

14 December 2015

Market, Opinion, and Social Research Sector's recommendations for the GDPR Trilogue negotiators

On the basis of our analysis of Document 1402/15 of the Council of the European Union, our sector has taken note of proposals to amend Recitals 125, 126, and Articles 5, 6 relating to Article 83. A number of modifications may lead to unintended effects, which we think important to highlight whilst maintaining our full support for the fundamental objectives of the negotiators.

1. Recital 125: Proposed wording is ambiguous

We are concerned that the phrasing creates legal uncertainty and recommend adopting a uniform phrasing across the recitals and Article 83 as follows:

“processing of personal data for historical, statistical, or scientific purposes; **or** for archiving purposes in the public interest...”

This will make it clear that the public interest bar is only applied to archiving purposes.

2. Article 5 & 6(2): Removal will restrict research methods

We recommend negotiators maintain the proposals to include research explicitly as an independent ground for processing, provided it meets the safeguards set by Article 83.

The proposed Recital 125 is acceptable but is less unambiguous. It is critical that either Recital 125 or Article 5 and 6(2) survive the final draft adopted by the negotiators.

Research is and has always been considered to be a legal ground for processing separate from the other general legal grounds. Article 5 & 6(2) provide valuable legal certainty for processing of personal data for research purposes conducted within the safeguards of Article 83.

3. Article 83: We support proposed amendments to Article 83

Having analysed the amended Article 83, we are supportive of the amendments being considered by the negotiators as it protects the broad research purposes from actors that would seek to undermine research.

We believe the amendments provide the necessary balance requested in our previous statements calling for a uniform approach to reach across the European Union.

However, this would need to be balanced with the proposals previously aforementioned to ensure that new passive research methodologies are not prevented from fulfilling their promise for the European policy-making, the European research area, and the European digital single market.

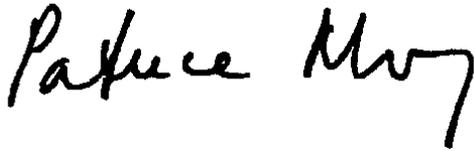
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Founded in 1948, ESOMAR gathers nearly 5000 professionals and over 300 companies worldwide providing or commissioning research, including public and academic bodies. For further information on ESOMAR and its activities, contact Kim Smouter, Government Affairs Manager.

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Founded in 1992, EFAMRO represents the interests of market, social and opinion research in Europe. Its members are national trade associations for research businesses. For further information on EFAMRO and its activities, contact Michelle Goddard, Director of Policy & Standards.

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