



COUNCIL FINALLY ADOPTS THE TRADE SECRETS DIRECTIVE

The Council adopted a directive setting out rules for the protection of trade secrets and confidential information of EU companies. The decision follows an agreement reached with the European Parliament on 15 December 2015. The directive, which lays down common measures against the unlawful acquisition, use and disclosure of trade secrets, aims at ensuring a smooth functioning internal market.

It is also intended to have a deterrent effect against the illegal disclosure of trade secrets, without undermining fundamental rights and freedoms or the public interest, such as public safety, consumer protection, public health, environmental protection and mobility of workers.

While the directive provides for measures preventing the disclosure of information to protect the confidentiality of trade secrets, the new measures fully ensure that investigative journalism can be exercised without any new limitations including with regard to the protection of journalistic sources.

In accordance with the new legal framework, EU member states will have to provide for the measures, procedures and remedies necessary to ensure the availability of civil redress against illegal acquisition, use and disclosure of trade secrets. These will have to be fair, effective and dissuasive. Not unnecessarily complicated or costly, or entail unreasonable time-limits or unwarranted delays. The limitation period for claims will not exceed six years. Where necessary, confidentiality of trade secrets will also be preserved during the course of and after the legal proceedings. After publication of the directive in the Official Journal of the EU and its entry into force, member states will have a maximum of two years to incorporate the new provisions into domestic law.

The directive gives **a large definition of trade secrets** which covers a wide range of information, which extends beyond technological knowledge **to commercial data such as information on customers and suppliers**, business plans or market research and strategies. The Commission submitted the original proposal in November 2013 and the European Parliament voted on 14 April 2016. The link to the final text as adopted by the Council is [here](#).

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THE EUROPEAN PARLIAMENT DISCUSS THE DATA PROTECTION SHIELD WITH THE US

MEPs said on 25th May 2016 that the EU Commission should go on negotiating with the USA to remedy "deficiencies" in proposed "Privacy Shield" protection for EU citizens' data transferred to the US for commercial purposes. In the non-legislative resolution, passed by 501 votes to 119 with 31 abstentions, MEPs welcome the efforts of the Commission and the US administration to achieve "substantial improvements" in the Privacy Shield compared to the Safe Harbour decision which it is to replace.

However, they also voice concern about "deficiencies" in the proposed new arrangement negotiated by the Commission, notably:

- the US authorities' access to data transferred under the Privacy Shield
- the possibility of collecting bulk data, in some cases, which does not meet the criteria of "necessity" and "proportionality" laid down in the EU Charter of Fundamental Rights
- the proposed US ombudsperson, a new institution that MEPs accept is a step forward, but believe to be neither "sufficiently independent", nor "vested with adequate powers to effectively exercise and enforce its duty"
- the complexity of the redress mechanism, which the Commission and US administration need to make more "user-friendly and effective", MEPs say.

Parliament stresses that the Privacy Shield framework gives EU member state's data protection agencies a prominent role in examining data protection claims and notes their power to suspend data transfers. It also notes the obligation placed upon the US Department of Commerce to resolve such complaints.

Finally, MEPs call on the Commission to conduct periodic "robust reviews" of its decision that Privacy Shield protection is adequate, particularly in the light of experience with the new EU data protection rules which are to take effect in two years.

EU COMMISSION UNVEILS A PACKAGE ON E-COMMERCE AND CONSUMERS RIGHTS IN DIGITAL WORLD

The European Commission tabled on 25th May 2016 a package of measures to allow consumers and companies to buy and sell products and services online more easily and confidently across the EU. Delivering on its [Digital Single Market](#) and [Single Market](#) strategies, the European Commission has presented a three-pronged plan to boost e-commerce by tackling geoblocking, making cross-border parcel delivery more affordable and efficient and promoting customer trust through better protection and enforcement.

The e-commerce package is composed of:

A legislative proposal to address unjustified geoblocking and other forms of discrimination on the grounds of nationality, residence or establishment;

A legislative proposal on cross-border parcel delivery services to increase the transparency of prices and improve regulatory oversight;

A legislative proposal to strengthen enforcement of consumers' rights and guidance to clarify, among others, what qualifies as an unfair commercial practice in the digital world

For more information

[Questions and answers: Boosting e-commerce in the EU](#)

[Proposal for a Regulation on addressing unjustified geo-blocking and other forms of discrimination based on place of residence or establishment, or nationality within the Single Market](#)

[Proposal for a Regulation on cross-border parcel delivery services](#)

[Proposal for a revision of the Consumer Protection Cooperation Regulation](#)

[Guidance on the application of the Unfair Commercial Practices Directive](#)

COMMISSION UPDATES EU AUDIOVISUAL RULES AND PRESENTS TARGETED APPROACH TO ONLINE PLATFORMS

The European Commission proposed on 25th May 2016 an update of EU audiovisual rules to create a fairer environment for all players, promote European films, protect children and tackle hate speech better. This proposal also reflects a new approach to online platforms, addressing challenges in different areas.

As part of its [Digital Single Market strategy](#), today the Commission presented an updated Audiovisual Media Services Directive (AVMSD); the common rules which have governed audiovisual media, ensured cultural diversity and the free circulation of content in the EU for almost 30 years. Nowadays viewers do not only watch video content via their TV channels but also increasingly via video-on-demand services (such as Netflix and MUBI) and video-sharing platforms (such as YouTube and Dailymotion). This is why the Commission wants to achieve a better balance of the rules which today apply to traditional broadcasters, video-on-demand providers and video-sharing

platforms, especially when it comes to protecting children. The revised AVMSD also strengthens the promotion of European cultural diversity, ensures the independence of audiovisual regulators and gives more flexibility to broadcasters over advertising.

This proposal reflects the new approach of the Commission towards online platforms - like online marketplaces, search engines, payment systems, social media, video and content-sharing sites. Since the launch of the Digital Single Market strategy in May 2015, the Commission has undertaken a [comprehensive assessment](#) of the social and economic role of these new players. Today the Commission concluded that a 'one-size-fits-all' approach was not appropriate for consumers to benefit from the opportunities and for the rules to meet the different challenges posed by the very diverse types of online platforms. Based on this approach, the Commission will look at each area where it can act, from telecoms to copyright rules, to address any specific problems in a future-proof way for all market players.

Online platforms play a key role in innovation and growth in the Digital Single Market. They have revolutionised access to information and have connected buyers and sellers in a better and more efficient way. EU action is needed to set the right environment to attract, retain and grow new online platforms innovators.

The Commission outlined a targeted, principles-based approach, to fix problems flagged by respondents to the Commission's public consultation during its year-long assessment of platforms. The Commission will support industry and stakeholder efforts for self- and co-regulation to ensure this approach remains flexible and up-to-date. The action areas include:

- **Comparable rules for comparable digital services:** Comparable digital services should follow the same or similar rules and, where possible, the Commission should reduce the scope and extent of existing regulation. The Commission will apply these principles in- ongoing reviews of [EU telecoms legislation](#), and of the [e-Privacy Directive](#), for example when considering whether rules on confidentiality should apply to providers of online communications services as well as traditional telecoms companies.
- **An obligation for online platforms to behave responsibly:** The existing intermediary liability regime, set out in the [e-Commerce Directive](#) should be maintained. Specific problems will be addressed through targeted instruments, such as **audiovisual or copyright rules** or enhanced voluntary efforts by industry. For example, the Commission is working intensely with **major online platforms on a code of conduct on combatting hate speech online** and will present the results in the coming weeks.
- **Trust is a must:** Cross-border enforcement cooperation will ensure that platforms fulfil their obligations regarding consumer rights, for example to clearly indicate sponsored search results. The Commission will also encourage industry to step-up voluntary efforts to tackle practices such as fake or misleading online reviews. The Commission will encourage online platforms to recognise different kinds of [secure electronic identifications \(eID\)](#) which offer the same reassurance as their own eID systems.
- **Open markets for a data-driven economy:** The **free flow of data initiative** scheduled for the end of 2016 will facilitate switching and portability of data among different online platforms and cloud computing services.

- ***A fair and innovation-friendly business environment:*** The Commission will carry out a fact-finding exercise into issues raised in the public consultation by businesses and suppliers who directly interact with platforms. These include, for example, concerns over unfair terms and conditions, in particular for access to important databases, market access and general lack of transparency. On this basis, the Commission will determine, by spring 2017, whether additional EU action in this area is needed.

In its forthcoming European agenda for the collaborative economy, the Commission will also provide guidance on applicable EU legislation and make recommendations for Member States.

More information

[Questions and answers on online platforms and on EU audiovisual rules](#)

[Communication on online platforms and the Digital Single Market](#)

[Staff working document on online platforms and the Digital Single Market](#)

COMPETITIVENESS COUNCIL CONCLUSIONS ON BETTER REGULATION PUT A SPOTLIGHT ON SMES

On 26 May 2016, the Competitiveness Council adopted its conclusions on Better regulation to strengthen competitiveness. These notably contain a whole paragraph on SMEs where the Ministers stress the need to have SME test and impact assessment on SMEs for every new regulation or legislation that is proposed. Below is an extract of the conclusions referring to SMEs, you can find the whole Council conclusions paper [here](#).

Better Regulation and SMEs

10) *STRESSES the economic importance of SMEs and micro-enterprises, notably for the creation of jobs. STRESSES the need for the better regulation policy and REFIT actions to address the needs of SMEs and in particular micro-enterprises; and UNDERLINES the importance of the rigorous application of the “Think Small First” principle and SME tests throughout the whole EU policy cycle in an integrated and balanced way and SUGGESTS for the European Parliament, the Commission and the Council to exchange information on best practices, methodologies and data in this area.*

11) *WELCOMES the Commission's commitment to assess the impacts on SMEs in all impact assessments, and UNDERLINES the importance for the Commission in principle not to adopt legislative proposals in the absence of a positive opinion of the Regulatory Scrutiny Board on the respective draft Impact Assessments including the impact on SMEs.*

12) *CALLS on the Commission to ensure that measurements of impact of regulation on SMEs and micro-enterprises are consistently made and that all SME tests in Impact Assessments are robust, including consistent consultation of SMEs as part of all Impact Assessments, promoting broad and inclusive participation by SMEs and micro-enterprises in consultations, clear reporting in the Impact Assessment on the outcome of consultations of SME and micro-enterprises, and ensuring that Impact Assessments and consultations are easy to read for SMEs and micro-enterprises, both in terms of lay-out, wording and languages.*

13) *INVITES the Commission and Member States to explore the possibilities to support the development and use of digital tools making it easier to understand complex regulation and to comply with regulation once implemented.”*

CONSULTATIONS

Consultation title	Subject	Deadline	Web site
Consultation on an effective insolvency framework within the EU	Put in place easier system for insolvency to allow more second chance for entrepreneurs	14/06/2016	Link to text: http://ec.europa.eu/justice/newsroom/civil/opinion/160321_en.htm
Consultation on the review of the e-privacy directive	Review the E-privacy to adapt it to the GDPR	05/07/2016	https://ec.europa.eu/digital-single-market/en/news/public-consultation-evaluation-and-review-eprivacy-directive

FEBIS– Federation of Business Information Services

Benefiting from the opening of markets within Europe and overseas, world-wide business has experienced substantial growth. As business grows so does the demand for business information, in particular, intelligence for cross-border business activities.

In 1973, leading European credit information agencies joined forces to form the Federation of Business Information Services FEBIS (initially known as FECRO), with its registered office in Frankfurt. Today, FEBIS has developed into a sizable organization comprising more than 60 full Members from all over the world involved in providing Business Information and Debt Collection services of National and International importance.

Supported by a combined workforce of more than 20,000 staff, FEBIS Members generate over 180 million Business Information and Consumer reports annually for over 500,000 organizations, providing these clients with invaluable business support. Aggregate sales turnover of FEBIS Members is in excess of €2.5 Billion.

As the industry association, FEBIS strives to look after common interests of its members. While monitoring new legislation like data protection laws and insolvency laws, FEBIS also oversees and the application of public sources and information.