



**Computer & Communications  
Industry Association**  
Open Markets. Open Systems. Open Networks.



## **Joint Industry Statement on the GDPR Enforcement Rules**

Dear Member of the European Parliament,

The undersigned associations representing various sectors of the business community have serious concerns regarding the Civil Liberties, Justice and Home Affairs (LIBE) Committee [Draft Report](#) on the proposal for a Regulation specifying procedural rules related to the enforcement of the GDPR in cross border cases (Proposal for a Regulation laying down additional procedural rules relating to the enforcement of Regulation (EU) 2016/679).

The Draft Report's amendments would undermine, rather than improve, GDPR cross-border enforcement. As LIBE Committee members review the Draft Report and consider proposing amendments ahead of the 13<sup>th</sup> December deadline, we encourage MEPs to consider the below analysis and recommendations in line with the Commission's primary objectives, to ensure the swift resolution of cases and to provide more legal certainty for businesses.

### **1. Right to be heard**

The Commission's proposal sets out specific and important procedural junctures that would afford parties the opportunity to raise issues of objections during investigative processes. However, the LIBE draft report replaces such specific protections with an overly broad right for parties to "be heard before any measure is taken that would adversely affect the party". Such a level of ambiguity would not ensure harmonised application of the Regulation and risks failing to guarantee a party's right to be heard at each stage. Furthermore, the proposed deletion of Article 24 would remove a key requirement for parties to be heard before the European Data Protection Board (EDPB).

### **2. Extended complainant rights**

The proposed expansion of the term "complainant" to include entities beyond data subjects and also include not-for-profit organisations, bodies and associations which have lodged complaints raises concerns, especially when coupled with the proposals to introduce an adversarial procedure and weaken the rights of defence of the parties under investigation. Additionally, the removal of safeguards on the use of documents obtained in relation to an investigation (e.g., proposals to introduce a "joint case file")

may impact the independence of data protection authorities, invite abusive complaints, and risks slowing down the procedure, which would be contrary to the goals of the proposal.

### **3. Weakening of the One-Stop-Shop mechanism**

Proposed changes introduced in the Draft Report could further undermine the GDPR's cornerstone one-stop-shop (OSS) mechanism by redistributing decision-making and administrative competence to concerned supervisory authorities (CSAs) and the EDPB, thereby considerably weakening the unique role and authority of the lead supervisory authority (LSA).

While the Commission's proposal does not do enough to encourage consensus, nor ensure only exceptional cases are elevated to the level of the EDPB, the Rapporteur's suggestions that the EDPB could conduct further factual investigations and weigh in on disputes regarding procedural issues risk altering the role and functioning of the OSS mechanism.

### **4. Scope of case and restrictions of amicable settlements**

The proposal to allow changes to the scope of an investigation in progress may introduce significant uncertainty and violate the rights of the party under investigation. Additionally, the limitations on amicable settlements proposed in the draft report may hinder the ability of supervisory authorities and defendants to resolve proceedings efficiently. The Regulation should also ensure that the early stages of the complaints handling process is more consistent and predictable.

### **5. Complaints due to inactivity**

The introduction of judicial remedies in case of inaction by supervisory authorities, as proposed in the Draft Report, could lead to significant delay and uncertainty, as well as an increased burden on supervisory authorities. Given this additional workload resulting from the GDPR-EPR, this approach may pose significant challenges for supervisory authorities in handling proceedings and allocating resources.

We appreciate your attention to these concerns and trust that you will take the above points into account in order to support efficient and consistent GDPR procedures that deliver for consumers while providing clarity and certainty for parties involved.

Sincerely,

**CCIA** – Computer & Communications Industry Association

**DOT Europe**

**ECO** – Association of the Internet Industry

**EuroISPA** – European Internet Service Providers Association

**FEDMA** – Federation of European Data and Marketing

**ITI**, Information Technology Industry Council