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VICE-PRESIDENT OF THE EUROPEAN COMMISSION

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European Association of Communications Agencies (EACA)
European Magazine Media Association (EMMA)
European Newspaper Publishers' Association (ENPA)
European Publishers Council (EPC)
Federation of European Direct and Interactive Marketing Associations (FEDMA)
Interactive Advertising Bureau Europe (IAB Europe)
News Media Europe (NME)
World Federation of Advertisers (WFA)

Dear Sirs,

I would like to thank you for the joint letters, dated 23 November and 22 December 2016, of the digital advertising industry members of IAB Europe, national IABs, the European publishers members of the European Magazine Media Association, the European Newspaper Publishers' Association, the European Publishers Council and News Media Europe, the direct marketers (FEDMA) and advertisers and advertising agencies members of the World Federation of Advertisers and the European Association of Communications Agencies regarding the review of the ePrivacy Directive.

In your letter you draw the Commission's attention to the importance of interest-based advertisement for online media and express concerns that the future ePrivacy instrument may impose certain business models in this area. You also call on the Commission not to require businesses to provide a subscription-based option to access content, nor to prevent publishers from making the access to their online content conditional upon the user's consent to the processing of their personal data to deliver interest-based advertisement and to rely on sector-specific self- and co-regulatory initiatives.

As regards the review of the ePrivacy Directive, the Commission carried out a thorough evaluation in the last year. This work included a public consultation between April and July 2016 and a Eurobarometer survey, the results of which are recently published on the Commission's website¹, and an Impact Assessment. As a result, the Commission put forward a balanced proposal on 10 January 2017, which takes into account the views of the different stakeholders². The proposal does not impose certain business models or contain an obligation for businesses to provide for a subscription based-option to access content. The proposal does not prevent publishers from making the access to their online content conditional upon the user's consent to the processing of their personal data to deliver interest-based advertisement. However, consent given by users in such conditions must comply with the requirements of Regulation (EU) 2016/679 General Data Protection Regulation, namely Article 7.

The proposed new rules streamline the request for consent of users. The proposal clarifies that no consent is needed for non-privacy intrusive cookies improving the internet experience. For example, cookies set by a visited website counting the number of visitors to the website in question will no longer require consent. In addition, the proposal will allow users to be more in control of their settings, providing an easy way to accept or refuse the use of cookies and other identifiers. Software, such as web browsers, will need to prompt users with the privacy settings upon installation and require them to consent to their preferred setting.

Finally a recital was introduced to clarify that logging the fact that an end-user's device is unable to receive content, for example, because it has an adblocker, should not constitute access to such device (recital 21).

Moreover, you have brought the option of self- and co-regulatory initiatives to my attention and we have discussed the European self-regulatory initiative on Online Behavioral Advertising with you and partners when meeting in Brussels on 23 November 2016. I warmly welcome and support all measures taken by and initiatives of the industry that increase transparency for users on the practice of online behavioral advertisement and the use of online tracking techniques. Such initiatives are useful complements to the legal requirements of the e-privacy and data protection frameworks.

I believe the Commission adopted a balanced proposal, taking into account the different views and interests of stakeholders. I look forward to future cooperation with the publishing and advertisement industry.

Yours sincerely,



Andrus Ansip

¹ <https://ec.europa.eu/digital-single-market/news-redirect/51525>.

² The proposal and Impact Assessment are available on <https://ec.europa.eu/digital-single-market/en/news/proposal-regulation-privacy-and-electronic-communications>; the press release is available on http://europa.eu/rapid/press-release_IP-17-16_en.htm.