

ePrivacy rules could threaten technological innovation

The Government of the Czech Republic should insist that the European Institutions take a principles-based, technology neutral approach to updating the ePrivacy Directive so as to preserve privacy rights, regulate technology effectively and promote innovation. Specifically, the Government should seek to reorient the approach taken in the European Commission's draft ePrivacy regulation that was recently endorsed by the European Parliament.

The Commission has failed to take into account the development and variety of new digital services along with the digitization of traditional industries. Instead, it has simply extended obligations that currently apply to traditional telecom operators to all over-the-top communication services, machine-to-machine applications, and content services with communications capability. This approach may seem convenient, but it will cripple the delivery and prospects of positive digital transformation in Europe. The fundamental goal of protecting privacy and preserving the confidentiality of communications is not in issue. However, the embrace of this important principle cannot be legislated in the same way that it was 20 years ago.

Where traditional communication services involved simple transmission mechanisms, such as letter delivery and telephone links, the new digital reality (e.g., cloud-based platforms or the online advertising ecosystem) include a much wider range of functions that make our lives more convenient. Each of these functions relies on innovative uses of the data generated by communication services. Even as we enjoy these new features, we expect our privacy rights to be preserved. Just as we understood that letter carriers would not read our mail and that telephone operators would not listen to our conversations, we similarly expect that those handling our web-enabled communications will ensure their confidentiality.

We need, however, to be thoughtful in how we apply the principle of communications confidentiality. Simply saying "only users can access communications" makes little sense today, as for example cloud-based communication services, with their value-added features, are made possible through the processing of content and metadata (including, in some cases, when messages are in transit) that are necessary for the purpose of providing requested services.

Just as a doctor treats one patient and then applies the experience he gains to help improve the treatment of his next patient, the quality of modern services improves through accumulation and consequent processing of data. In neither case is the confidentiality of individual's data compromised.

As it stands now, the draft of the ePrivacy regulation constitutes a threat to innovation and confuses stakeholders. Europe's innovative industries are engaging closely with European Union institutions and member states to correct the draft's infirmities and ensure a positive outcome to the ePrivacy negotiations. Member States should prioritize further aligning ePrivacy to similar and overlapping provisions in the GDPR and clarify the scope of services and data to which it applies.

We all need legislation that is both principled and forward-thinking. We urge that the Czech government advocates forcefully for not only the fundamental right of privacy, but also the embrace of new technologies.

ABOUT THE EUROPEAN CLOUD ALLIANCE

The [European Cloud Alliance](#) brings together businesses across the cloud value chain to promote the advantages of the cloud, and to provide an authoritative voice on cloud-related policy issues. Our work is organised on the principle that increased trust in the cloud will accelerate its usage. We advocate for a regulatory environment that encourages cloud adoption and enables the digital transformation of European businesses. With more than 40 members from the cloud community, we truly represent the diversity and dynamism of the industry in Europe.

Contact

Kim

Executive

kim.gagne@europeancloudalliance.com

+44 7972 054 731

Gagné

Director

Secretariat

APCO

media@europeancloudalliance.com

+32 2 645 986

Worldwide

ABOUT SPIR

[SPIR](#) is a professional association active in the field of internet advertising since 2000. The membership base of the association currently has a total of 48 members. Alongside operating integrated, widely respected research into visitor numbers and sociodemographic profiling of internet visitors via NetMonitor, it also implements an internet advertising monitoring project, AdMonitoring, and the IAC professional conference on internet marketing, and provides expert analysis of internet market development in the Czech Republic.

Contact

Kateřina Hruběšová

Executive Director

Katerina.hrubesova@spir.cz

+420 224 251 250

Secretariat

Jitka B. Holdošová

Backoffice & Marketing Manager

jitka.b.holdosova@spir.cz

+420 224 251 250