

OpenForum Europe
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European Commission

Re: ePrivacy Directive review

OpenForum Europe (OFE) is a think tank that draws support not only from some of the largest global ICT players, but also from organisations across Europe that represent both SMEs and Open Source communities. The focus of OFE is to encourage openness in the ICT market, eliminate lock-in, and maximise the opportunity for all market players in Europe.

As part of its mission to facilitate open, competitive and secure choices for IT business and users, OFE participates in discussions relating to key policy developments, including those relating to cybersecurity and data protection across Europe, such as the General Data Protection Regulation (GDPR) and the Network and Information Security (NIS) Directive.

OFE welcomes the revision of the ePrivacy Directive, which should ensure consistency between applicable privacy provisions and their enforcement in Member States. Up to now, the discussion seems to represent the split of views between the commercial aspects of electronic communications in contrast to users' rights; OFE would therefore like to provide some input in favour of an Open Community.

Whilst acknowledging that the objectives underlying the revision of the ePrivacy Directive include avoiding overlaps and inconsistencies with the GDPR, OFE believes that it would not be appropriate to widen the scope of the ePrivacy Directive and so extend the current security requirements - in particular, with regard to software liability and IoT coverage. Adding new obligations on top of the recently-adopted set of rules would effectively lead to a two-tier regulatory framework that is likely either to cause compliance difficulties for those businesses which seek to apply them, or else to make some measures redundant.

The challenges of the digital age will be addressed by simple, clear and horizontal approach to regulation, not any more by sector-specific rules. This view, in line with the Digital Single Market Strategy, will increase clarity for consumers at the same time it will unlock innovation opportunities across Europe.

Privacy and innovation are not mutually exclusive: indeed, they can co-exist. OFE suggests this is much more likely to happen if we respect privacy concerns, understand the technical issues and promote a well-balanced, open and competitive ICT industry.

About OpenForum Europe

(OFE) is an independent, not-for-profit think tank, supported by major IT suppliers including Google, IBM, Oracle and Red Hat, as well as SMEs, user and consumer organisations, and national partners across Europe. It focuses on delivering an open, competitive ICT market. Views expressed by OFE do not necessarily reflect those held by all its supporters.