The draft EU data protection framework

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The basis of EU data protection law is the 1995 Data Protection Directive (95/46/EC), which was implemented into UK law by the *Data Protection Act 1998*. Since 1995 technological progress and globalisation have profoundly changed the way data is collected, accessed and used. In addition, EU Member States have implemented the 1995 rules differently, resulting in divergences in enforcement. The European Commission has therefore proposed a comprehensive reform of the 1995 rules to strengthen online privacy rights and boost Europe's digital economy. Under the new proposals, companies across Europe would only have to deal with one set of data protection rules and be answerable to a single data protection authority – the national authority in the EU country where they have their main base.

The proposals take the form of a draft Regulation and a draft Directive. Several elements of the draft Regulation have proved controversial - for example, a new definition of consent that requires that consent to the processing of personal data be given explicitly; and a right for data subjects to be "forgotten", including the right to obtain erasure of personal data available publicly online.

The Commission's impact assessment estimates that the new regime would bring an administrative saving to the EU, totalling €2.3 billion each year. The UK Government has indicated that it disagrees with this assessment and believes that "the burdens the proposed regulation would impose far outweigh the net benefit estimated by the Commission".

Negotiations between the European Council, the European Commission and the European Parliament are ongoing. Assuming that these are concluded satisfactorily, the Regulation is expected to be adopted in 2014, with implementation two years later, in 2016.

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1 Introduction

The right to the protection of personal data is explicitly recognised by Article 8 of the European Union's Charter of Fundamental Rights and by the Lisbon Treaty. The Treaty provides a legal basis for rules on data protection for all activities within the scope of EU law under Article 16 of the Treaty on the Functioning of the European Union.

The basis of EU data protection law is the 1995 Data Protection Directive (95/46/EC), which was implemented into UK law by the *Data Protection Act 1998*. This general Data Protection Directive has been complemented by other legal instruments, such as the e-Privacy Directive for the communications sector. There are also specific rules for the protection of personal data in police and judicial cooperation in criminal matters (Framework Decision 2008/977/JHA).

Since 1995 technological progress and globalisation have profoundly changed the way data is collected, accessed and used. In addition, EU Member States have implemented the 1995 rules differently, resulting in divergences in enforcement. In January 2012 the European Commission therefore proposed a new legislative framework for data protection. The framework consists of two documents: a draft Regulation[1] legislating for general data protection across the EU and a draft Directive[2] with the specific aim of protecting personal data processed for the purposes of prevention, detection, investigation or prosecution of criminal offences and related judicial activities. The draft Regulation would repeal and replace the 1995 Directive. The draft Directive would repeal and replace the existing Data Protection Framework Decision of 2008. The Commission has published an Impact Assessment on the proposals, together with a range of factsheets and other supporting documents.[3]

A European Commission press release of 25 January 2012 described the proposals as

> ...a comprehensive reform of the EU's 1995 data protection rules to strengthen online privacy rights and boost Europe's digital economy... A single law will do away with the

1 5853/12, Draft Regulation on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation)

2 5833/12, Proposal for a directive of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data

3 European Commission Newsroom – Justice, *Commission proposes comprehensive reform of the data protection rules*, 25 January 2012

current fragmentation and costly administrative burdens, leading to savings for businesses of around €2.3 billion a year. The initiative will help reinforce consumer confidence in online services, providing a much needed boost to growth, jobs and innovation in Europe.

Under the new proposals, companies would only have to deal with one set of data protection rules and be answerable to a single data protection authority – the national authority in the EU country where they have their main base. The Commission estimates that the current obligation to notify data processing costs European businesses about 130m euros a year.[4]

2 Scope of the draft Regulation

The draft Regulation sets out:[5]

- principles governing personal data processing;
- rights of individuals to access their personal data, to have it rectified or erased, to object to processing and not to be subject to profiling;
- the obligations of data controllers and data processors to provide information to individuals, to report on breaches of data security and to put in place technical and organisational measures;
- rules on transfer of personal data to countries outside the European Economic Area (EEA) and to international organisations;
- rules relating to national regulators ("supervisory authorities"), and how they will co-operate with each other and the European Commission; and
- remedies available to data subjects and the administrative sanctions available to supervisory authorities.

Among the key changes that the Regulation would introduce are the following:

- a new definition of consent that requires that consent to the processing of personal data be given explicitly;
- new definitions of key terms, and introduction of new terms such as "online identifier", "location data", and "genetic data";
- the mandatory appointment of data protection officers for organisations in the public sector and some parts of the private sector;
- greater levels of protection for children (defined as those under 18 years of age);
- a right for data subjects to be "forgotten", including the right to obtain erasure of personal data available publicly online;
- new obligations on data controllers and processors, including mandatory security obligations, an obligation to maintain documentation of their processing operations

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4 European Commission factsheet, *How will the EU's data protection reform benefit European business?* See also: Irish EU presidency news release, *What EU protection can do for growth*, 29 January 2013

5 This summary is drawn from: Justice Committee, *The Committee's opinion on the European Union Data Protection framework proposals*, 1 November 2012, HC 572 2012-13, paras 23-24

and an obligation to notify supervisory authorities of data breaches without undue delay and where feasible within 24 hours;

- updated rules on transfer of data to countries outside the European Economic Area and to international organisations, including the need for data controllers to obtain prior approval from supervisory authorities in some circumstances;
- changes to cooperation and consistency between supervisory authorities, and the establishment of a new regulatory body, the European Data Protection Board; and
- a requirement for supervisory authorities to impose prescribed fines of up to 2% of an enterprise's worldwide turnover where there has been a breach of certain requirements of the Regulation.

3 Scope of the draft Directive

The draft Directive sets out (for the purposes of police and judicial cooperation in criminal matters):[6]

- principles governing personal data processing;
- rights of individuals to access their personal data, to have it rectified or erased, to object to processing and not to be subject to profiling;
- the obligations of data controllers and data processors to provide information to individuals, to report on breaches of data security and to put in place technical and organisational measures;
- rules on transfer of personal data to countries outside the European Economic Area (EEA) and to international organisations;
- rules relating to national regulators ("supervisory authorities"), and how they will cooperate with each other and the European Commission;
- remedies available to data subjects and the obligation for Member States to lay down rules on penalties, to sanction infringements, and to ensure their implementation.

The Directive would introduce a number of key changes as compared to the existing regime:

- an extension to the scope of data processing to include domestic processing for the purpose of policing and judicial cooperation;
- new definitions of key terms such as a "data subject", which includes identification of the individual by "online identifiers" and "genetic" identity;
- new rights of access and information for data subjects, such as the identity of the data controller, the purpose of the data processing and the period for which the data will be stored;
- an obligation for data controllers to implement "appropriate technical and organisational measures" to ensure an appropriate level of security;

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6 This summary is drawn from: Justice Committee, *The Committee's opinion on the European Union Data Protection framework proposals*, 1 November 2012, HC 572 2012-13, paras 115-16

- a right for data subjects to directly demand the erasure of their personal data by the data controller;
- an obligation on data controllers to inform supervisory authorities and data subjects of data breaches, informing the former within 24 hours of discovery and the latter "without undue delay"; and
- an obligation for data controllers or processors to appoint data protection officers.

4 Response from Government and Parliament

In February 2012 the Ministry of Justice (MoJ) submitted Explanatory Memoranda to the European Scrutiny Committee giving its initial view on both documents. The MoJ conducted a one-month consultation on the proposals in February and March and published a summary of responses in June.[7] In its response to the MoJ Memoranda, the Scrutiny Committee stated that the proposals were "not only legally and politically significant, but also complex, with broad ramifications for individuals, businesses and national authorities". They therefore referred the documents to the Justice Committee in the Commons for a more rigorous assessment.[8] After taking written and oral evidence, the Justice Committee published a detailed report on 1 November,[9] to which the Government responded in January 2013.[10]

The MoJ's *Summary of responses* document sets out the Government's negotiating position as at June 2012:

> The Government will negotiate at EU level for an instrument that does not overburden business, the public sector or other organisations, and that encourages economic growth and innovation. However, this must be achieved at the same time as ensuring that people's personal data is protected. With these guiding principles in mind, and backed up by the information provided in response to the Call for Evidence, the UK Government will:
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> - support the provisions requiring transparency of processing, including the new transparency principle and the requirements for data controllers to provide accessible and easy-to-understand information about processing;
> - support the requirement for additional information to be provided to data subjects both proactively and in response to subject access requests (subject to consideration of the additional costs), but resist the proposal that subject access rights be exercisable free of charge;
> - push for an overhaul of the proposed 'right to be forgotten' given the practicalities and costs and the potential for confusion about its scope for both organisations and individuals; however, the Government reaffirms its commitment to the right for individuals to delete their personal data, where this is appropriate;

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7 Ministry of Justice, *Summary of responses: call for evidence on proposed EU Data Protection Legislative Framework*, 28 June 2012

8 European Scrutiny Committee, *Documents considered by the Committee on 14 March 2012*, 22 March 2012, HC 428-liv, para 7.55

9 Justice Committee, *The Committee's opinion on the European Union Data Protection framework proposals*, 1 November 2012, HC 572 2012-13

10 Ministry of Justice, *Government response to Justice Select Committee's opinion on the European Union Data Protection Framework Proposals*, Cm 8530, January 2013

- resist new bureaucratic and potentially costly burdens on organisations which do not appear to offer greater protection for individuals; examples of this include mandatory data protection impact assessments, seeking prior authorisation from the supervisory authority for certain processing operations and the mandatory designation of independent data protection officers;

- support the introduction of data breach notifications both to supervisory authorities and affected individuals, but only if the provisions reflect the timescales needed to properly investigate a breach and if a sensible and proportionate threshold is provided which excludes minor and trivial breaches from the scope of the requirement;

- reaffirm its commitment to a strong and independent supervisory authority at national level and support the establishment of a consistency mechanism to ensure a degree of harmonisation in the application of data protection rules across the EU, whilst allowing independent national authorities some flexibility in how they use their powers;

- support a system of administrative penalties for serious breaches of the Regulation's requirements, but push for a more proportionate level of maximum fines, which allows supervisory authorities greater discretion in applying the powers available to them;

- push for the removal of many of the powers for the European Commission to make delegated and implementing acts, particularly where these have the potential to make a big difference to fundamental requirements and principles (for example, the legitimate interests upon which data controllers can rely to make their processing lawful or the safeguards that must be established to allow profiling to take place).[11]

The Justice Committee was critical of the proposals on numerous points. The summary to their report states:

> ...We agree that the draft Regulation is necessary, first to update the 1995 Directive and take into account past and future technological change; and secondly to confer on individuals their new rights and freedoms. We can see why the Commission also wish to update data protection for the purpose of law enforcement as part of an overall package, but we are concerned that the twin-track approach being taken will cause confusion for data subjects and in particular for organisations within the criminal justice system. We are also concerned that the data protection provisions contained in the draft Directive are weaker than in the draft Regulation, and agree with the UK Information Commissioner that data protection principles should be consistent across both instruments. This must be at a high level.
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> The draft Regulation, through harmonising data protection laws across the 27 Member States, has the potential to make data protection compliance easier, in particular for small businesses who wish to trade across the European Union. We can understand why the European Commission decided that a Regulation was the correct instrument to achieve harmonisation, but by also setting out prescriptive rules there is no flexibility to adjust to individual circumstances. We believe that the Regulation should focus on stipulating those elements that it is essential to harmonise to achieve the Commission's objective, and that Member States' data protection authorities should be entrusted to handle factors associated with compliance. We are also concerned that the impact

[11] Ministry of Justice, *Summary of responses: call for evidence on proposed EU Data Protection Legislative Framework*, 28 June 2012, pp34-5

> assessment has been heavily criticised, and believe that further work, with the input of all stakeholders, is required to produce a full assessment of the impact of the proposals. The UK Information Commissioner has asserted that the system set out in this Regulation "cannot work" and is "a regime which no-one will pay for". We regard this as authoritative, and believe that the Commission needs to go back to the drawing board and devise a regime which is much less prescriptive, particularly in the processes and procedures it specifies.
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> We understand that the draft Directive does not apply to domestic processing by law enforcement agencies within the UK, and it should be placed beyond doubt that this is the case. Additionally, we believe it needs to be made clear that the Directive must not impact on the ability of the police to use common law powers to pass on information in the interests of crime prevention and public protection. Member States need to have the flexibility to implement the Directive in ways which achieve its purposes through processes which are appropriate and proportionate in the national context.[12]

In its response to the Committee's report, the Government shared the view that the Commission's two-pronged approach would lead to confusion and inconsistency:

> The UK Government's position with regard to the proposed Regulation is that it should be re-cast as a Directive. With regard to the proposed Directive covering processing in the area of police and judicial co-operation, the Government does not believe that the case for replacing and repealing the Framework Decision 2008/977/JHA has been convincingly made.
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> If the proposed Regulation were to be changed to a Directive and the proposal for a Directive were to be taken forward, then there would be two Directives, one for the general data protection framework and one for processing in the area of police and judicial co-operation in criminal matters. An advantage of this approach would be that the two Directives could then be implemented in a single piece of domestic legislation to help avoid confusion and support consistency where necessary.[13]

In November 2012 the Ministry of Justice published an extensive Impact Assessment, which "evaluates the key costs and benefits" of the proposed Regulation.[14] The accompanying Ministerial Statement (by Helen Grant) summarises the Government's view that the costs outweigh the benefits:

> ...The Commission's impact assessment estimates that the new regime would bring an administrative saving to the EU, totalling €2.3 billion each year. As the analysis published today shows, the Government disagree with this assessment and believe that the burdens the proposed regulation would impose far outweigh the net benefit estimated by the Commission. For the UK alone the annual net cost of the proposal (in 2012-13 earnings terms) is estimated to be between £100 million and £360 million a year.
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> The Government's view is that the Commission both overestimates the benefits achieved through harmonised EU data protection law and fails to address the full costs and unintended consequences of its own proposals, by only considering administrative costs. Our analysis addresses some of these failings by considering in full the impact

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12 Justice Committee, *The Committee's opinion on the European Union Data Protection framework proposals*, 1 November 2012, HC 572 2012-13, p3

13 Ministry of Justice, *Government response to Justice Select Committee's opinion on the European Union Data Protection Framework Proposals*, Cm 8530, January 2013, p3

14 Ministry of Justice, *Impact assessment: proposal for an EU Data Protection Regulation*, 22 November 2012. Table 1.1 shows that in 2016-17, the year the Regulation starts to apply, the proposals are expected to have a net cost of £250 million.

> of the proposed regime, including the additional costs for businesses, including small and medium enterprises, the additional costs to supervisory authorities, conducting data protection impact assessments and complying with other new obligations.
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> This impact assessment focuses on the proposed regulation. Under article 6a of the UK's Title V opt-in protocol we believe that the proposed directive will have a limited effect on the United Kingdom, in that it will only apply to data being processed under an EU instrument that binds the UK. Therefore, criminal justice system agencies within the UK will avoid being bound by the directive when processing personal data outside of such provisions.
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> It is worth noting that organisations which process criminal justice data will also process personal data covered under the regulation and so some of the monetised costs and benefits stemming from the regulation could be shared (for example, the cost of designating a data protection officer). The directive would require transposition into UK law, at which point domestic legislation would also be needed to cover that processing purely internal to the UK. There is therefore a degree of flexibility for member states in determining how the EU-level rules in the proposed directive would be transposed and a fuller assessment of the costs and benefits specific to the proposed directive will be produced nearer the point of transposition.
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> The UK Government are seriously concerned about the potential economic impact of the proposed data protection regulation. At a time when the eurozone appears to be slipping back into recession, reducing the regulatory burden to secure growth must be the priority for all member states. It is difficult therefore to justify the extra red tape and tick-box compliance that the proposal represents. For example, we estimate the costs for UK small businesses of simply demonstrating compliance with the new rules to be around £10 million (in 2012-13 earnings terms) every year. A further serious issue is the possibility of stifling innovation through prescriptive and inflexible rules on gaining individuals' consent and informing them about the processing of their personal data, while offering people an unworkable "right to be forgotten". Instead the focus must be on achieving the right ends: meeting people's rightful expectation that their personal information is used lawfully, proportionately and securely, while being able to offer them the goods and services they want and need.
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> Negotiations on the proposals are ongoing in Brussels. With the evidence set out in the impact assessment published today, the UK Government will continue to push for a lasting data protection framework that is proportionate, and that minimises the burdens on businesses and other organisations, while giving individuals real protection in how their personal data is processed.[15]

The Commons European Scrutiny Committee has kept the proposals under review. Most recently, they put a number of questions to the Minister of State at the Ministry of Justice, Lord McNally, which he answered by letter.[16] In its conclusions the Committee noted

> [7.10] …**the progress made by the Government in mustering support amongst other Member States for a "risk-based", less costly approach to EU data protection reform, particularly through sharing the Government's Impact Assessment. We are pleased that other Member States will also carry out impact assessments which we hope will garner further support for the Government's position. We agree with the Minister that it is a positive step that the Irish Presidency is open to discussing the form of the legal instrument to be**

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15 HC Deb 22 November 2012 cc42-3WS

16 European Scrutiny Committee, *Documents considered by the Committee on 6 February 2013*, HC 86-xxxi

employed for the proposals in Council working group discussions, following pressure from Member States.

5 Reaction from other organisations

Evidence submitted to the Justice Committee paints a mixed picture. The majority response to the draft Regulation was that it is "over prescriptive and imposes unnecessary administrative burdens". The Federation of Small Businesses told the Committee:

> If you prescribe in too much detail, you don't leave room for industry to develop their own standards or find their own solutions. In that sense, prescription goes against harmonisation because you stifle growth and trade in Europe.

A very large business, Microsoft, said that

> they were very happy to see a proposal that gave maximum protection to the data subject. However, from an industry perspective they were very surprised to find that a lot of new burdens were imposed on them, without receiving any new rights and new incentives. They concluded that because they were very much in favour of harmonisation, they were expected to take on these new burdens.[17]

However, Privacy International's written evidence was more positive:

> 7.2 Claims of stifling burdens, possibly affecting economic growth and innovation are not justified in this case. It is important to ensure that individuals are adequately and effectively protected: as behavioural studies have shown, people that feel in control are likely to share more, not less data, while lack of trust and concerns over data protection is [*sic*] a significant barrier to the growth of the digital economy.[18]

Appearing before the Committee, Françoise le Bail of the Directorate-General Justice, European Commission, argued that harmonisation would be particularly beneficial for small and medium sized enterprises because it would remove the present obstacle of dealing with 27 different data protection regimes across the EU.[19]

Fears were expressed that the Information Commissioner's Office (ICO) would be unable to keep up with the demand to respond to requirements such as receiving breach notifications, approving international transfers of personal data and reviewing the results of data protection impact assessments. The ICO confirmed that the Regulation would have considerable resource implications for all supervisory authorities, describing it as "a regime that nobody will pay for".[20] The Justice Committee returned to this theme in its report of March 2013 on the work of the Information Commissioner. In addition to the extra administrative burdens placed on the ICO by the proposals, the Committee noted the potential loss of the £15 million income which comes from the notification fee which all data controllers are required to pay to the Information Commissioner. Under the EU Regulation such a notification fee would be abolished. The Committee recommended:

> **16.... The Government needs to find a way of retaining a fee-based self-financing system for the data protection work of the Information Commissioner, if necessary by negotiating an option for the UK to retain the notification fee or introduce an alternative fee. If the Government fails to achieve this, the**

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17 Justice Committee, *The Committee's opinion on the European Union Data Protection framework proposals*, 1 November 2012, HC 572 2012-13, p22

18 Ibid, Ev 50

19 Ibid, p12

20 Ibid, pp18-19

> **unappealing consequence will be that funding of the ICO's data protection work will have to come from the taxpayer. The Regulation cannot be allowed to compromise the work of the ICO on data protection and the Government should not support proposals which could have that effect. It must continue to negotiate with the European Commission to secure a more flexible and reasonable Regulation in line with the recommendations in our previous Report on the issue.[21]**

The proposals have also attracted criticism from the US. According to press reports, Washington has "actively been trying to water down" the proposals "by making US companies *de facto* exempt from it". The companies argue that it would be unfair for them to be subject to EU laws that could result in additional administrative burdens and sizeable fines for non-compliance.[22] The *Financial Times* reported in March 2013 that resolving this transatlantic dispute could ease the way for a new EU-US trade agreement over the next two years. An EU diplomat was reported as saying that "there is a strong view in the majority of member states that we need to come forward with a text which reduces the overall burdens of the regulation".[23]

6 Latest developments

In December 2012 the European Parliament issued a draft report on the proposed Regulation. Prepared for the Civil Liberties, Justice and Home Affairs Committee ("LIBE") by Jan Philipp Albrecht, it proposed 350 separate amendments to the Regulation. Some of these are aimed at further enhancing individual rights by strengthening consent. New rules relating to consent to pseudonymised data processing were also suggested by Albrecht, while the report also sought to define what should constitute "anonymised data" and fall outside the scope of the new legal framework. A legal commentator highlights these elements of the LIBE report:[24]

> When can "consent" be relied upon to process personal data?
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> When can the "legitimate interests" exception be relied upon to process personal data?
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> Expansion and qualification of the right to be forgotten
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> Extension of the jurisdictional reach of the draft Regulation
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> Extension of the time in which to notify for data breaches
>
> Significant increase in the information given to data subjects before their data is processed
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> Erosion of the "one-stop shop" principle for companies established in more than one EU Member State
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> All rules should apply to all data controllers, regardless of size
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> Exception for safe harbour agreements and model contract clauses.

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21 Justice Committee, *The functions, powers and resources of the Information Commissioner*, 12 March 2013, HC 962 2012-13

22 "Brussels refuses to bend on privacy", *Financial Times*, 11 February 2013

23 "Brussels under pressure to tone down data protection standards", *Financial Times*, 7 March 2013

24 Steven P Farmer, "European Parliament rapporteur Albrecht proposes key amendments to the Commission's draft data protection regulation", *Lexology*, 31 January 2013

The report will be discussed in plenary session by the European Parliament and voted on. There are differing views within the Parliament. For example, the Committee on the Internal Market and Consumer Protection (IMCO) is reported to be "in favour of relaxing the rules". Industry groups are concerned that consent requirements should not be set artificially high, such as requiring an explicit consent in all cases.[25] The Industry Coalition for Data Protection (representing 15 major industry associations across the world) has said:

> The provisions on prior notification/consultation, Privacy Impact Assessments (PIA), Privacy by Design/Default and on an extensive documentation obligation risk creating useless paper trails and impose unnecessary costs instead of focusing on the actual outcomes.[26]

An Informal Justice and Home Affairs (JHA) Council was held on 17-18 January in Dublin. The Council discussed three issues relating to data protection reform: the household exemption, the right to be forgotten, and sanctions. The Minister, Mark Harper, reported to Parliament:

> The Commission explained the working of the regulation on all three points and argued that the right to be forgotten was not incompatible with the freedom of expression and that processing for journalistic or historic purposes were specifically allowed. The UK supported a broader household exemption than in the Commission proposal and advocated the use of a risk-based approach. The UK also supported appropriate deletion rights for data subjects, but voiced concern about unachievable expectations in the "right to be forgotten" and felt that the starting point should be the current directive. The UK thought national supervisory authorities should be given greater discretion in deciding sanctions. The UK called for the text to return to Ministers before any mandate with the European Parliament was agreed in Council. Many member states expressed support for the direction of work proposed by the Irish presidency, including a broader household exemption, a more practicable implementation of the right to be forgotten and a simpler and flexible sanctions regime.[27]

The "right to be forgotten" (article 17 of the Data Protection Regulation, which was developed by the EU justice commissioner's office primarily in response to complaints about the way social media such as Facebook retain and handle information) remains a stumbling block. The UK's reported objection is that "unrealistic and unfair" expectations will be created and "potentially impossible requirements" placed on data controllers to manage third-party erasure.[28]

The Justice and Home Affairs Council met formally in Luxembourg on 6 and 7 June. The Home Secretary, Theresa May, reported to Parliament:

> The presidency invited member states to give general support to part of the proposed regulation on data protection, while at the same time stressing that nothing would be formally agreed until agreement had been reached on the entire proposal. There was a detailed discussion during which a number of member states including the UK stressed that further work was needed, that clarity was required on where exemptions would apply, and supporting a properly-defined "risk-based" approach. The UK stressed the

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25 On the arguments over consent, see Gabriela Zanfir, "Consent in new EU DP framework: new approaches", *Privacy Laws & Business International Report*, April 2013, pp28-30 [held in HC Library, HAS section]

26 Quoted, with other reactions, in: Laura Linkomies, "Critical times for EU DP proposal", *Privacy Laws & Business International Report*, February 2013, pp8-9 [held in HC Library, HAS section]

27 HC Deb 24 January 2013 c23WS

28 "Britain seeks opt-out of new European social media privacy laws", *Guardian*, 4 April 2013 (quoting a Ministry of Justice spokesperson)

> need to take account of the effect on small and medium-sized enterprises as well as major ones. A number of states, including the UK, argued that it was too soon to accept the presidency's text and the level of "general support" called for by the presidency was not forthcoming. The relevant text will be further discussed in future negotiations.[29]

If agreement is reached, it is anticipated that the draft Regulation should be ready for "trilogue" between the European Parliament, the European Council and the European Commission later this year, with it being put to a final vote in the plenary session of the European Parliament in 2014. On the assumption that there will be a two-year implementation period, it is envisaged that a new Data Protection Regulation would be in force by 2016.

[29] HC Deb 13 June 2013 cc16-17WS