

Proposed General Data Protection Regulation

...a general overview

**Office of the Information and
Data Protection Commissioner**

Background - Directive 95/46/EC

- Adopted in October 1995;
- Establishment and functioning of the internal market leading to cross-border data flows;
- Objective - to safeguard the fundamental rights of individuals in the free movement of goods, persons, capital and services;
- The internet was in its infancy in the early 90's when the directive was being developed;
- A technology neutral directive;
- The general data protection principles remain valid;
- Survived elegantly for 17 years;

Need for reform

- Rapid technological progress and globalisation have changed the way personal data is collected, accessed and used;
- Technology allows data controllers to make use of information on a large scale to pursue their activities;
- Data sharing increased exponentially;
- Individuals increasingly make personal information available publicly and globally;
- Building trust in the online environment;
- Privacy challenges are constantly on the increase;
- Current framework allows for fragmentation in the way personal data is implemented across the EU;

Consultation process

- EC carried out extensive consultations with all major stakeholders over a two year period, commencing in 2009:-
 - Public consultations;
 - Specific events organised with MS authorities, private sector, data protection and consumers' organisations;
 - High level conferences co-organised by the EC and CoE;
 - Dedicated workshops and seminars;
 - Studies were conducted;
 - Opinions and useful input received from the Article 29 WP and the EDPS;

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- On 25th January 2012, the EC proposed a comprehensive reform of the 1995 Data Protection Directive;

- The main objective was:
 - **to strengthen online privacy rights;**
 - **simplification and reduction of administrative burden;**
 - **to boost Europe's digital agenda;**
 - **to ensure a harmonised environment across the EU;**

- A regulation was considered to be the most appropriate legal instrument:
 - **in view of its direct applicability and enforceability;**
 - **to reduce legal fragmentation;**
 - **to provide more legal certainty;**

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Main proposals contained in the Regulation:

- new definitions including, genetic data, biometric data, main establishment, data concerning health, binding corporate rules, child (below the age of 18);
- new principles to compliment those contained in the current directive including **transparency principle, data minimisation principle** and **comprehensive responsibility and liability of the data controller;**
- controller to provide procedures and mechanisms for exercising the data subject's rights;
- **right to be forgotten** – a data controller who has made personal data public will be obliged to inform third parties on the data subject's request to erase any links or copy of replicate of such data;
- right to data portability

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- **right to object and profiling;**
- **data protection by design and default;**
- joint controllership;
- documentation concerning processing operations (contained in the present notification form) to be maintained by the data controller or his representative;
- **personal data breach notification;**
- **data protection impact assessment;**
- mandatory appointment of a data protection officer for controllers in the public sector and for private entities employing more than 250 employees;
- transfers by way of appropriate safeguards and by way of Binding Corporate Rules;

- The proposed regulation also provides for:
 - hefty administrative sanctions;
 - the adoption of implementing acts by the EC;
 - a transition period of two years for the implementation of the provisions after its entry into force;

- State of play – During the past weeks, the EC has officially declared Summer of 2013 as a deadline until when political agreement should be achieved;

- No official date has been established for the possible adoption of such proposal.

Contact Details

Thank you!

Office of the Information and Data Protection Commissioner

Tel: (+356) 2328 7100

E-Mail: idpc.info@gov.mt

Portal: www.idpc.gov.mt

The Floor is now open for discussion/questions