

Privacy and Electronic Communications

2017/0003(COD) - 24/04/2017 - Document attached to the procedure

OPINION of the European Data Protection Supervisor on the Proposal for a Regulation on Privacy and Electronic Communications (ePrivacy Regulation).

The EDPS shares the view that there is a continued need to have specific rules to protect the confidentiality and security of electronic communications in the EU. He therefore **welcomes the Commission proposal** for a modernised, updated and strengthened ePrivacy Regulation. He also welcomes the declared ambition to provide a high level of protection with respect to both **content and metadata**.

However, the EDPS remains **concerned about a number of provisions**, particularly the following:

- the **definitions** under the proposal must not depend on the separate legislative procedure concerning the [Directive](#) establishing the European Electronic Communications Code;
- the provisions on **end-user consent** need to be strengthened. Consent must be requested from the individuals who are using the services, whether or not they have subscribed for them and from all parties to a communication;
- the relationship between the [General Data Protection Regulation](#) (GDPR) and the ePrivacy Regulation should not leave loopholes for the protection of personal data;
- access to websites must **not be made conditional upon the individual being forced to ‘consent’ to being tracked** across websites (cookie walls);
- the proposal fails to ensure that **browsers will by default be set to prevent tracking individuals’ digital footsteps**;
- the exceptions regarding **tracking of location of terminal equipment** are too broad and lack adequate safeguards.

The EDPS notes the importance of a **swift processing of this dossier** by the legislators, to ensure that the ePrivacy Regulation, as intended, may apply as of 25 May 2018, the date when the GDPR itself will also become applicable.