



EUROPEAN COMMISSION

*Brussels, 17.12.2018
C(2018) 8344 final*

Dear President,

The Commission would like to thank the Camera Deputaților for its Opinion on the Communication “Completing a trusted Digital Single Market for all - The European Commission’s contribution to the Informal EU Leaders’ meeting on data protection and the Digital Single Market in Sofia on 16 May 2018” {COM(2018) 320 final}.

Providing trust for users that their personal data and privacy is protected online is a precondition for the completion of the Digital Single Market and for the uptake of novel digital technologies building upon Artificial Intelligence and big data. The Commission therefore attaches great importance to the adoption of updated ePrivacy rules and is providing clarifications, where possible, for the implementation of the General Data Protection Regulation, in particular for small and medium-sized enterprises.

In response to the specific questions raised in the Opinion, the Commission would like to refer the Camera Deputaților to the attached annex.

The Commission hopes that these clarifications address the issues raised by the Camera Deputaților and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Mariya Gabriel
Member of the Commission*

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Annex

The Commission has carefully considered each of the issues raised by the Camera Deputaților in its Opinion and is pleased to offer the following clarifications:

On point 2 of the Opinion: The Commission welcomes the importance that the Camera Deputaților attaches to the continued protection of personal data, and respect for users' consent, when technologies develop. The General Data Protection Regulation strengthens individuals' rights in particular by the introduction of the transparency principle. Any information and communication to the data subject must be provided in a concise, transparent, intelligible and easily accessible form, using clear and plain language. Where personal data has not been obtained from the data subject, the controller must, amongst other things, inform him or her from which source the personal data originate, and if applicable, whether it came from publicly accessible sources.

On point 3: The Commission agrees with the Camera Deputaților on the relevance of metadata and intends to protect them in the proposed ePrivacy Regulation.¹ This proposal includes grounds for the processing of metadata, taking into account their sensitive nature whilst enabling businesses to provide additional services based on their usage. Under the proposed rules, businesses will be able to process metadata with the consent of the end-user concerned, and transmit this metadata over the communications network, maintain or restore security, meet mandatory quality of service requirements, including for billing and calculating interconnection payments, and detect fraudulent use.

On points 4 and 11, with regard to the Camera Deputaților suggestion for differentiated support measures for awareness and digital literacy for citizens:

In January 2018, the Commission released guidance to businesses - especially small and medium-sized enterprises - and individuals to raise their understanding of the new rules in view of their application as of May 2018². The guidance itself takes the form of a practical online toolkit available in all languages of the European Union. It comprises questions and answers which have been selected based on feedback received from stakeholders with practical examples and links to various sources of information. The guidance is promoted through an information campaign and dissemination activities in all Member States, targeting businesses and the public. The Commission has also allocated grants to support the training of data protection authorities, public administrations, legal professions and data protection officers. Finally, in order to support data protection authorities in their outreach to stakeholders, the Commission has launched a call for proposals aimed at supporting data protection authorities in their activities aimed at small and medium enterprises and at citizens.

¹ COM (2017) 10 of 10 January 2017.

² https://ec.europa.eu/commission/priorities/justice-and-fundamental-rights/data-protection/2018-reform-eu-data-protection-rules_en

The Commission agrees that support for the development of digital literacy/skills needs to be tailored to the specific needs of different regions. Therefore, and bearing in mind the competency of the Member States in this area, it is working together with actors at national level to address digital skills gaps. In particular, under the new Skills Agenda, the Commission has set up the Digital Skills and Jobs Coalition, which brings stakeholders together to take actions to address digital skills gaps of all types and levels. Actions undertaken by "pledgers" to the Coalition have so far reached 10.9 million people. The actions undertaken are varied, both in terms of type and regional coverage.

Linked to this, 23 national coalitions have been established (including the [Romanian National Coalition "Skills4IT"](#)),³ bringing national, regional and local actors together to address region-specific issues. Furthermore, the Commission has been working together with experts from Member State authorities to develop comprehensive national digital skills strategies. Most Member States now have such strategies.

In January 2018, the Commission also adopted a Digital Education Action Plan. Among the actions included, the Commission has made a commitment to increase its support to EU Code Week. Code Week is a successful grass-roots initiative that has spread across Europe and beyond and is designed as a low threshold entry point for introducing people to technology. The goal is to increase the participation of schools to 50% by 2020. By targeting schools, the Commission hopes to support the modernisation of education and to give all young people whatever their socio-economic background or gender, the opportunity to learn about and experience digital technologies.

The Commission reports on the performance of, and provides country specific policy advice on, digital skills as part of its [DESI](#)⁴ (Digital Economy and Society Index) and [European Semester country reports](#).⁵

On points 5, 6 and 7: The Union institutions and bodies, as well as Member States and their data protection authorities, are encouraged to take account of the specific needs of micro, small and medium-sized enterprises in the application of the General Data Protection Regulation. The Commission draws the attention of the Camera Deputaților to informative guidance on the General Data Protection Regulation issued by the European Data Protection Board, the national Data Protection Authorities and the Commission, which is destined to make the application of the rules as easy as possible for small and medium-sized enterprises. The informative guidance by the Commission aims in particular to help small and medium-sized enterprises and other companies that do not handle personal data as a core business activity. The data protection reform is geared towards stimulating economic growth also for small and medium-sized enterprises. By having one rule instead of 28, the European Union's data protection

³ <http://coalitiait.ro/>

⁴ <https://ec.europa.eu/digital-single-market/en/countries-performance-digitisation>

⁵ https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/eu-economic-governance-monitoring-prevention-correction/european-semester/european-semester-your-country_en

reform will help them to break into new markets, and, by providing a level playing field, also with competitors outside the European Union.

On point 8: The Commission shares the views of the Camera Deputaților as regards the importance of reducing the proliferation of fake news and disinformation.

The Commission's Communication "Tackling Online Disinformation – a European Approach" of April 2018⁶ was developed following an extensive stakeholder consultation. The Commission has opted for self-regulation in the first instance, in order to secure a speedy commitment on the part of the relevant stakeholders to immediately scale up efforts to counter disinformation. These include a Code of Practice from the social media and advertising industry, a network of fact checkers with the aim of intensifying European media literacy activities. The Code of Practice on online disinformation has already been received by the Commission and a conference has been held in collaboration with the European Parliament to kick off collaboration on fact checking activities, especially in view of the upcoming elections. A European media literacy week is foreseen for early 2019.

On point 9: The Union has supported research into quantum computing over the years and has signalled in its Communication on the European Cloud Initiative its willingness to consider strengthened efforts under the next Multiannual Financial Framework Programme.

The Union has also supported research into quantum technologies over the last 20 years, investing more than EUR 550 million in this topic, mainly addressing fundamental research. With the maturing of these quantum technologies, the Commission has launched the Quantum technologies Future and Emerging Technologies Flagship. The first set of projects, with a total EU funding of EUR 130 million, began on 1 October 2018. The Flagship is a large-scale, long-term initiative that brings together researchers and industrial players in different areas to drive major scientific advances and turn them into tangible innovations that will promote economic growth and help meet the societal challenges faced by Europe.

Negotiations between Member States are ongoing for continued support of Quantum Technologies in the next multi-annual financial framework, for the period 2021 to 2028, particularly in the context of the European Commission proposal for the next European Framework Program for Research, the Horizon Europe Programme. However, negotiations are also underway to exploit the results of the Flagship in the Digital Europe Programme, the first ever proposed digital capability building programme of the Union for the period 2021 to 2028. This programme will support the development of first quantum computers and their integration with high performance computers, and will support the development of a pan-European quantum communication infrastructure.

⁶ COM (2018) 236 of 26 April 2018

On point 10: To address the legal challenges of Artificial Intelligence, the Commission aims at striking the right balance between regulation and innovation to offer sufficient protection while avoiding stifling innovation.

With regard to the regulatory framework applicable to automated technologies, such as robotics, the key pieces of legislation - the Machinery Directive and the Radio Equipment Directive - are flexible enough to address new emerging technologies. They provide mandatory essential requirements while technical specifications on how to meet those requirements are left to European harmonised standards which are updated when needed. The Commission will start preparatory work to assess if further legislative changes would be necessary under the Machinery Directive, and if delegated acts under the empowerment conferred by the Radio Equipment Directive would be needed to ensure data protection, privacy of users and prevention of frauds. Any legislative developments in this area will be done by taking into account citizens' and stakeholders' feedback in line with better regulation principles.

The Commission has published a comprehensive EU Initiative on Artificial Intelligence⁷, which consists of boosting the European Union's technological and industrial capacity and Artificial Intelligence uptake across the economy, preparing for socio-economic changes brought about by Artificial Intelligence, and ensuring an appropriate ethical and legal framework. In this context, the Commission has set up an Expert Group on liability and new technologies. By mid-2019, the Commission will publish a report on the broader implications for, potential gaps in, and orientations for, the liability and safety frameworks for Artificial Intelligence, Internet of Things and robotics. The Commission also supports the work of stakeholders to issue a Code of Conduct on Artificial Intelligence and shares the opinion of the Camera Deputaţilor that such approaches need to be handled in flexible ways. The work on Artificial Intelligence needs to be taken forward in close cooperation with Member States, and a coordinated plan to that effect will be adopted this year.

Due account should be given to existing regulatory frameworks before defining new ones. In particular, where personal data are processed, compliance with the General Data Protection Regulation should be ensured. The General Data Protection Regulation sets the rules which are applicable to the processing of personal data, including in Artificial Intelligence. For instance, the need for transparency in algorithmic decision making is already an obligation in the General Data Protection Regulation.

⁷ COM (2018) 237 of 24 April 2018.