



October 2017 EU affairs newsletter

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FEBIS Regulatory Committee

FEBIS meets with European Commission DG GROW and FISMA

Luis Carmona , Bernie Grady and Stephanie Verilhac did a presentation on Fintech during the FEBIS Annual meeting in Varignana. The presentation first gave an overview of what Fintech covers and its economic weight and then exposed the various EU and national initiatives currently tackling and questioning Fintech. One of the most pressing issues is the question of internal positioning of the business Information and credit reporting sector towards Fintech, question that will be tackled by FEBIS in discussion with other associations with whom we are enhancing cooperation.

The presentation will be available for FEBIS members after login on the FEBIS web site.

FEBIS meets with UEAPME in Brussels

Luis Carmona, Claire-Elisabeth Fritz and Stephanie Verilhac met with Gerhard Huemer, head of Economic at UEAPME (Small Businesses European organisation) in brussels on October 11. The meeting was great as a first contact enabling and revealed that UEAPME concentrates on lobbying and actions at EU level only (political) on project-base need to deal directly with national SME associations (UEAPME members) as they have limited resources.

G. Huemer understand our business model and issues, but there is misconception from his members on what is trade credit (many don't report payment delays as trade credit!!). He therefore said trade credit was important for 10% of SMEs only.

On the access to sole proprietorship information , he said they won't be opposed to giving more information IF 2 points are ensured :

- Information should be provided on a voluntary basis (and not mandatory)
- SMEs/sole proprietors want to have control on who has the data and for what it is used

We explained scoring and the issue with blurred information personal/professional for sole traders, he said because of very diverging national cultures and traditions this can't be solved at European level.

When discussing on the idea to (mandatorily) have separate business / personal banking accounts when becoming a sole entrepreneur, he told us that it would not be possible in some



countries like Germany, where taxes basis tax the overall individuals assets and income, making no distinction in terms of their provenance.

They are likeable and very well considered by the European Commission. We are encouraged to contact each national member of UEAPME, as well as to contact Eurochambers the other EU representative of SMEs.

4 party meeting with ACCIS, Eurofinas and FENCA in Brussels

Also on October 11, FEBIS Met with Accis, Eurofinas and FENCA in Brussels. The meeting was dense and positive, several common issues were identified to feed future meetings. The three associations act in a very professional way and benefits from high-level connexions. - Each also focus on more specific issues like Code of Conduct for FENCA or financial matters for EUROFINAS and don't hesitate to involve external consultants like FENCA using third party to monitor compliance of their members with the CoC.

Action on FEBIS side will be to prepare all arguments to defend our priorities and present them during the next December meeting and the following ones expected on a bi-annual basis, but also reach a common agreement to offer a united image to the regulators and for this "Data" should remain our core argument and common driver.

The meeting was a first step and next one will be another 4 party meeting with directors or Board members involvement which will take place in Brussels on December 19th. Coordinated actions and calls will take place to organise the agenda and the meeting, and good intellgeicne sharing and cooperation should also lead us to have regular 4 party calls and physical meetings in Brussels every 6 months.

FEBIS takes part in the G29 FabLab workshop on transparency

Claire Elisabeth Fritz attended the G29 FabLab workshop on trasnprencey to represent FEBIS on October 18. There were about 35 participants from all sectors. The objective of the "transparency" articles is to enable the data subject to understand what we do with his/her personal data, how we do it and **how to exercise his/her rights**.

Information to be provided must then be "data subject oriented" and not GDPR / DPA oriented, ie not written in a legal language. Alerts have been made that transparency requirements cannot be fulfilled in the same way if to be provided on a website, through an app., etc.

=> guidelines should enable the data controller to use different tools & technics to be compliant (idea of "technology neutral").

Claire insisted that she was representing FEBIS, Federation of European **Business Information** Services, providing information to be used in the customer-supplier relationships framework.



Cf the article 14, point was made that we need clarifications of data regarding sole entrepreneurs & legal executives, available from public sources like Business Registers in order to inform third parties, and, in some EU countries, as open data.

Support came from a Polish participant, cf the point on sole entrepreneurs, and from the lady representing the Centre for Information Policy Leadership. She said that:

- a risk-based approach should be applied. For her, BtoB generates no risk.
- we could have some "pushed information" and some "pulled information" to comply with the transparency requirements.

ACCIS pushed also the risk-based approach by emphasizing that a proper comprehension by the data subject of the data processing context is the most important.

The accountability / responsibility principle should also be the basis, rather than getting some guidelines, point by point, from the WG29.

=> the data controller should evaluate what communication way / technique and what content are the more appropriate // the context.

Regarding SMEs, the EU federation of e-commerce said that they are "spammed" by lawyers, consultants etc. regarding the GDPR, but that they just do not know what this regulation is...

The Centre for Information Policy Leadership said that SMEs will need to know what to do point by point, when big companies will be able to make their own judgment from guidelines. Another participant agreed. Big companies and SMEs, across sectors, should exchange on best practices etc. DPAs and associations / federation could help.

On the exemptions, Claire insisted that there are X millions of sole entrepreneurs and legal executives in each EU member state, whose data are "coming from" public sources / open data files. And that it will be impossible to contact each of them individually (cf. the disproportionate effort). We will have no other solution than to inform them through websites etc. => "In such cases the controller shall take appropriate measures to protect the data subject's rights and freedoms and legitimate interests, including making the information publicly available" (art 14.5.b).

In addition, art. 14.1.f) requires that the data controller explains "from which source the personal data originate, and if applicable, whether it came from publicly accessible sources", requirement that we can also find in some PSI licenses.

Discussing with Anna Morgan from the Irish DPA, she encourages FEBIS and thinks our points are very interesting and that we should write to the WG29. I answered that we have already answered to the previous consultations and will go on with the next ones.



Competition

Commission confirms unannounced inspections concerning access to bank account information by competing services

The European Commission confirmed that on 3 October 2017 its officials carried out unannounced inspections in a few Member States concerning online access to bank account information by competing service providers.

The Commission has concerns that the companies involved and/or the associations representing them may have engaged in anti-competitive practices in breach of EU antitrust rules that prohibit cartels and restrictive business practices and/or abuse of dominant market positions (Articles 101 and 102 respectively of the Treaty on the Functioning of the European Union). These alleged anti-competitive practices are aimed at excluding non-bank owned providers of financial services by preventing them from gaining access to bank customers' account data, despite the fact that the respective customers have given their consent to such access.

The Commission officials were accompanied by their counterparts from the relevant national competition authorities.

Unannounced inspections are a preliminary step into suspected anti-competitive practices. The fact that the Commission carries out such inspections does not mean that the companies or their associations are guilty of anti-competitive behaviour nor does it prejudge the outcome of the investigation. The Commission respects the rights of defence, in particular the right of companies to be heard in antitrust proceedings.

There is no legal deadline to complete inquiries into anti-competitive conduct. Their duration depends on a number of factors, including the complexity of each case, the extent to which the parties concerned co-operate with the Commission and the exercise of the rights of defence.

Access to Finance



EC issues an Impact Assessment on a proposal for EU framework on crowd and peer-to-peer finance

The Inception Impact Assessment is provided for information purposes only and its content may change. This Inception Impact Assessment does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content

The overall aim of this initiative is to enable crowdfunding activity to grow by making better use of the Single Market potential. This contributes to meeting the CMU's objectives, in particular as regards making it easier for start-ups, scale-ups and other SMEs to access finance.

EU action on crowdfunding will seek to deliver on the following specific objectives:

- Enable platforms to scale cross-border:
- Provide platforms with a proportionate and effective risk management framework: cross-border activity requires a high level of trust. The aim is to ensure that the rules for crowdfunding platforms – notably conduct of business, fit and proper, risk management, due diligence and information disclosures – are geared towards the proper management of platforms and the protection of fund providers, including through appropriate disclosure and explanation of the related risks. Trust will also be strengthened by safeguarding the integrity of the sector by developing approaches to address key risks such as data protection, illicit use and cybersecurity.

The Impact Assessment proposes 4 possible policy options :

Option 1: Baseline scenario – no EU framework

Option 2: Building on reputational capital - a self-regulatory approach with minimum EU standards

Option 3: A comprehensive EU approach - treating crowdfunding platforms like regulated trading venues or payment institutions

Option 4: The cross-border solution - a standalone opt-in EU framework

Interested parties are invited to contribute and send comments to the IA consultation before 27th November at <http://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-5288649>



Data Protection

EP delegation goes to japan for data protection adequacy decision

The Committee on Civil Liberties, Justice and Home Affairs will send a delegation to Japan, from 30.10 to 03.11.17, in the context of the preparation of the adequacy decision of the Japanese data protection framework between the EU and Japan. The delegation will seek to obtain appropriate information on the Japanese data protection legal framework and enforcement, to ensure that Parliament is in a position to exercise its scrutiny powers when the implementing decision will be submitted to it.



About 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 100 members from all over the world involved in providing Business Information and credit information 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.