



Brussels, 16 October 2017

## Businesses' plea

### *Addressing the unintended consequences of Article 10 of the e-Privacy Regulation*

On behalf of our associations representing businesses across the value chain, we would like to raise our concerns on the intention to give internet browsers a gatekeeper role in collecting users' consent online.

As responsible businesses across the value chain, we fully support the need to protect confidentiality of communications in the online world and the need for consumer consent to have control over their personal data. Only thanks to the confidence of our consumers and a deep understanding of their expectations, our businesses have been operating and thriving online.

We believe that the proposed e-Privacy Regulation, in particular its Article 10, will have a very negative impact on fair competition, consumers' online experience and the digital ecosystem.

- **Article 10 will further reinforce the dominant position of web browsers.** Understanding consumers' preferences to personalise their online experiences and offer them the products that interest them is a key parameter of competition. By giving web browsers a gatekeeper role about users' privacy preferences, the proposal will raise an additional barrier to entry, question the legitimacy of other operators to request user's consent and hamper their ability to customize their offer to the needs and wishes of their consumers. Additionally, limiting the ability for smaller web actors to generate revenues from targeted advertising will benefit major platforms or websites using login access, as users would have consented to their terms and conditions when logging in for the first time. Businesses will become even more dependent on their services to engage a dialogue with relevant potential consumers (e.g. without personal information, young consumers may receive ads for pension funds). This is neither an improvement of consumers' integrity nor is it in line with the EU's other ongoing efforts to create a level playing field on the Digital Single Market.
- **Article 10 will inevitably result with more users rejecting all cookies due to the operational difficulty of a granular choice (built as an exception to the default privacy settings).** This will have an impact on businesses that rely on third parties and their technologies. Currently many smaller websites rely on these techniques to attract website traffic from customers and/or finance themselves by renting their space to third parties. With Article 10, it will be extremely complicated to ask users for consent for tracking and behavioural advertising – unless web browsers settings allow for this. Therefore, giving browsers the option to reject third-party cookies by default will put into jeopardy financing models for many online shops.

- **Article 10 will not prevent consent fatigue.** Websites will have to find a way to communicate with their users and ask for consent. Either users will have to separately agree to various types of uses beyond the strict browsers settings or users will have to abandon their browsing and go back to the browser setting to allow cookies. Either way, there will be additional clicks and pop-up boxes for consumers or their web experience will be distorted. Consumers' experiences online could be fundamentally altered merely by switching from one browser to another (with a different default).
- **Article 10 will create major disruptors of communications.** The proposal will block any communication between a device and internet servers unless the user has consented. It will be very difficult for a browser to differentiate between information that requires consent and information that does not according to the law, such as cookies, or any access to the device for security purposes or for web analytics. We see a risk that even the cookies that handle strictly functional features of websites may be blocked by websites, which would cause large problems for companies and hamper user-friendliness, innovation and competition on the EU's digital single market.

We hope that you will take the necessary time to assess these concerns, including through additional consultations and studies, before taking a decision on this important matter.



Members of AIM are manufacturers of branded consumer products that are united in their purpose to build strong, evocative brands and as such place the consumer at the heart of what they do. AIM's membership comprises corporate members and national associations that have a similar but more local constituency. Altogether, AIM represents directly or indirectly some 1,800 companies ranging from SMEs to multinationals, accounting for some €653 billion annual sales and two million jobs in Europe.



Ecommerce Europe is the association representing companies selling goods and/or services online to consumers in Europe. Founded by leading national e-commerce associations, Ecommerce Europe is the voice of the e-commerce sector in Europe and its mission is to foster national and cross-border e-commerce.



The European Multi-Channel and Online Trade Association, EMOTA, is the voice of online and distance sellers in the EU. EMOTA represents online and distance sellers from around Europe, with member associations in 19 countries and both corporate and supplier members. EMOTA interacts with the European institutions to improve trading conditions and regulations.



EuroCommerce is the principal organisation representing the retail and wholesale sector. It embraces national associations in 31 countries and 5.5 million companies, both leading multinational retailers such as Carrefour, IKEA, Tesco and Metro and many small family operations. Retail and wholesale provide a link between producers and 500 million European consumers over a billion times a day. It generates 1 in 7 jobs, providing a varied career for 29 million Europeans, many of them young people.



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UEAPME is the employers' organisation representing Crafts and SMEs from the EU and accession countries at European level. UEAPME has 64 member organisations covering about 12 million enterprises with 55 million employees. UEAPME is a European Social Partner. For further information please visit <http://www.ueapme.com/> or follow @UEAPME on Twitter.



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