



FEDERATION OF EUROPEAN DIRECT AND INTERACTIVE MARKETING

PUBLIC AFFAIRS & SELF-REGULATION

20 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 some of our concerns, especially regarding postal direct mail –hereafter “direct mail” (advertising addressed mail on which postal and paper industries and all European businesses depend on for customer retention and for a competitive advantage on businesses).

We understand and agree that the European Commission must ensure, as per Article 8 of the EU Charter of Fundamental Rights that a data subject has the right to the protection of personal data relating to him or her. Precisely, the current data protection legislation¹, complemented with the use by businesses of self regulatory best practices, offers such protection of personal data for direct mail. The existing provisions have provided an efficient legal framework for nearly two decades for both business and consumers. FEDMA understand that recent and future fast technologies evolutions create the need for a review of the rules. However, the existing frail balance between data protection and free flow of data must be preserved.

Businesses use self regulatory best practices such as Robinson list and Mail Preference Services to implement opt-out requirements for direct marketing. These best practices allow marketers to keep track of consumers’ preferences, whether they want to keep receiving commercial communications or not. These retention lists are essential for businesses in order to fully respect the consumer’s choice. Moreover, they equally participate to the reduction of cost for postal marketing - unlike electronic communication postal marketing involves a cost- which *in fine* benefits to the consumer. Finally, retention list hygiene also reduces paper waste through highly targeted marketing campaigns.

Direct Mail is positively viewed and trusted by customers who, in a multi channel environment, consider this channel as particularly user-friendly. Physical contact is appreciated (i.e. with paper based commercial communication, as opposed to digital communication) is appreciated by users. Moreover Direct Mail reaches out to isolated or “unconnected” people by providing them information on health, education, employment, safety and environmental issues. In 2010, only 65% of EU individuals are regular internet users², direct mail can reach those who are not. Finally, direct mail remains the main mean for recruiting new subscribers, thus is equally positive for press, contributing to freedom of expression and supports NGOs and charities, which raise funds using this channel.

If processing were allowed only on the basis of unambiguous consent, this would challenge all channels of the direct marketing industry. Keeping a balanced approach with multiple possible legal basis for making data protection lawful (see FEDMA letter 29/08/2011) is necessary to avoid reduction in businesses ability to integrate the market, challenge large market players with dominant positions and establish long-term relations with consumers, while ensuring data protection.

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

Yours sincerely,

Dieter Weng
Chairman of FEDMA

¹ Directive 95/46/EC, Decision 2000/520/EC, Directive 2002/58/EC.

² The European Commission Digital Agenda Scoreboard indicators.