

# OPEN LETTER TO THE EUROPEAN PARLIAMENT / COUNCIL

*Trust, privacy and news - the need to rethink ePrivacy proposals*

## The draft ePrivacy Regulation needs to be revised

We support the objective of the Commission's draft "ePrivacy" regulation, which has the potential to clean up the digital economy, and to restore citizen trust in how their data is used online. Citizens are rightly concerned about the use of their personal data by third party companies of whom they have never heard, and have no idea about the role that they play in their digital lives online.

News organisations depend on the trust of our readers, and we support a system of regulation that restores trust, and cleans up the digital environment. But news organisations also use data generated by readers to improve their products and services by offering readers journalism that is relevant to them, and serving display digital advertising that is relevant to readers.

As a result of digital distribution, more digital citizens are accessing high quality news and quality information than ever before. But the increasing trend towards consumers accessing news content via third party gateways such as Google News, Facebook, Yahoo, Apple News, MSN (Microsoft) and Amazon Alexa is changing the way that European citizens consume news<sup>1</sup>, making publishers ever more reliant on a small number of global platforms as a consequence.

Through the current ePrivacy proposals, the Commission proposes that digital citizens must consent to non-strictly necessary tracking on a global basis when they connect to the Internet via a browser interface. Given that 90 per cent of usage across Europe is concentrated in the hands of just four companies: Google, Apple, Microsoft and Mo-

zilla<sup>2</sup>, this focus on obtaining user permission via the browser interface has the potential to exacerbate the asymmetry of power between individual publishers and these global digital gateways.

The ePrivacy proposals contrast with the implication of the Commission's General Data Protection Regulation (GDPR) – due to come into force in May 2018 - which aims to empower user privacy by forcing sites themselves to make sure that users understand and are empowered to control the gathering of data about their browsing behaviour in context of each site that they visit.

By creating a single global permission within the browser interface, the Commission's ePrivacy proposals will make it more difficult to ensure transparency and meaningful user empowerment in practice, and remove any distinction between publishers who place a high value on the trust of their users, and those who do not.

While the explanatory memorandum accompanying the ePrivacy proposals does not place an outright ban on publishers communicating with readers in order to seek consent for the use of 3rd party cookies, in practice, publishers are concerned that it will be incredibly difficult to persuade readers to change their browser settings to allow 3rd party cookies. As a consequence, individual news organisations would be unable to provide readers with personalised content and marketing, or serve relevant digital advertising within their environments.

The practice of serving relevant advertising to readers is now an established norm in the advertising industry, and is essential to ensure that publishers can compete with Google and Facebook who already control 20% of total global advertising spend in 2017<sup>3</sup>.

If as a result of these proposals, news publishers were unable to serve relevant adver-

tising to our readers, this would reduce our ability to compete with the capabilities of dominant digital platforms for digital advertising revenues, ultimately undermining our ability to invest in high quality journalism across Europe.

The current ePrivacy proposals will result in the data of European digital citizens being concentrated in the hands of a few global companies, as a result of which, digital citizens will become less protected. It will give those global companies: a tighter grip on the personal data of European digital citizens; further strengthen their dominance in the European digital economy, and; introduce further complexity for individual publishers, despite the European Commission acknowledging these issues are already covered by the regulation that will enter into force in 2018.

By shifting consent to the collection of data from each individual news site that they visit, to providing a global consent via a small number of powerful gateways, the Commission's proposals threaten to prevent news organisations from delivering basic functionality such as the marketing of products and services, the tailoring of news products to the needs and desires of news consumers, and relevant and acceptable advertising. The impact on news organisations would be to reduce their ability to deliver high quality products and services, and undermine their ability to generate advertising revenues to reinvest in journalism.

Therefore it is essential that in implementing the objectives of the "ePrivacy" proposals, the European Parliament / Council must work with the news industry to ensure that the regulation provides flexibility of implementation to encourage a direct relationship between each internet user and the trusted news organisations that they visit, not further undermine it.

Yours sincerely

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<sup>1</sup>The latest Reuters News Report - which surveyed citizens across the world - found that "half (51%) say they use social media as a source of news each week. More than a quarter of 18-24s say social media (28%) are their main source of news - more than television (24%) for the first time." As a result of these changes, the Reuters survey found that the "growth of news accessed and increasingly consumed via social networks, portals and mobile apps means that the originating

news brand gets clearly noticed less than half the time in the UK, and Canada. In countries like Japan and South Korea, where aggregated and distributed news is already more widespread, the brand only gets noticed around a quarter of the time when accessed through news portals."  
<sup>2</sup><https://www.statista.com/statistics/269881/market-share-held-by-internet-browsers-in-europe/>