

PostEurop position paper on the recast of the Data Protection Rules

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PostEurop, representing **52 Universal Postal Service** providers across Europe, appreciates the initiative taken to harmonize data protection rules at European level in order to strengthen individual rights while tackling the challenges of globalisation and new technologies.

For this very reason, PostEurop's Members would like to share some concerns with regards to the debate currently going on, on some key issues that could seriously affect the activity of the industry and in particular of SMEs and of the postal sector.

Direct mail is an essential activity for the economy

The postal sector engages approximately 2.1 million employees across Europe, reaches out to 800 million customers daily and represents 1 % of the GDP of the region. Direct Mail is a substantial part of this postal activity and contributes to the economic balance of the postal sector.

As a non-intrusive and personalised media, Direct Mail has been an accepted form of communication and marketing for many years. Affordable and accessible to all, Direct Mail is efficient and is highly appreciated by companies both to build customer loyalty and to gain new customers.

During the debates in the Council, PostEurop wishes the legal basis of Direct Mail to be preserved

The European Commission and the European Parliament have agreed in principle to safeguard the legitimate interest as a legal basis to carry out Direct Mail activities and PostEurop asks the Member States to strengthen this position by reinforcing legal certainty and by finding the right balance between the citizens' fundamental rights and the vital interests of the industries.

The crucial issues for postal operators and their customers to be able to go on with their Direct Mail activities are as follows:

- “The legitimate interest” of the data controller needs to remain a valid legal basis for all processing of personal data for direct marketing purposes;
- The data subject always has the right to express its wish and to object to such use of its data for direct marketing purposes; Therefore a prior consent of the data subject for data protection is not an adequate requirement;
- Moreover, imposing the industry to collect such prior consent is not realistic in terms of timing and cost effectiveness;

PostEurop hopes the debate in the Council will lead to a balanced solution combining citizen’s fundamental rights to data protection with normal commercial activities

PostEurop’s members draw the attention of the Member States on the necessity of avoiding excessive or unjustified administrative burdens for the companies using Direct Mail, especially when such burdens do not provide better protection for the data subject.

Please, find below some examples of proposals contained in the Parliament report which would create such unjustified burden:

- Even if the Parliament recognizes through Recital 39b that direct marketing is in line with the reasonable expectations of the data subject, the wording “reasonable expectation of the data subject” in article 6.1.f (dealing with the “legitimate interest”), which adds a second layer of weighing the interests, is a vague non-legally defined requirement which brings legal uncertainty.
- To ensure consistency with the right of using the legitimate interest as a legal basis to process personal data, the consent of the data subject should be “unambiguous” instead of “explicit” as tabled in article 7.
- The set of information to be provided to the data subject when processing or collecting its data as introduced by articles 13a and 14 of the Parliament’s report is unreasonable and largely excessive; it should be reduced to the list of information provided in the previous versions of the texts.
- The mandatory addition of pictograms besides the above mentioned written information is superfluous and has no added-value for the data subject. Some pictograms just aim at confirming that the data controller complies with the applicable Regulation. This may confuse and discourage the data subject, given the fact that

some pictograms are red or red circled and will hence automatically be associated to illegal practices when in fact the practices mentioned are fully compliant with the law.

- Where personal data is not collected from the data subject, the obligation to provide "information relating to the source of the data" raises confidentiality issues when transferring files reinforced by the necessity of tracing data and could be very difficult or even impossible to implement when compiling files. Moreover, this obligation does not lead to any improvement of the data subject's protection.

PostEurop's Members, who are keenly interested in the subject and supporting the recast of the data protection rules, will follow this debate with great attention. They agree new rules should be underpinned with robust governance that supports best practices and encourages self-regulation too.

They thank you for your time and kind consideration and remain fully at your disposal, should you wish to further discuss these issues.

This position paper is supported by the following Public Postal Operators:

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Austria	Österreichische Post AG
Belgium	bpost
Bulgaria	Bulgarian Posts plc
Croatia	Hrvatska pošta d.d.
Cyprus	Cyprus Post
Czech Republic	Česká pošta
Denmark	Post Danmark A/S
Estonia	Omniva
Finland	Posti Ltd.
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Association of European Public Postal Operators AISBL
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PostEurop is the association which represents the interest of 52 European public postal operators. Committed to supporting and developing a sustainable and competitive European postal communication market accessible to all customers and ensuring a modern and affordable universal service, PostEurop promotes cooperation and innovation bringing added value to the European postal industry. Its members represent 2.1 million employees across Europe and serve to 800 million customers daily through over 175,000 counters. PostEurop is also an officially recognised Restricted Union of the Universal Postal Union (UPU).