



**Mr Andrea Orlando**  
Minister for Justice  
Ministry for Justice  
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7 October 2014

**BUSINESSEUROPE message on the General Data Protection regulation  
in view of the discussions at the Justice and Home Affairs Council  
on 10 October 2014 in Luxembourg**

Dear Minister,

Data-driven innovation can leverage € 330 billion a year in the EU by 2020. The use of data will increase industrial productivity, improve healthcare through more accurate diagnosis and treatments, enhance workforce skills and enable businesses to understand and reach new consumers more effectively.

In this context, the upcoming discussions on the General Data Protection regulation at your meeting on 10 October will be decisive for the future of EU competitiveness and growth. BUSINESSEUROPE believes it is fundamental that the reform of data protection rules achieves greater harmonisation in the digital single market and helps Europe to grasp the opportunities of the digital economy. However, sufficient time must be allocated to the discussions and the analysis of the implications on EU growth and jobs, to avoid undermining the quality of the final agreement.

At the next Justice Council, you will discuss Chapter IV of the regulation, which presents heavy administrative burdens for companies. It is crucial to avoid requirements which might hinder innovation and undermine competitiveness in Europe.

The proposal not only determines what obligations apply but how they are implemented in an overly detailed way, without reflecting the realities of today's technologies. This will create unnecessary burden, increase costs without a proportionate privacy benefit, discourage digital innovation and competitiveness, as companies will be pushed to invest in administrative compliance rather than growth.

We believe that regulators need to craft the "what" is expected and provide sufficient flexibility regarding the "how".



Accordingly, the proposal should allow different companies to implement the most effective technical and organisational measures, fit for the nature and structure of each respective organisation, to ensure optimal data protection. Instead of the detailed and prescriptive rules, an organisational accountability obligation would be more effective.

In particular:

- **Requiring detailed documentation** for every processing operation, even the ordinary ones which do not present specific risks, **is not proportionate**. It does not respond to the need of protecting European citizens and is unnecessarily strict. Overall, provisions on the responsibility of the controller add layers of burdensome bureaucracy for businesses and supervisory authorities.
- **Flexibility must be ensured** around the provisions for **data protection impact assessments and prior authorisation and consultation**.
- **The obligation of appointing a data protection officer**, without allowing a degree of flexibility to each company, **is excessively prescriptive**. Effective data protection can be achieved with different concrete solutions. This requirement should be based on more relevant criteria than the size of a company or the number of data subjects processed per year. It should also take into account other elements, such as the nature of the activity and type of processing.

In addition, the proposals should have been more “future-proofed” by giving sufficient consideration to businesses' activity online and how it may change in a short amount of time.

A more exhaustive list of BUSINESSEUROPE priorities and recommendations for the data protection review is enclosed.

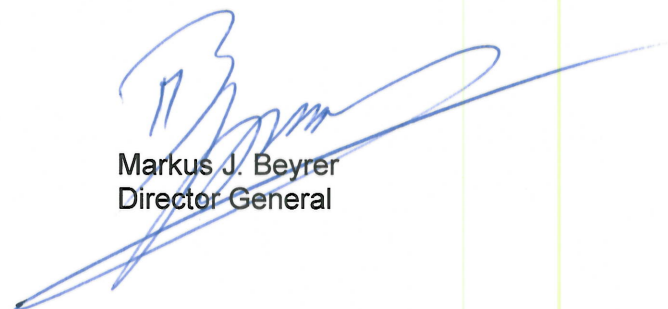
Data protection legislation is complex and impacts all segments of the economy. It will have major consequences on the development of the digital single market and on EU competitiveness. BUSINESSEUROPE urges the Council to truly deliver on a set of rules that will strike the right balance between protecting personal data and enabling their free movement in the digital single market.

We trust that you will take our views into account and wish you a successful meeting on 10 October. The business community is counting on you.

Yours sincerely,



Emma Marcegaglia  
President



Markus J. Beyrer  
Director General