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CENTRAL AND EASTERN EUROPEAN INDUSTRY FEDERATIONS AUSTRIA, CROATIA, CZECH REPUBLIC, HUNGARY, SLOVAKIA, SLOVENIA

CEE PROSPECTIVES IN THE FIELD OF DATA PROTECTION

PREAMBLE

As representatives of the Central and Eastern European industry federations, we strongly support the European Commission's agenda to foster the development of the Digital Single Market in Europe. Given that personal data plays a fundamental role in the day-to-day operations of the digital economy, it is difficult to overstate the importance of the General Data Protection Regulation (GDPR) to Europe's ambitions to secure its digital future and ensure the privacy and security of its citizens. In addition we need a secure and flexible foundation for international data transfers. The legal framework that is being created in Europe will have a decisive impact on the European Commission's success of creating a truly Digital Single Market. The EU has to ensure a General Data Protection Regulation, which is flexible enough to allow and promote modern technologies and innovations and re-establishes international data flows under a revised Safe Harbor mechanism.

GENERAL DATA PROTECTION REGULATION

The GDPR negotiations have entered a crucial final phase. While the signed industrial federations consider the new GDPR an act of major importance, we also share the view that it is possible to reform data protection regulation without restraining growth and job creation in Europe. Fundamental rights must be protected, but Europe also needs to create an environment that secures investment and competitiveness.

The EU Council has worked very hard over the last few months to reconcile different national positions, with the protection of fundamental rights at the forefront. However, we now urge to focus attention on the following points, which risk having a negative impact on the Digital Single Market, and on growth and job creation as a whole. There are five key issues that must be resolved to ensure the GDPR underpins Europe's Digital ambitions:

1. Avoid creating an environment that discourages investment in data driven innovation by providing a clear and feasible legal basis for data analytics;
2. eliminate unnecessary costs and confusion resulting from fragmented national implementation of data protection rules through meaningful harmonisation;
3. Set a secure and flexible foundation for data transfers that facilitates international collaboration and global trade;
4. Clarify the system of liability between controller and processor, avoiding duplication and joint or uncertain liability, and provide clear accountability to citizens. Companies need legal certainty concerning liability. A system with joint and several liabilities for

both controller and processors would clearly introduce significant uncertainties and burdens on companies, whilst also increasing uncertainties for data subjects.

5. Provide a proportionate sanctions regime that punishes non-compliance but avoids discouraging investment in data-driven innovations.

We urge the Council during its discussion in Trilogue to make sure that the final outcome will demonstrate Europe's ability to resolve sensitive and challenging issues, while also focusing on its future economic growth and the employment opportunities of its citizens. Unfortunately we are very concerned that this is not being reflected in the final negotiations of the Trilogue, and will thus undermine the potential success of the Digital Single Market Strategy.

INTERNATIONAL DATA FLOWS

A very pressing and serious challenge for Europe's digital economy stems from the recent judgement of 'Safe Harbor' by the European Court of Justice ("ECJ"). The digital economy, innovation and progress rely on global data flows. Unfortunately, the immediate invalidation of Safe Harbor by the ECJ renders data flows between the EU and the US and, as a consequence, doing business across the Atlantic very burdensome and in some cases impossible. Several thousands of companies, including SMEs, rely on Safe Harbor when transferring data between the EU and US. The solution is not to revoke Safe Harbor, but to improve it. Action is needed to restore confidence and to ensure that Member States have a crucial role to play. We ask the European Commission to intervene with the National Data Protection Authorities to reconfirm the importance of international data flows and to help that the Commission:

1. Accelerates the negotiations leading to a prompt conclusion of a revised Safe Harbor agreement;
2. Helps provide certainty to European businesses by:
 - Keeping issuing guidance for businesses on how to move forward and deal with the current legal uncertainty;
 - Aiming to coordinate action from Data Protection Authorities through the Art. 29 Working Party, to avoid disruptions in the EU digital single market. If national regulators start providing individual guidance without consistency – as we have seen in recent days - the complexity and fragmentation of the process will become unmanageable;
 - Securing an adequate transition period in the enforcement approach to allow companies to move to alternative ways of transfer.

The undersigned industrial associations are hereby asking for your support and active role in reaching a satisfactory conclusion regarding these two important issues.