

Open letter to EU Member States

11.10.2019

Dear Minister,

We, the undersigned organisations, urge you to swiftly reach an agreement in the Council of the European Union on the draft ePrivacy Regulation.

We are deeply concerned by the fact that, more than two and a half years since the Commission presented the proposal, the Council still has not made decisive progress. Meanwhile, one after another, privacy scandals are hitting the front pages, from issues around the exploitation of data in the political context, such as "Cambridge Analytica", to the sharing of sensitive health data. In 2019, for example, an EDRI/CookieBot report demonstrated how EU governments unknowingly allow the ad tech industry to monitor citizens across public sector websites.¹ An investigation by Privacy International revealed how popular websites about depression in France, Germany and the UK share user data with advertisers, data brokers and large tech companies, while some depression test websites leak answers and test results to third parties.²

A strong ePrivacy Regulation is necessary to tackle the problems created by the commercial surveillance business models. Those business models, which are built on tracking and cashing in on people's most intimate moments, have taken over the internet and create incentives to promote disinformation, manipulation and illegal content.

What Europe gains with a strong ePrivacy Regulation

The reform of the current ePrivacy Directive is essential to strengthen – not weaken – individuals' fundamental rights to privacy and confidentiality of communications.³ It is necessary to make current rules fit for the digital age.⁴ In addition, a strong and clear ePrivacy Regulation would push Europe's global leadership in the creation of a healthy digital environment, providing strong protections for citizens, their fundamental rights and our societal values. All this is key for the EU to regain its digital sovereignty, one of the goals set out by Commission President-elect Ursula von der Leyen in her political guidelines.⁵

Far from being an obstacle to the development of new technologies and services, the ePrivacy Regulation is necessary to ensure a level playing field and legal certainty for market operators.⁶ It is an [opportunity for businesses](#)⁷ to innovate and invest in new, privacy-friendly, business models.

¹ <https://www.cookiebot.com/media/1121/cookiebot-report-2019-medium-size.pdf>

² <https://privacyinternational.org/long-read/3194/privacy-international-study-shows-your-mental-health-sale>

³ https://edpb.europa.eu/our-work-tools/our-documents/outros/statement-32019-eprivacy-regulation_en

⁴ https://www.beuc.eu/publications/beuc-x-2017-090_eprivacy-factsheet.pdf

⁵ https://ec.europa.eu/commission/sites/beta-political/files/political-guidelines-next-commission_en.pdf

⁶ https://edpb.europa.eu/our-work-tools/our-documents/outros/statement-32019-eprivacy-regulation_en

⁷ <https://www.beuc.eu/publications/beuc-x-2018-108-eprivacy-reform-joint-letter-consumer-organisations-ngos-internet-companies.pdf>

What Europe loses without a strong ePrivacy Regulation

Without the ePrivacy Regulation, Europe will continue living with an outdated Directive which is not being properly enforced⁸ and the completion of our legal framework initiated with the General Data Protection Regulation (GDPR) will not be achieved. Without a strong Regulation, surveillance-driven business models will be able to cement their dominant positions⁹ and continue posing serious risks to our democratic processes.^{10 11} The EU also risks losing the position as global standard-setter and digital champion that it earned through the adoption of the GDPR.

As a result, people's trust in internet services will continue to fall. According to the Special Eurobarometer Survey of June 2019 the majority of users believe that they only have partial control over the information they provide online, with 62% of them being concerned about it.

The ePrivacy Regulation is urgently needed

We expect the EU to protect people's fundamental rights and interests against practices that undermine the security and confidentiality of their online communications and intrude in their private lives.

As you meet today to discuss the next steps of the reform, we urge you to finally reach an agreement to conclude the negotiations and deliver an upgraded and improved ePrivacy Regulation for individuals and businesses. We stand ready to support your work.

Yours sincerely,



**OPEN SOCIETY
EUROPEAN POLICY
INSTITUTE**

**PRIVACY
INTERNATIONAL**

⁸ <https://edri.org/cjeu-cookies-consent-or-be-tracked-not-an-option/>

⁹ <http://fortune.com/2017/04/26/google-facebook-digital-ads/>

¹⁰ <https://www.theguardian.com/technology/2016/dec/04/google-democracy-truth-internet-search-facebook>

¹¹ <https://www.theguardian.com/technology/2017/may/07/the-great-british-brexit-robbery-hijacked-democracy>