



FEDERATION OF EUROPEAN DIRECT AND INTERACTIVE MARKETING

PUBLIC AFFAIRS & SELF-REGULATION

14 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 views on the importance of international data transfer.

In today's global context, economic activities are generally worldwide coordinated. This coordination is enhanced by the digital economy which develops increasingly and is strongly encouraged all over the world. In the European Union, the European Commission has dedicated an entire policy field to information society. The Digital Agenda, which is one of the flagship initiatives for the European Union 2020 Strategy, aims at contributing significantly to the EU's economic growth and spread the benefits of the digital era to all sections of society. International data transfers are of utmost importance for any companies evolving in this context.

While the development of the digital economy is strongly encouraged, 'excessive' data protection rules would really have a strong impact. Unbalanced and too restrictive rules would hamper the EU industry which have to face the giant overseas tech companies in the west, but also in the east. In a global world, such a restrictive legal framework for data protection could create a strong competitive disadvantage for EU based companies, which would prevent fair competition on the global market and encourage the monopoly of certain existing companies. FEDMA considers that it is of importance that in its review of the data protection legal framework, the European Commission takes a close look into the possible impacts at global level for industry but also for European citizens that would like to benefit from this global market.

International data transfer is a necessary activity for companies acting globally, in particular for companies that form a part of group of consolidated companies or that operate within an established international network of companies with a common value stream or operating in a common supply chain. Binding Corporate Rules is a tool that enables international data transfer while insuring sufficient data protection and security as agreed by Member States Data Protection Authority (DPA). However, practical simplification of the agreement process would be necessary to provide efficiency; including the mutual recognition by DPAs of agreed BCRs. FEDMA members consider the Safe Harbor agreement an important existing tool for companies for data transfer with the United States and maybe the European Commission could encourage other countries, that for one of a reason don't have any sufficient legislation, to create an equivalent system. Such a tool should be kept and improved in order to become a reliable instrument.



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Finally, FEDMA strongly support the existing “country of origin” principle that allows data controller to comply by the law of the Member State where it is established. A change in this existing principle would imply that companies literally comply with the data protection rules of all the countries where material is accessible on the internet. Moreover, this could lead to a situation where data from users from different countries would be treated differently by the same data controller.

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

Yours sincerely,

Dieter Weng
Chairman of FEDMA