach on personal data protection in the European Union' the Commission states that self-regulatory initiatives by data controllers can contribute to a better enforcement of data protection rules. The European Parliament fully supports this principle in its own initiative report. In accordance with the Commission and the Parliament, FEDMA strongly believes that self-regulation is the instrument of choice in providing adequate solutions adapted to specific industry sectors dealing with data processing. Formal legislation often proves less effective in providing sector specific guidance because of the broad scope and the time consuming process of implementation.

The Commission also expresses concern that the scope for drawing up Codes of Conduct, have rarely been used so far and are not considered satisfactory by private stakeholders. Although FEDMA has used this scope much to her satisfaction, we believe that there is room for improvement. Article 27 of the current Directive states the Commission *may* ensure appropriate publicity for the codes which have been approved by the Working Party. FEDMA would encourage a higher level of engagement for the Commission. FEDMA also urges for a provision in the Directive stating that National Data Protection Authorities should formalize the implementation of Code of Conducts approved by the Article 29 Working Party either by explicit endorsement or approval when provided for by national law. This has been attempted by trade organizations in member states, but the national authorities have thus far refused.

FEDMA welcomes the Commission's perspective on self-regulation and can state from experience what positive effects Codes of Conduct have on business practice. We strongly support maintaining article 27 as a part of the revised Directive, but would welcome a higher level of engagement and responsibility for the Commission and national Data Protection Authorities

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

Dieter Weng
Chairman of FEDMA

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