



## Joint letter on the latest ePrivacy regulation text

Dear Sir/Madam,

We are writing to you on behalf of the European broadcasting sector in reaction to the latest discussions on e-Privacy in the Council.

Ensuring that EU citizens' data is collected and used safely is a priority for our industry, as privacy and the respect of personal data are paramount to retaining viewers' trust. However, we caution against further rules that may deny broadcasters access to online markets and undermine their ability to optimise their services. As such, we are concerned that the latest proposals of the German Presidency released on November 4 2020 would have dire consequences for our sector.

The new proposal disregards the efforts undertaken by Member States over the last 4 years to establish a balanced and robust legal framework. It takes a step back on a number of crucial issues, deleting the constructive compromises achieved so far and threatening the stability of the audiovisual ecosystem and its prospects for recovery. The proposed draft could severely impact broadcasters' ability to generate revenues through online advertising and thereby their ability to reinvest in audiovisual services. This undermines the sustainability of an entire value chain which is already under tremendous pressure from the impact of the Covid-19 crisis.

Specifically, we regret the approach taken by the German presidency in recital 20. It would negate the flexibility offered by the GDPR by supporting a strict interpretation of its consent provisions. This would result in undermining the free-to-air, free online and AVOD models and preventing broadcasters from optimising their services and choosing freely how to monetise their content. An obligation to provide for two equivalent offers is extremely burdensome for broadcasters in terms of financial and administrative resources, undermines Article 16 of the Charter of Fundamental Rights, and establishes an unwarranted legal burden. This is especially the case if equivalent offers by other providers exist in the market, as was rightly proposed by a number of Member States. To this end, we urge for the introduction of language in article 8 which would explicitly allow service providers to make access to website content conditional on user consent to accessing and collecting information from end-users' terminal equipment.

New wording on the exception on audience measurement in article 8.1.(d) has severe unintended consequences and does not reflect media market realities. This limits the exception to broadcasters as providers of a television broadcasting service rather than as a service provider. Furthermore, the Presidency's decision to remove "or by third parties jointly" in this provision may make it difficult to rely on structures that measure the entire media market. Namely, it would prevent entities that represent all stakeholders (broadcasters, publishers, advertisers, agencies), which is the norm in many Member States, to make use of this exception.

Our broader view remains that Europe needs to take stock of GDPR implementation before committing to an ePrivacy proposal that would limit access to online growth for European media. We firmly believe that the way forward should certainly not be going towards even more overly restrictive rules.

For all of the above reasons, we encourage Member States to critically review the latest proposal. Given the extreme position enshrined in the European Parliament's text, it is essential that the Council's position be balanced and reflect adequately all interests. Europe's actions to address abuses by online platforms should avoid unintentionally impacting European media players, the jobs they support and the audiences they inform, educate and entertain.

Sincerely,

**Grégoire Polad, Director General, ACT**

**Connor Murray, Director Regulatory and Public Affairs, egta**

**Anna Tanova, CEO, ABBRO**

**George Chirita, Executive Director, ARCA**

**Daniela Beaujean Managing Director and Legal Advisor, VAUNET**

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### **About the Association of Commercial Television in Europe (ACT)**

The ACT represents the interests of leading commercial broadcasters in Europe. The ACT member companies finance, produce, promote and distribute content and services benefiting millions of Europeans across all platforms. At ACT we believe that the healthy and sustainable commercial broadcasting sector has an important role to play in Europe's economy, society and cultures. For further enquiries please consult our website [www.acte.be](http://www.acte.be) and/or contact Greg Polad, ACT Director General, [gp@acte.be](mailto:gp@acte.be)

### **About the European association of television and radio sales houses (egta)**

egta is the media trade body for television and radio advertising, representing 150 companies in Europe and beyond. egta members come from both public and private sectors and cover respectively 75% and 50% of the total TV and radio ad spend in Europe, thus playing a fundamental role in the sustainable funding of the European audiovisual and radio industries.

### **About the Association of Bulgarian Radio and Television Broadcasters (ABBRO)**

ABBRO is the most representative media organization in Bulgaria that brings together commercial media service providers – the largest national broadcasting televisions, the most popular television channels with cable and satellite distribution, the largest national and regional radio networks and many local operators in Bulgaria. ABBRO members create some of the most popular Bulgarian on-demand media services and websites. ABBRO aims to support and facilitate the development of the commercial media services, as well as to protect the professional interests of its members. In order to achieve its goals ABBRO represents its members before Bulgarian and foreign authorities, the legislators and the sector regulators, international organizations, collective management organizations, non-governmental organizations and other entities.

### **About the Romanian Association for Audiovisual Communications (ARCA)**

The Romanian Association for Audiovisual Communications (Asociația Română de Comunicații Audiovizuale – ARCA) joins the main radio (Europa Fm, Kiss Fm, Radio Zu, National FM, Radio Romania, etc.) and television (ProTv, Antena 1, KanalD, Prima TV, Antena 3, RomaniaTv, B1Tv, National Tv, etc) companies operating in Romania. ARCA works for developing an auspicious climate for audiovisual media business in Romania by representing the interests of the Romanian broadcasters in the relationship with the authorities, the political environment and the civil society. For more information please consult [www.audiovizual.ro](http://www.audiovizual.ro)

### **About the Association of Austrian Commercial Broadcasters (VÖP)**

The Association of Austrian Commercial Broadcasters (VÖP) represents commercial Radio and TV broadcasters in Austria. Among the most important goals is the establishment of fair competition and equal opportunities – on a national level between private broadcasters and the Austrian public service broadcaster ORF, as well as on an international level, i.e. regarding competition with international media companies and platforms. Other objectives are to show the journalistic and economic importance of the private broadcasting sector in Austria, to strengthen the economic basis of commercial broadcasters and to actively support technological development of the industry. For more information see [www.voep.at](http://www.voep.at). Contact: Corinna Drumm | Director General | [corinna.drumm@voep.at](mailto:corinna.drumm@voep.at)

### **About the German Media Association (VAUNET)**

VAUNET is the leading organisation for audiovisual media in Germany. The fields of business in which its 150 member companies operate are highly varied, ranging from TV and radio to internet and streaming offerings. VAUNET represents the interests of the commercial audio-visual industry, which is one of the largest business sectors in Germany. The Association's activities focus on development in the markets for audiovisual media and play an active role in shaping the relevant parameters at both a national and European level. The aim of the trade association is to create acceptance for the economic concerns of audiovisual media and raise awareness of the major socio-political and cultural significance of this industry in the digital age. For more information see [www.vau.net](http://www.vau.net) and follow @VAUNET\_Presse Contact: Daniela Beaujean | Managing Director | [beaujean@vau.net](mailto:beaujean@vau.net); Anne Peigné de Beaucé | Senior European Affairs Manager | [peigne@vau.net](mailto:peigne@vau.net)