

# German Presidency's new e-Privacy proposal moves away from legitimate interests

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The German Presidency's (of the Council of the European Union) proposal of 4 November removes the legitimate interest provision for the general processing of metadata. But the processing of metadata would still be allowed during natural or man-made disasters, or to monitor epidemics.

ETNO, the European Telecommunications Network Operators' Association and GMSA, which represents the interests of mobile operators worldwide, have criticised the proposals for not being futureproof, or aligned with the GDPR.

The proposals include many amendments, including a new formulation of direct marketing communications:

*'direct marketing communications' means any form of advertising, whether written or oral, sent via a publicly available electronic communications service directly to one or more specific end-users including the placing of voice-to-voice calls, the use of automated calling and communication systems with or without human interaction, electronic message, etc.*

The proposals do not specify that DPAs should be the authorities in charge of enforcing e-Privacy at the national level. The European Data Protection Board (EDPB) declared in a statement that this could lead to fragmented supervision, procedural complexity and a lack of consistency and legal certainty for individuals and companies. The EDPB also underlines consistent interpretation and enforcement of both sets of rules, a task which would be most efficiently performed if the enforcer of the e-Privacy Regulation and the GDPR were the same authority.

**See *the proposal*.**

(<https://www.privacylaws.com/media/3304/eprivacyregulationtext.pdf>)