



June 2018 EU affairs newsletter

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Free flow of data

Council and Parliament reach an agreement in fast trilogues

Member states' ambassadors endorsed the new rules proposed by the free flow of data regulation on 29 June, following a provisional agreement with the European Parliament on 19 June.

This legislation will ensure that data is allowed to flow freely, allowing companies and public administrations to store and process non-personal data wherever they choose in the EU. These rules will provide legal certainty and trust in the increasing use of data-driven innovations for the benefit of all citizens.

The reform will remove any restrictions imposed by member states' public authorities on the geographical location for storing or processing non-personal data, unless such restrictions are justified on grounds of public security. Important sources of non-personal data include the rapidly expanding Internet of Things, artificial intelligence and machine learning. Current uses of aggregate and anonymized sets of non-personal data include for example big data analytics and precision farming.

To ensure that the rules will work in practice, member states must either repeal their data localization requirements or notify those that are permitted to the Commission. The text clarifies that member states' public administrations are not prevented from insourcing the provision of services involving data processing.

If a data set contains both personal and non-personal data, the general data protection regulation will apply to the personal data part of the set, while the non-personal data will be covered by the free flow of data regulation.

Member states' competent authorities will continue to have access to data even when it is stored or processed in another country. This may be necessary for example for the purposes of regulatory or supervisory control.

The draft regulation also encourages the development of codes of conduct to make it easier for users of data processing services to switch service providers or to port their data back to their own IT systems.

Removing data localization restrictions is considered a key factor in ensuring that the data economy can achieve its full potential and double its value to 4% of European GDP in 2020. With this agreement, the Council and the Parliament succeeded in meeting the June 2018 deadline that EU leaders set for this priority dossier in the European Council in October 2017.



Once the agreed text has undergone legal and linguistic finalization, it must be formally adopted, first by the Parliament and then by the Council (agreement at first reading). Following adoption, the regulation will be published in the EU's Official Journal. **It will apply six months after publication.**

E-privacy

Discussions at Telecom Council on June 8 see no clear majority among Member States

The Telecom Council met on June 8th and held a policy orientation debate on the e-privacy issue. The debate was based on the latest working paper from the Bulgarian Presidency which was asking for Member States' input on the 3 major remaining issues of the e-privacy file , ie

- The orientation proposed in art 5 and article 6 with the question of metadata processing
- The question of article 8 and 10 and the terminal equipment settings
- The balance reached between protecting confidentiality and privacy as a fundamental right and enabling competitiveness and innovation in the digital sector

The Commission had hoped that the Bulgarian Presidency would be able to conclude on a Council Common Position by the end of its presidency but given the debate showed still many divergences, it will more presumably be the duty of the Austrian presidency of the Council (July 1- December 31 2018) to reach a Common Position. Countries holding the key to the next stage in negotiations include Germany, France and other capitals in a blocking minority.

— Germany presented its (long-awaited) position on the two outstanding issues. On metadata, the country wants a clearer distinction between when GDPR affects data and when e-Privacy is valid. On cookies, Berlin wants more clarifications as to how companies could be allowed to use them. Finally, the country also wants a transitional period of two years, which would give companies more time — and would arguably help regulators clarify the law too.

— Some capitals including Portugal and the Czech Republic said the file was “not mature” enough to wrap up. Overall, the majority of countries acknowledged work needs to continue, either to finish the discussions “as soon as possible” (see Romania and Sweden) or at least under the Austrian presidency (Estonia and Poland).



Platforms -to-business

The Bulgarian presidency is leading the Council discussions

The Bulgarian Presidency has prepared a working document on this issue which was discussed at the Competitiveness Council on May 28th.

They are asking delegations if they share the Commission's assessment that it's necessary to improve platforms transparency and reliability, and also asking for their opinion on the graduated approach chosen by the Commission.

The new proposal published on 26 April 2018 aims at setting up new rules for the online platforms providing small businesses with a safety net in the digital economy. In particular it flags out increased transparency requirements for search engine ranking and paid-search advertising and listings, better dispute resolution system and setting up an Eu observatory on platforms.

The Competitiveness Council had its first debate on the draft regulation on platforms-to-business on 28th May 2018. All delegations welcome the broad objectives but some Member States want to ensure that innovation is not impeded and that a fair balance is struck. The Netherlands asked for clarification by the Commission on the impact for SMEs; Spain and Hungary are very supportive of the text. Germany is supportive but still examining the draft. Commissioner Ansip is pushing for the text to be adopted under the current mandate and is backed up by France, UK and Germany. Austria will be putting it as a priority item for its presidency, aiming at a common position adopted in November 2018.



Accounting and reporting

FEBIS prepares its submission on the EU public consultation on public reporting by companies

FEBIS Regulatory Committee is working on the FEBIS submission on the EU consultation on public reporting by companies, which ends on 21st July. The committee discussed the contribution in several conference calls and has decided to focus on the impediments for public reporting and the lack of access to data on sole entrepreneurs and on the drawbacks of some of the transpositions of the Accounting Directive.

Public Sector Information

MEP Julia Reda unveils her opinion report for the EP IMCO Committee

Julia Reda (Greens, D) is the opinion rapporteur for the EP IMCO Committee on the review of the PSI directive and she already unveiled her draft opinion report end June. She advocates for a very large re-use possibility and introduces the concept of data “open by design and by default”, restricts the exceptions to access and re-use and free open data. Her amendments would push Member States to ensure that PSI data can be reused under most favourable terms and with easy-to-use licenses. She also adds an annex listing the « High Value Datasets » among which she would put weather, mapping or environmental data which should be available at no cost via APIs.

The annex specifically lists the following item which should be included in the High Value Datasets:

Business Registers Company and business registers (lists of registered companies, legal form, ownership and management data, registration identifiers, balance sheets, etc.)

[Link to the draft opinion report](#)



Consultations

Title	Subject	Open until	link
EU consultation on public reporting by companies	Accounting and public reporting/Access to data	21 July 2018	at https://ec.europa.eu/info/consultations/finance-2018-companies-public-reporting_en



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.

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.