

The legislation

The European Commission in 2010 published its Communication on the Data Protection review setting out a strategy on how to protect individuals' data in all policy areas, including law enforcement, while reducing red tape for business and guaranteeing the free circulation of data within the EU. This document along with the results of a [public consultation](#) (deadline was 15 January 2011), will be used as a basis for new proposed legislation in 2011.

The EPC's response is [here](#)

The Commission lists the following as its key goals: Strengthening individuals' rights: that the collection and use of personal data is limited to the minimum necessary. Individuals should also be clearly informed in a transparent way on how, why, by whom, and for how long their data is collected and used. People should be able to give their informed consent to the processing of their personal data, for example when surfing online, and should have the "right to be forgotten" when their data is no longer needed or they want their data to be deleted.

Meanwhile, the "Stockholm Process" which deals with every area of freedom from the rights of the child, right of free movement to protection of personal data and privacy, has been adopted for the period up to 2014. In the context of data protection, it reads: "To guarantee the protection of privacy, the Commission will be tasked with evaluating current data protection regulations to see where they need to be strengthened." For full details, go to: <http://www.regeringen.se/sb/d/1166/a/120682>

Background

The Data Protection Directive is a European Union directive which regulates the processing of personal data within the European Union and governs transfers of data with third countries. It is an important component of EU privacy and human rights law.

How is the media affected?

Media companies must comply with data protection in their day to day operations, including commercial services where the processing of personal data for advertising and direct marketing must comply with the law. Uniquely though, media companies are also affected when it comes to **the way in which journalists collect information about individuals which may later be published**. Any review of the directive must take into account the special requirements of the media and freedom of expression. The media have experienced difficulties in practice with the current legislation. Although the directive does include a derogation "for journalistic purposes" this has to be balanced with the rights to privacy making legal interpretation difficult. The EPC is asking the Commission that any review includes collation of evidence from journalists and publishers in order to safeguard the freedom of expression. Commissioner Reding has confirmed that related case law is being assessed and has

told the EPC that "derogations from the general rules on data protection may only be provided if the sole object of media activities is the disclosure to the public of information, opinions or ideas."

Data Privacy in electronic communications

In addition to the main Directive, as part of the Telecoms Package there is a law which tackles data privacy in electronic networks. This is pending final implementation by the Member States due by May 2011. This law includes **new rules about the use of cookies on websites requiring consent and enhanced notice**. EPC has lobbied MEPs, Member States and the Commission to ensure cookies do not become the subject of opt-in prior consent by online users. We argue that strict opt-in for cookie data is disproportionately burdensome for both consumers and business. Importantly cookies actively enhance our readers' experiences when on our websites as they receive more relevant content and advertising as a result. Transparency about how data is collected when readers visit our sites is key to their trust.

Data Privacy and Online Behavioural Targeting: EPC leads the industry coalition on Data Privacy and OBA

The EPC has been leading the work of an industry roundtable bringing the media and advertising industry together to work with the Commission and to establish effective self-regulation in the area of online behavioural advertising (OBA). We have high level political support for our package as presented to the European Commission in December and again in March 2011. We aim deliver effective consumer controls and stave off strict legal requirements on consent for the use of cookies for advertising purposes. The current phase involves consultations with consumer and privacy groups.

Industry's draft best practice recommendation can be viewed at <http://www.easa-alliance.org/page.aspx/386>

[European Commission info on the review of the Data Protection legal Framework](#)

http://www.epceurope.org/issues/data_protection.shtm



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