

Mr Peter Hustinx
EDPS
Rue Wiertz 60
B-1047 Brussels
Belgium

By email

31 July 2013

Dear Mr Hustinx,

We are writing on behalf of EFAMRO and ESOMAR to request a meeting with you to discuss recent developments in the drafting of the General Data Protection Regulation by the Parliament and the Council of Ministers.

Over the last three years EFAMRO and ESOMAR have held meetings with Members of the European Parliament in order to outline our support for the Commission proposal to adopt a uniform framework for the European Union. We have also outlined our specific interest in ensuring that the General Data Protection Regulation provides legal certainty for market, social, and opinion research to allow it to continue to work for the benefit of citizens, businesses, charities, and governments.

We would welcome the opportunity to discuss the possible impacts of the current proposed texts on market social and opinion research in Europe.

Articles 5 and 83 - research

We welcome the Art 29 Working Party's *Opinion on Purpose Limitation's* acknowledgement of market, social, and opinion research and its link and relevance to historical, statistical and scientific research as understood in Article 83 of the proposed regulation but also within the current framework.

We note with interest therefore the deletion of the word "research" in the text of Article 5 published by the Irish Presidency of the Council of Ministers, so that the relevant phrase now reads "historical, statistical and scientific purposes". We assume that that a corresponding change will be proposed in Article 83.

As we discussed last time we met, our sector has a long history of applying established international self-regulation mechanisms safeguarded by EFAMRO members, ESOMAR, and national research associations. The ICC/ESOMAR International Code defines clearly the boundaries of market, social, and opinion research underlining:

- Its purpose for insight and support of decision-making,
- Its use of statistical and analytical methods and techniques of applied social sciences,
- The industry's commitment to protecting individuals' identity,

Currently, a number of national data protection acts contain specific provisions authorising the further processing of personal data for market and social research purposes. These are based on the current “historical, statistical and scientific research” provisions. We would be interested in your view whether in order to maintain the status quo, a similar specific and explicit reference to market and social research should be added to the proposed Regulation.

Article 20 - profiling

The Art 29 Working Party's *Advice paper on essential elements of a definition and a provision on profiling within the EU General Data Protection Regulation* highlighted an aspect of the debate on profiling that has caused significant concern to researchers.

We welcome the position that Article 20 should only apply where profiling significantly affects the interests, rights or freedoms of the data subject. This aligns with our view on the importance of ensuring that the measures banned by Article 20 do not inadvertently affect activities which may use methods similar to profiling but are in fact distinct statistical and scientific activities without direct effects on data subjects.

In our position statement, which is enclosed, we outlined the example of sampling for research purposes. In many research projects, individuals are drawn from existing data sets, based on a set of criteria or characteristics set by the researcher. The individuals selected are then invited to participate in an interview for research purposes. Should Article 20 be drafted without reference to significant effects on the interests, rights or freedoms of the data subject, we believe that this kind of sampling for statistical and scientific research purposes would be proscribed.

We would welcome the opportunity to discuss these matters further with you, to clarify our understanding of the possible effects of these provisions and to outline for your information some current practices in market social and opinion research.

Yours sincerely,



Barry Ryan,
Director of Policy & Communication
EFAMRO



Kim Smouter
Government Affairs Manager
ESOMAR

Enc. [Position Paper]

EFAMRO, the European Research Federation, is the voice of the European research sector. We represent over 1000 research businesses in 16 countries, accounting for 31% of the global research industry, or €7.46 billion.

Founded in 1948, ESOMAR gathers together nearly 5000 individuals worldwide on both the provider and client side as well as in public bodies and academic institutions.



For further information on EFAMRO and its activities, contact Barry Ryan, Director of Policy & Communication.

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