



Brussels, 23 September 2019

FEDMA insight on GDPR implementation to the European Council

FEDMA is a member of the European Commission expert group on the implementation of the GDPR and is currently updating its Code of conduct on processing of personal data for direct marketing purposes. FEDMA defends a thriving environment for marketers powered by user's trust and, in particular, we call for a fair and efficient GDPR implementation. This implies a structured dialogue between civil society and key institutions, a harmonised and balanced interpretation of the GDPR and Codes of Conducts as useful tools to contribute GDPR implementation.

In line with our [2019-2024 priorities](#), FEDMA would like to seize the opportunity to highlight the following:

- **Structured dialogues are essential.** Therefore, **we support the Commission call to support and involve stakeholders from civil society and business;** making sure that individuals and businesses, including SMEs, can enjoy the benefits brought by the GDPR.
 - Such dialogue must be constant with long-term objectives so as to drive data protection as a competitive advantage. It facilitates creation of tools, such as sandboxes, which provide businesses with support and innovative solutions or adoption of Codes of Conduct.
 - Dialogues between authorities (DPA¹ and EDPB²) also reflects the dual nature of the GDPR; a harmonisation tool with some elements of a choice for member states.
- **The development of Codes of Conduct should be strongly supported by each EU institution.** Therefore, **we support the Commission call for the Board to further develop an EU data protection culture and make full use of the tools provided for in the Regulation to ensure a harmonised application of the rules.** We support the Commission message to “strengthen the role of DPAs by making full use of all the tools, including (...) Codes of Conducts available under the GDPR, so that the rules are applied in the same manner in all member states”.
 - Codes of Conduct are one of those tools which enables rules to consistently be applied in all member states. Adequate support to DPAs and EDPB will contribute to shorter timelines for approval of Codes, both at national and European level. Codes will relieve the DPAs of some of the burden of providing detailed guidance

¹ Data Protection Authorities

² European Data Protection Board



to businesses and enable them to focus on the principles of the GDPR. Codes enable cost-efficient implementation of the GDPR for the DPAs.

- **Accountability is a core notion of the GDPR, Therefore, we agree with the Commission report that businesses are adapting their practices. However, more efforts are needed to reach a balanced interpretation of the GDPR.**
 - A balanced interpretation of the GDPR is needed to respect the double objective of the GDPR: data protection for the data subjects and free movement of personal data especially on the following issues: data subject rights and processing of data for profiling with the purpose of direct marketing.
 - We also call to avoid as much as possible legal fragmentation or gold plating, which is confusing for business.
 - In general, derogations should be avoided. This Regulation with so many derogations is complex for businesses and individuals.
- **FEDMA supports adequacy decisions as a tool to ensure safeguard for personal data transfers to third countries.**
 - In the context of Brexit, we strongly call for an adequacy decision to be taken as soon as possible.
 - We also call for clarification as to how Codes of Conduct may be used to ensure safeguards for international transfers.
- **It is very important to avoid overlaps or contradictions between the GDPR and other legislations. Therefore, FEDMA remains cautious as to the integration of data protection in all policies, in particular consumer law.**
 - SMEs need to process personal data to offer products and services. A clear and consistent interpretation of the GDPR, by DPAs, is essential to avoid legal uncertainty for SMEs. Indeed, inserting data protection in other policies (e.g. consumer law) threatens an EU harmonized data culture driven by DPAs and EDPB, as other sector specific authorities may try to interpret to the GDPR.
 - We seek clarity, for example on the proposal for representative actions within the New Deal for consumers, to help leverage efforts on Codes of Conduct. It is essential to maintain a healthy balance between judicial and non-judicial solutions and to avoid impacting the GDPR or creating confusion on the role of Data Protection Authorities.

For further information, please refer to our [FEDMA priorities for 2019-2024](#).