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Committee on Industry, Research and Energy

2011/2025(INI)

14.4.2011

AMENDMENTS

1 - 57

Draft opinion
Giles Chichester
(PE460.921v01-00)

on a comprehensive approach on personal data protection in the European
Union
(2011/2025(INI))

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PE462.771v01-00

EN

United in diversity

EN

AM_Com_NonLegOpinion

Amendment 1
Lena Ek

Draft opinion
Paragraph -1 (new)

Draft opinion

Amendment

-1. Stresses that effective protection of the right to privacy is essential in order to achieve consumer confidence, which is required to unlock the full growth potential of the digital single market;

Or. en

Amendment 2
Lena Ek

Draft opinion
Paragraph -1 a (new)

Draft opinion

Amendment

-1a. Believes that a digital single market requires common privacy protection coordinated at a European level, in order to encourage cross-border trade and prevent market distortions; Underlines the importance of high protection of sensitive economic data (e.g. credit card numbers, addresses), which is vital for credibility and digital consumption;

Or. en

Amendment 3
Silvia-Adriana Țicău

Draft opinion
Paragraph 1

Draft opinion

1. Stresses that the Commission must consider all aspects, including verified need, ***net burdens imposed on*** controllers and probable value with respect to data protection, with respect to any proposal;

Amendment

1. Stresses that the Commission must consider all aspects, including verified need, ***legal certainty, reduction of the administrative burden, a level playing field for*** controllers and probable value with respect to data protection, with respect to any proposal;

Or. ro

Amendment 4
Philippe Lamberts

Draft opinion
Paragraph 1

Draft opinion

1. Stresses that the Commission must consider all aspects, including ***verified need, net burdens imposed on controllers*** and ***probable value with respect to*** data protection, ***with respect to any proposal***;

Amendment

1. Stresses that the Commission must consider all aspects including ***the feasibility*** and ***the financial cost of*** data protection;

Or. en

Amendment 5
Jens Rohde

Draft opinion
Paragraph 1 a (new)

Draft opinion

Amendment

1a. However, also recognises that the data protection directive (95/46/EC) has led to a fragmented legal framework due to different approaches in Member States' implementation and enforcement and that new technological developments has led to new challenges in terms of data

protection; therefore agrees that the need for a new legal framework has been verified;

Or. en

Amendment 6
Zigmantas Balčytis

Draft opinion
Paragraph 1 a (new)

Draft opinion

Amendment

1a. Observes that the insufficient harmonisation of Member States' data protection legislation and divergences in the application of the data protection directive compel economic operators to incur additional costs, increase their administrative burden, create legal uncertainty and compromise the attainment of the aim of directive, namely an equivalent level of protection;

Or. It

Amendment 7
Matthias Grootte

Draft opinion
Paragraph 1 a (new)

Draft opinion

Amendment

1a. Welcomes the Commission's efforts to harmonise data protection; calls on the Commission, however, to ensure that harmonisation does not lead to a reduction in the level of data protection;

Or. de

Amendment 8
Lena Ek

Draft opinion
Paragraph 1 a (new)

Draft opinion

Amendment

1a. Reminds the Commission that a prerequisite for a single digital market is that common principles and rules must prevail for both goods and services, as services are an important part of the digital market;

Or. en

Amendment 9
Jens Rohde

Draft opinion
Paragraph 1 b (new)

Draft opinion

Amendment

1b. In this regard particularly urges the Commission to strengthen the current provisions on data protection in connection with data transfers to third countries, in relation to cloud computing, data mining and similar technological developments allowing for hosting, processing and connecting data virtually and across borders; emphasises the need to introduce legally binding obligations on businesses outsourcing data, harmonised ‘adequacy assessment’ of third countries and harmonised enforcement obligations on Member States; believes that all EU citizens should be ensured their fundamental right of privacy and data protection regardless of the data controller’s geographical location; believes that a further harmonised legal framework would increase legal clarity for businesses, reduce administrative

burdens and improve the protection of individuals' personal data;

Or. en

Amendment 10
Matthias Grootte

Draft opinion
Paragraph 1 b (new)

Draft opinion

Amendment

1b. Calls on the Commission to amend Directive 97/46/EC not only with regard to the inclusion of additional categories of data (such as genetic data) but so as to take account of the future development of 'new data' and to thoroughly revise the Directive in this field;

Or. de

Amendment 11
Lena Kolarska-Bobińska, Axel Voss, Herbert Reul

Draft opinion
Paragraph 2

Draft opinion

Amendment

2. Invites the Commission to carefully consider the impact on SMEs to ensure they are not disadvantaged;

2. Invites the Commission to carefully consider the impact on SMEs to ensure they are not disadvantaged; *believes as well that the volume of data which is processed should also be taken into consideration independent of the size of a firm;*

Or. en

Amendment 12
Matthias Groot

Draft opinion
Paragraph 2

Draft opinion

2. Invites the Commission to carefully consider the impact on SMEs to ensure they are not disadvantaged;

Amendment

2. Invites the Commission to carefully consider the impact on SMEs to ensure they are not disadvantaged, ***and to reduce the red tape and costs faced by SMEs with cross-border operations;***

Or. de

Amendment 13
Francesco De Angelis

Draft opinion
Paragraph 2

Draft opinion

2. Invites the Commission to carefully consider the impact on SMEs to ensure they are not disadvantaged;

Amendment

2. Invites the Commission to carefully consider the impact on SMEs to ensure they are not disadvantaged ***and/or do not have additional administrative burdens imposed on them;***

Or. it

Amendment 14
Philippe Lamberts

Draft opinion
Paragraph 2

Draft opinion

2. Invites the Commission to carefully consider the impact on SMEs to ensure they are not disadvantaged;

Amendment

2. Invites the Commission to carefully consider the impact on SMEs to ensure they are not disadvantaged ***in particular through avoiding red tape;***

Amendment 15
Jens Rohde

Draft opinion
Paragraph 3

Draft opinion

3. *Invites* the Commission to *resist calls for new imprecise broad principles which may cause legal uncertainty, skew competition, erect trade barriers, contravene the presumption of innocence and create additional burdens on controllers without quantifiable benefits in resolving genuine problems;*

Amendment

3. *Believes that the revision of the legal framework must ensure flexibility to secure its ability to meet future needs as technology develops; however, emphasises that the Commission should take care to ensure the new principles will not be as broadly and imprecisely formulated that they may cause legal uncertainty, skew competition, erect trade barriers, contravene the presumption of innocence and create additional burdens on controllers without quantifiable benefits in resolving genuine problems;*

Amendment 16
Lena Ek

Draft opinion
Paragraph 3

Draft opinion

3. *Invites* the Commission to *resist calls for new imprecise broad principles which may cause legal uncertainty, skew competition, erect trade barriers, contravene the presumption of innocence and create additional burdens on controllers without quantifiable benefits in resolving genuine problems;*

Amendment

3. *Calls on* the Commission to *ensure that any new principles must be designed to protect the rights of users and that they must be necessary for the achievement of that purpose, proportionate and sufficiently clear to promote legal certainty and fair competition;*

Amendment 17

Angelika Niebler, Herbert Reul, Lena Kolarska-Bobińska, Axel Voss

Draft opinion

Paragraph 3

Draft opinion

3. Invites the Commission to ***resist calls for new imprecise broad principles which may cause legal uncertainty, skew competition, erect trade barriers, contravene the presumption of innocence and create additional burdens on controllers without quantifiable benefits in resolving genuine problems;***

Amendment

3. Invites the Commission to ***critically assess if newly introduced principles do really solve genuine problems and do not cause legal uncertainty, skew competition, erect trade barriers, and create additional burdens on controllers;***

Or. en

Amendment 18

Philippe Lamberts

Draft opinion

Paragraph 3

Draft opinion

3. Invites the Commission to ***resist calls for new imprecise broad principles which may cause legal uncertainty, skew competition, erect trade barriers, contravene the presumption of innocence and create additional burdens on controllers without quantifiable benefits in resolving genuine problems;***

Amendment

3. Invites the Commission to ***use the standards and principles laid down in Directive EC/95/46 as a basis to be strengthened;***

Or. en

Amendment 19

Andreas Mölzer

Draft opinion

Paragraph 3

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Draft opinion

3. Invites the Commission to resist calls for new imprecise broad principles which may cause legal uncertainty, skew competition, erect trade barriers, contravene the presumption of innocence and create additional burdens on controllers without **quantifiable** benefits in resolving genuine problems;

Amendment

3. Invites the Commission to resist calls for new imprecise broad principles which may cause legal uncertainty, skew competition, erect trade barriers, contravene the presumption of innocence and create additional burdens on controllers without **qualifiable** benefits in resolving genuine problems;

Or. de

Amendment 20
Silvia-Adriana Țicău

Draft opinion
Paragraph 3 a (new)

Draft opinion

Amendment

3a. Calls on the Commission and Member States to introduce a system of certification of personal data providers and controllers, in order to ensure security in the definition, implementation and conduct of clear procedures for the protection of such data;

Or. ro

Amendment 21
Silvana Koch-Mehrin

Draft opinion
Paragraph 3 a (new)

Draft opinion

Amendment

3a. Reminds the Commission that a clear definition of the term ‘right to be forgotten’ is necessary, identifying clearly the requirements and specifying against

whom the right may be enforced;

Or. en

Amendment 22
Silvana Koch-Mehrin

Draft opinion
Paragraph 3 b (new)

Draft opinion

Amendment

3b. Calls on the Commission to facilitate greater ‘data portability’ on the Internet while taking into account business models of service providers, existing technical systems and legitimate interests of stakeholders; Underlines that users need sufficient control of their online data for a sovereign and responsible use of the Internet;

Or. en

Amendment 23
Philippe Lamberts

Draft opinion
Paragraph 4

Draft opinion

Amendment

4. Believes that any certification or seal scheme could be based on EMAS and must in any event be of ensured integrity and trustworthiness;

deleted

Or. en

Amendment 24
Lena Kolarska-Bobińska

**Draft opinion
Paragraph 4**

Draft opinion

4. Believes that any certification or seal scheme could be based on EMAS and must in any event be of ensured integrity and trustworthiness;

Amendment

4. Believes that any certification or seal scheme could be based on ***a model such as*** EMAS and must in any event be of ensured integrity and trustworthiness; ***asks that any scheme include individual serial codes on certificates viewable by the public and checkable in a central public database;***

Or. en

Amendment 25

Angelika Niebler, Herbert Reul, Axel Voss, Lena Kolarska-Bobińska

**Draft opinion
Paragraph 4**

Draft opinion

4. Believes that any certification or seal scheme could be based on EMAS and must in any event be of ensured integrity and trustworthiness;

Amendment

4. Believes that any certification or seal scheme could be based on ***a model such as*** EMAS and must in any event be of ensured integrity and trustworthiness;

Or. en

Amendment 26

Silvana Koch-Mehrin

**Draft opinion
Paragraph 4 a (new)**

Draft opinion

Amendment

4a. Reminds the Commission that the effects of extending categories of sensitive data must be thoroughly examined; The stricter criteria for dealing with sensitive data should not require numerous new legal permissions to maintain the

necessary and desired data processing applications; The list of sensitive data should be extended only to include all those data which are sensitive in (almost) all conceivable situations of data processing, such as genetic data;

Or. en

Amendment 27
Philippe Lamberts

Draft opinion
Paragraph 4 a (new)

Draft opinion

Amendment

4a. Calls on the Commission to encourage self regulation of sectors in the framework of the revised data protection law; recommends to include a mechanism of control and sanctions supervised by data protection authorities, and to ensure that all entities in a given sector are covered by self regulation schemes;

Or. en

Amendment 28
Silvia-Adriana Țicău

Draft opinion
Paragraph 4 a (new)

Draft opinion

Amendment

4a. Calls on the Commission to open a structured dialogue with third countries on the convergence of legal provisions concerning the protection of personal data and to ensure that any transmission or processing of such data complies fully with EU legislation;

Amendment 29

Lena Ek

Draft opinion

Paragraph 4 a (new)

Draft opinion

Amendment

4a. Stresses that the principle of ‘privacy by design’ needs to be expressed in a way that achieves the right to privacy for users, while at the same time ensuring legal certainty for controllers and producers and equal application of the rules across the EU;

Or. en

Amendment 30

Silvana Koch-Mehrin

Draft opinion

Paragraph 4 b (new)

Draft opinion

Amendment

4b. Reminds that profiling is a major trend in the ‘digital world’, also given the growing importance of ‘social networks’ and integrated Internet business models; Calls therefore on the Commission to include provisions on profiling while clearly defining the terms ‘profile’ and ‘profiling’;

Or. en

Amendment 31

Silvana Koch-Mehrin

Draft opinion
Paragraph 4 c (new)

Draft opinion

Amendment

4c. Invites the Commission to encourage strengthening of self-regulation initiatives, personal responsibility and the right to control one's own data, in particular as regards the Internet;

Or. en

Amendment 32
Lena Kolarska-Bobińska, Angelika Niebler

Draft opinion
Paragraph 5

Draft opinion

Amendment

5. Recommends that any concrete implementation of 'privacy by design' is based on the existing EU model with respect to goods, to ensure legal certainty, a level playing field and free movement;

5. Recommends that any concrete implementation of 'privacy by design' is based on the existing EU model with respect to goods, to ensure legal certainty, a level playing field and free movement; ***believes 'privacy by design' should be based on the principle of data minimisation, meaning that all products should be built in such a way to collect, use and transmit only the personal data absolutely needed for it to function;***

Or. en

Amendment 33
Jens Rohde

Draft opinion
Paragraph 5

Draft opinion

Amendment

5. Recommends that any concrete

5. Welcomes the Commission's proposal

implementation of ‘privacy by design’ is based on the existing EU model with respect to goods, to ensure legal certainty, a level playing field and free movement;

for ‘privacy by design’ as a general principle and invites the Commission to further develop this concept; in this regards highlights the necessity for any implementation thereof to be based on solid and concrete criteria and definitions to ensure legal certainty, a level playing field and free movement;

Or. en

Amendment 34

Lena Ek

Draft opinion

Paragraph 5

Draft opinion

5. Recommends that any concrete implementation of ‘privacy by design’ is based on the existing EU model with respect to goods, to ensure legal certainty, a level playing field and free movement;

Amendment

5. Welcomes the emphasis placed on the principle of ‘privacy by design’ and calls for it to be implemented in a way that ensures users’ right to privacy and data protection, legal certainty, a level playing field and free movement;

Or. en

Amendment 35

Philippe Lamberts

Draft opinion

Paragraph 5

Draft opinion

5. Recommends that any concrete implementation of ‘privacy by design’ is based on the existing EU model with respect to goods, to ensure legal certainty, a level playing field and free movement;

Amendment

5. Supports the principles of ‘privacy by design’ and ‘privacy by default’ so as to reinforce self-determined data protection based on consent and transparency;

Or. en

Amendment 36
Matthias Grootte

Draft opinion
Paragraph 5

Draft opinion

5. Recommends that any concrete implementation of ‘privacy by design’ is based on the existing EU model with respect to goods, to ensure legal certainty, a level playing field and free movement;

Amendment

5. Recommends that any concrete implementation of ‘privacy by design’ is based on the existing EU model with respect to goods, to ensure legal certainty, **transparency**, a level playing field and free movement;

Or. de

Amendment 37
Matthias Grootte

Draft opinion
Paragraph 5 a (new)

Draft opinion

Amendment

5a. Calls on the Commission to ensure that users of social networking sites can obtain a complete overview of the data which are held concerning themselves without this necessitating an unacceptable cost or effort;

Or. de

Amendment 38
Philippe Lamberts

Draft opinion
Paragraph 6

Draft opinion

Amendment

6. Recommends that the Commission considers a possibility for behavioural sanctions in case of infringement, instead of a principle of ‘accountability’;

deleted

Or. en

Amendment 39

Lena Ek

Draft opinion

Paragraph 6

Draft opinion

Amendment

6. Recommends that the Commission considers a possibility for behavioural sanctions in case of infringement, instead of a principle of ‘accountability’;

6. Highlights the need for proper enforcement, for example through behavioural sanctions in case of infringements;

Or. en

Amendment 40

Jens Rohde

Draft opinion

Paragraph 6

Draft opinion

Amendment

6. Recommends that the Commission considers a possibility for behavioural sanctions in case of infringement, instead of a principle of ‘accountability’;

6. Recommends that the Commission reviews possible sanction methods, including behavioural sanctions, in case of infringement;

Or. en

Amendment 41

Angelika Niebler, Herbert Reul, Lena Kolarska-Bobińska, Axel Voss

Draft opinion
Paragraph 6

Draft opinion

6. Recommends that the Commission considers a possibility for behavioural sanctions in case of infringement, ***instead of*** a principle of ‘accountability’;

Amendment

6. Recommends that the Commission considers a possibility for behavioural sanctions in case of infringement ***as well as introducing*** a principle of ‘accountability’;

Or. en

Amendment 42
Ioan Enciu

Draft opinion
Paragraph 6

Draft opinion

6. Recommends that the Commission considers a possibility for behavioural sanctions in case of infringement, instead of a principle of ‘accountability’;

Amendment

6. Recommends that the Commission considers a possibility for behavioural sanctions in case of infringement, instead of a principle of ‘accountability’; ***This would lead to enhanced harmonisation of European Law in this sector;***

Or. en

Amendment 43
Philippe Lamberts

Draft opinion
Paragraph 7

Draft opinion

7. Invites the Commission to review existing rules for relevance, need, clarity, enforceability and powers, competence and enforcement activities of the authorities;

Amendment

7. Invites the Commission to review existing rules for relevance, need, clarity, enforceability and powers, competence and enforcement activities of the authorities ***so as to ensure one comprehensive data protection legislation across all Member states of the Union; calls on those new***

*legislative measures to be enforced
regardless of the location of the data
controller or data processor involved;*

Or. en

Amendment 44
Angelika Niebler, Herbert Reul, Axel Voss

Draft opinion
Paragraph 7

Draft opinion

7. Invites the Commission to *review* existing rules *for relevance, need*, clarity, enforceability and powers, competence and enforcement activities of the authorities;

Amendment

7. Invites the Commission to *elaborate and substantiate* existing rules *as regards* clarity, enforceability and powers, competence and enforcement activities of the authorities;

Or. en

Amendment 45
Andreas Mölzer

Draft opinion
Paragraph 7

Draft opinion

7. Invites the Commission to review existing rules for relevance, need, clarity, enforceability and powers, competence and enforcement activities of the authorities;

Amendment

7. Invites the Commission to review existing rules for relevance, need, *efficiency*, clarity, enforceability and powers, competence and enforcement activities of the authorities;

Or. de

Amendment 46
Lena Kolarska-Bobińska

Draft opinion
Paragraph 7 a (new)

Draft opinion

Amendment

7a. Encourages all bodies involved to work towards a common standard as to what can be considered as an individual giving their consent and towards a common ‘age of consent’ for data usage and transfer;

Or. en

Amendment 47
Ioan Enciu

Draft opinion
Paragraph 8

Draft opinion

Amendment

8. Emphasises that rules on security and personal data breach notification of the amended telecoms framework must be mirrored in any new general instrument to secure a level playing field and uniform protection.

8. Emphasises that rules on security and personal data breach notification of the amended telecoms framework must be mirrored in any new general instrument to secure a level playing field and uniform protection **for all citizens;**

Or. en

Amendment 48
Silvia-Adriana Țicău

Draft opinion
Paragraph 8 a (new)

Draft opinion

Amendment

8a. Calls on the Commission to hasten the adoption of the Communication on the European Information Exchange Model and related action plan, the Directive on the use of passenger name records (PNR)

for legal purposes, the Communication on privacy and trust in digital Europe: ensuring citizens' confidence in new services, and the review of Directive 2003/98/EC on the re-use of public sector information, as the Commission undertook to do in its Work Programme for 2011 and 2012;

Or. ro

Amendment 49

Lena Kolarska-Bobińska, Axel Voss, Angelika Niebler, Herbert Reul

Draft opinion

Paragraph 8 a (new)

Draft opinion

Amendment

8a. Stresses that any new legal instrument should apply to all data controllers that handle the data of European citizens, irrespective of the location of that data controller both inside and outside the EU; calls on the Commission to work with international partners, especially India, towards the adoption of data protection rules which meet EU standards and the inclusion of EU standards in all international agreements;

Or. en

Amendment 50

Silvana Koch-Mehrin

Draft opinion

Paragraph 8 a (new)

Draft opinion

Amendment

8a. Welcomes the newly signed agreement on Privacy and Data protection Impact Assessment Framework for RFID

applications which aims to ensure consumers privacy before RFID tags are introduced onto a market;

Or. en

Amendment 51
Lena Kolarska-Bobińska

Draft opinion
Paragraph 8 b (new)

Draft opinion

Amendment

8b. Calls on the Commission to further regulate the collection, sale and purchase of personal data by including this aspect into the scope of application of any new data protection rules; stresses that such data is not used for online proposes alone but also direct postal marketing;

Or. en

Amendment 52
Lena Kolarska-Bobińska, Axel Voss, Angelika Niebler, Herbert Reul

Draft opinion
Paragraph 8 c (new)

Draft opinion

Amendment

8c. Stresses that citizens must be able to exercise their data rights free of charge and without postal or other costs; calls on companies to refrain from any attempts to add unneeded barriers to the right to view, amend or delete personal data;

Or. en

Amendment 53

Lena Kolarska-Bobińska, Axel Voss, Angelika Niebler, Herbert Reul

Draft opinion

Paragraph 8 d (new)

Draft opinion

Amendment

8d. Reminds the Commission that not all data controllers are internet businesses; calls on the Commission to ensure that new data protection rules can be applied both in the online and offline environment;

Or. en

Amendment 54

Lena Kolarska-Bobińska, Axel Voss, Angelika Niebler, Herbert Reul

Draft opinion

Paragraph 8 e (new)

Draft opinion

Amendment

8e. stresses the need for the Member States to give greater powers to national judicial and data protection authorities to sanction companies for breaches in data protection or failure to apply data protection laws;

Or. en

Amendment 55

Lena Kolarska-Bobińska

Draft opinion

Paragraph 8 f (new)

Draft opinion

Amendment

8f. Notes that class-action lawsuits could be introduced as a tool for individuals to collectively defend their data rights and

seek reimbursement of damages from a data breach; notes, however, that any such introduction must be subject to limits to avoid abuse; asks the Commission to clarify the relationship between this communication on data protection and the current public consultation on collective redress;

Or. en

Amendment 56
Lena Kolarska-Bobińska, Angelika Niebler

Draft opinion
Paragraph 8 g (new)

Draft opinion

Amendment

8g. Believes that all personal data transfers should be subject to traceability (the origin and destination) and this information should be made available to the individual concerned; stresses that if an individual wishes to modify their data from a controller, the owner should be given the option to have this request forwarded to both the original source of the data as well to any other controllers the data has been was shared with;

Or. en

Amendment 57
Lena Kolarska-Bobińska, Angelika Niebler

Draft opinion
Paragraph 8 h (new)

Draft opinion

Amendment

8h. Asks the Commission to clarify the legal accountability of personal data controllers; stresses that it should be

made clear whether the first data controller or the last known controller are accountable or if they subject to joint-accountability;

Or. en