



EUROPEAN COMMISSION
ENTERPRISE AND INDUSTRY DIRECTORATE-GENERAL

Director-General

Brussels, **11 AOUT 2014**
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Access
 AKVorrat
 Alternative Informatics
 Article 19
 Bits of Freedom
 Chaos Computer Club (CCC)
 Föreningen för Digitala Fri- och
 Rättigheter (DFRI)
 Digitalcourage
 Digitale Gesellschaft
 Digital Rights Ireland
 Electronic Frontier Finland (Effi)
 Electronic Frontier Foundation (EFF)
 European Digital Rights (EDRi)
 Foundation for Information Policy
 Research (FIPR)
 Initiative für Netzfreiheit
 IT-Pol Denmark
 Open Rights Group (ORG)
 Panoptikon Foundation
 Privacy International
 Verein für Internet-Benutzer Österreichs
 (VIBE)
 Vrijschrift Foundation

Subject: Data Retention and Investigatory Powers Bill

The Commission takes note of the open letter of 22 July 2014 published at <http://www.statewatch.org/news/2014/jul/uk0-eu-dripa-ngo-letter.pdf>, in which several organisations raise the issue of the potential non-conformity of the Data Retention and Investigatory Powers Act 2014 with the *Directive 98/34/EC laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services* and with the ECJ judgement in joined case C-293/12 and C-594/12. The letter has also been forwarded to the Commission by Access on 22 July 2014.

On 17 July 2014, the Commission received a notification from the United Kingdom pursuant to Article 8 of Directive 98/34/EC, titled **The Data Retention and Investigatory Powers Bill and the Data Retention Regulations 2014** (notification reference : 2014/354/UK). In

the notification, the UK invoked the urgency procedure under Article 9(7) of Directive 98/34/EC, which would allow it to adopt the act without the regular 3 months standstill period stipulated by Article 9(1) of that Directive.

While the notification message refers to both the Data Retention and Investigatory Powers Bill (DRIP) and the Data Retention Regulations 2014, the Commission noted that the draft act actually notified was the draft Data Retention Regulations (the DRIP has been submitted only as basic text). Moreover, the Commission has been informed that DRIP received Royal Assent on the day of the notification, and that it is since that date in force as the Data Retention and Investigatory Powers Act 2014 (2014 c. 27). In addition, the Commission has received information that the Data Retention Regulations 2014 have been approved on 29 July 2014, within eight working days from the notification, without awaiting the views of the Commission on the notification, as provided for in Article 9(7) of Directive 98/34/EC, at the draft stage.

Since the Data Retention Regulations 2014 have been formally adopted and have entered into force, they cannot be anymore the subject of comments as to the substance within the framework of Directive 98/34/EC. The Commission took note that the procedure under Directive 98/34/EC was closed and informed the UK authorities accordingly.

The Commission is currently assessing the claims concerning the potential breaches of EU law invoked in the open letter. They are being dealt with under the complaint registered with number CHAP(2014)02612.

Yours faithfully,



Daniel Calleja
PAUL WEISSENBERG
AUTHORISED
REPRESENTATIVE OF
DANIEL CALLEJA