



EUROPEAN COMMISSION

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President of the Congreso de los Diputados  
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*Mr Pío GARCÍA-ESCUADERO-MÁRQUEZ  
President of the Senado  
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*Dear Presidents,*

*The Commission would like to thank the Congreso de los Diputados and the Senado for their Opinion on the proposal for a Regulation concerning the respect for private life and the protection of personal data in electronic communications {COM(2017) 10 final}.*

*The adoption of the aforementioned proposal followed the review of Directive 2002/58/EC<sup>1</sup>, which was announced in the Digital Single Market Strategy<sup>2</sup>, after having reached a political agreement on Regulation (EU) 2016/679<sup>3</sup> (General Data Protection Regulation).*

*The evaluation in the framework of the Commission's Regulatory Fitness and Performance (REFIT) programme<sup>4</sup> concluded that the provisions of the Directive remain relevant to meet the objective of ensuring the privacy and confidentiality of communications. However, it also found that some of the Directive's rules are no longer fit for purpose in light of technological, legal and market developments. Moreover, the adoption of the General Data Protection Regulation in itself necessitated the review to ensure full consistency and to avoid duplications.*

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<sup>1</sup> Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p.37).

<sup>2</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A Digital Single Market Strategy for Europe, COM(2015) 192 final.

<sup>3</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1–88).

<sup>4</sup> The REFIT evaluation was announced in Annex III of the Commission Work Programme of 2015. (COM(2014) 910 final).

*The main proposed changes are 1) extending the scope to include Over-the-Top service providers; 2) allowing communications metadata to be processed, once consent is given, for other specified purposes than value added services to open up business opportunities; 3) providing for an exception to the consent requirement to access or store information in terminal equipment if the purpose is web audience measurement carried out by the provider of the information society service requested by the end-user and; 4) obliging providers of software that permits electronic communications to offer end-users the option to prevent third parties from storing or accessing information in the terminal equipment and requiring end-users to choose a privacy setting upon installation.*

*The Commission is confident that the proposal will enhance the privacy protection of end-users, increase trust in digital services and allow businesses to fully participate in, and benefit from the Digital Single Market.*

*The Commission is pleased that the Congreso de los Diputados and the Senado have concluded that the proposal is consistent with the principle of subsidiarity set out in the Treaty on European Union.*

*The Opinion of the Congreso de los Diputados and the Senado has been made available to the Commission's representatives in the ongoing negotiations with the co-legislators and will inform these discussions.*

*The Commission looks forward to continuing our political dialogue.*

*Yours faithfully,*

*Frans Timmermans  
First Vice-President*

*Andrus Ansip  
Vice-President*