



Association Registration Number 20586492362-11

ISFE Statement

European Commission Communication on A Comprehensive Approach to Personal Data Protection In the European Union Dated 4 November 2010

The Interactive Software Federation of Europe, ('ISFE'), represents the European videogame industry¹, which is the fastest growing part of the European creative sector. As it is the online game section of this industry that is growing at the fastest rate ISFE welcomes the Commission's decision to re-examine the European Data Protection environment in light of technological change as outlined in its abovementioned Communication.

As ISFE stated in its Submission dated December 31 2009, we believe that there are certain key aspects of the European legal framework on personal data that require review and amendment, especially to cater for the multi-national, multi-stakeholder digital environment in which online data transactions usually occur. In this brief Statement we supplement our Submission by responding to particular issues raised by the Commission in its Communication of November 4 2010 whilst continuing to stand by all of the points made in our document.

Primarily, we agree with the statements in the Communication that there is a need for steps to be taken to harmonise the various national frameworks - this was a key point in our Submission - so that further progress is made towards a single market, whilst at the same time protecting the rights of the individual.

In general the position of the European videogame industry is that there must be greater clarity and harmony in the way that Data Protection principles are applied to the New Technologies that are a central ingredient in the strength and growth of this 'born digital' industry. As the Commission itself states, it must 'consider how to ensure a coherent application of data protection rules, taking into account the impact of new technologies on individual's rights.'

It is also good that the Commission has addressed the issues of globalization and international data transfer. We approve of the focus on reducing the administrative and costs burden through harmonisation and simplification of the current

¹ ISFE Membership consists of the following: Associations - AESVI (Italy), ADESE (Spain), BIU (Germany), BEA (Belgium), ELSPA (UK), FIGMA (Finland), MDTs (Sweden), MUF (Denmark), NVPI (The Netherlands), NSM (Norway), OVUS (Austria), SELL (France), SIEA (Switzerland), SPIDOR (Poland). Companies – Activision Blizzard, Eidos, Electronic Arts, Konami, Microsoft, Nintendo, SCEE (Sony Computer Entertainment Europe), SEGA, Take 2, THQ, UbiSoft, The Walt Disney Company.

notification system. Furthermore we applaud the references to further support for self regulatory initiatives which would contribute to better enforcement of data protection rules. This again is in line with the terms of our Submission.

However, we also would like to point out that there are a number of issues of concern to our membership which are also addressed in this Communication. Full compliance with a 'right to be forgotten', data portability and deletion could result in exposing our members to breach of their manifold legal obligations across the globe. This is because storage of personal data is necessary for various reasons both legal and commercial associated with security, financial accounting, tax compliance, service improvement, customer service and user protection, as well as to combat fraud and piracy, and to detect and trace possible copyright infringements. Regarding the latter issues, as we stated in our Submission, Piracy is an increasing problem for our industry which is endeavouring to develop and grow online, creating European jobs and tax revenue as it does so.

We again emphasise that the introduction of an "Accountability" principle and any subsequent enhancement of the responsibility of the Data Controller must not happen without first addressing the artificial distinction between the Data Controller and the Data Processor which continues to cause a lot of legal uncertainty. This subject was again addressed in our Submission, as it has massive relevance for the area of online games, where the player is in many cases 'the Controller' as he or she has responsibility for his or her own data and can make choices about how it is used.

Another related issue relevant to Legal Certainty and mentioned in our Submission concerns websites or online services operated by our members whilst acting as data controllers outside the European Union. We support a provision in future legislation which would hold that EU rules would only apply when the website or online service is targeted at EU citizens.

We are concerned that the European Data Protection framework should remain simple, responsive and non-bureaucratic. All participants must be knowledgeable of the practical consequences of everyday data management. We are therefore not in favour of any changes being made to the supervisory structures which result in the creation of more complicated and unaccountable decision making structures. ISFE membership favours a quick, consistent and responsive regulatory system.

Finally, the introduction of EU standardized privacy notices and obligations on the type of information and modalities of providing it to children may impair the necessary flexibility and legal certainty to deal with the many different types of data interactions that arise from the very diverse and highly personalized business models of our members companies.

This industry is a firm believer in the benefits of flexible and therefore highly responsive self-regulatory systems such as PEGI (Pan European Game Information) and PEGI Online which, as well as providing extensive information to

young gamers and their parents, also re-enforces the extensive and voluntary privacy régimes of our membership.

We congratulate the Commission on its principled and thorough approach to the subject of Personal Data Protection and welcome the opportunity to contribute in this way. We remain of course ready to contribute further in the future.

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