



## Joint Industry Statement on the ePrivacy Regulation

### **EU telecoms and cable sectors uphold confidentiality of communications, ask for promoting European innovation and competitiveness**

Brussels, 10 October 2019 – The GSMA, ETNO and Cable Europe look forward to working with the new College of European Commissioners to advance the digital single market and spur European innovation and growth. Telecommunications and cable operators remain the backbone of the European digital economy. With 5G and upgrades of other networks to increase connectivity, we will connect people with lower latency and more capacity, and we will connect machines at an unprecedented rate. Telecom and cable operators are enablers of smart cities and industrial, automotive and agricultural growth – providing connectivity for smart machines, and leading to exponential increases in efficiency and safety.

#### **Confidentiality of communications is key**

The growth of the European digital market and the sectors it supports will only flourish with the right regulatory framework, based on European values. A key part of this value system is the principle of confidentiality of communications. Our longstanding commitment to this principle remains unchanged, especially at a time when faster, more sophisticated and pervasive networks require the greatest level of protection and clear rules.

A viable regulatory framework should protect confidentiality and enable us to innovate and provide ever more relevant services to our customers. At the same time, it should not prevent us from competing with global players, in line with President-elect Ursula von der Leyen's urgent call for a renewed industrial policy for Europe. To contribute to this vision by seizing the potential of the booming data economy, telcos, cable and other ECS providers must be able to responsibly utilise the data produced by their networks and services.

#### **Regulation should level playing-fields**

While the EC's ePrivacy Regulation proposal rightly seeks to level the playing field between telcos and digital service providers offering similar services, gaps remain. And while the new European Electronic Communications Code (EECC) extended the definition of electronic communications services to include some Internet-based services (and, by extension, the scope of the current ePrivacy Directive), the impact of the EECC on national ePrivacy Directive transpositions may vary considerably across Member States. This uncertainty is compounded by the questions raised by the current situation where the GDPR and ePrivacy Directive co-exist.

For example, innovative telecom operators and other ECS providers are developing ways to use artificial intelligence to improve their networks, and even reduce their energy consumption. This type of innovation cannot be bound by specific, narrow use cases. Additionally, the scale needed to create useful data insights is not achievable if end-user consent is required in each case.

#### **A risk-based approach to metadata enables innovation**

Telcos and cable operators ask for the ability to implement a risk-based approach to processing communications metadata, in accordance with the GDPR that provides flexibility to responsibly process data while protecting fundamental rights and reflecting the different risk levels of the datasets at hand. As we look toward evaluation of the GDPR after two years of application in 2020, we should continue to consider how to create a coherent and future-proof data protection acquis in the EU.



Legislating for the future means leaving some space for unknown use cases while the GDPR's basic processing principles continue to apply. Rules for processing communication metadata need to be more future-proof and not focus disproportionately on consent. If the EU adopts more flexible bases of processing pursuant to the GDPR, this will open the door to European innovation and competitiveness. This is crucial for Europe to compete on the global economic stage, and at the same time allow it to export European fundamental principles.

We appreciate the work the Council has applied to this task and the improvements made to the text of the ePrivacy proposal, including the introduction of the concept of further compatible processing for metadata as a positive step. In order to take the work further, we urge the EU institutions to take stock of whether the debate has taken a good direction and to create a clear, consistent, technology-neutral, and future-proof data protection framework in the EU – one that protects confidentiality and propels European competition.

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