

# DIGITALEUROPE calls on e-evidence proposal to protect European users' privacy & fundamental rights

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The e-evidence package that was proposed by the European Commission presents a real opportunity to update European law enforcement authorities' access to electronic data with regards to criminal investigations, whilst maintaining European users' privacy and other fundamental rights. In light of the recent General Approach by the European Council, DIGITALEUROPE will continue to provide constructive feedback throughout the legislative process, working together with both the European Parliament and the European Council, with the aim to ensure that the original goal of the European Commission proposal is maintained.

*'We appreciate the essential work that law enforcement does to protect our societies, and we have advocated for a new legal regime which allows law enforcement to do its job more effectively,'* said Cecilia Bonefeld-Dahl, Director General of DIGITALEUROPE. *'However, the pursuit of such a solution should always take on board the rights, principles and values on which the EU is built. We now look forward to working with the European Parliament to ensure a more balanced Regulation is reached,'* she concluded.

DIGITALEUROPE's main concerns revolve around the following changes in the General Approach compared to the European Commission's proposal:

- Limitations on the notification of the data subject about the data requests;
- Deletion of service providers' rights to legally challenge questionable data requests;
- Weakening of mechanisms to resolve jurisdictional conflict where the fundamental rights of individuals or interests of the state are protected in third countries;
- Ex-post validation of Orders by judicial officers in emergency cases without appropriate ex-ante escalation;
- Inclusion of a fine of up to 2 percent of global annual turnover for service providers if data is not handed over to law enforcement agencies; and
- Not including the requirement to notify the Member State where the data subject lives, when only this Member State has the incentive to defend the data subject's rights and challenge legal orders.

As potential solutions, DIGITALEUROPE has advocated a number of additional safeguards which include: clarifying that the default first point of call should be the enterprise customer of all cloud service providers; strengthening of good faith immunity provisions; introducing more realistic timeframes for responding to requests; improving transparency measures; and safeguarding legal representatives from personal liability. For more information, please refer to DIGITALEUROPE's position paper on the e-evidence package that was published on the 2nd August 2018 ([here](#)).

DIGITALEUROPE looks forward to engaging in a constructive discussion with the European Parliament and the Council on all the above points as the policy debate on the proposal moves to the next steps.

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## ABOUT DIGITALEUROPE

DIGITALEUROPE represents the digital technology industry in Europe. Our members include some of the world's largest IT, telecoms and consumer electronics companies and national associations from every part of Europe. DIGITALEUROPE wants European businesses and citizens to benefit fully from digital technologies and for Europe to grow, attract and sustain the world's best digital technology companies. DIGITALEUROPE ensures industry participation in the development and implementation of EU policies.

DIGITALEUROPE's members include in total over 35,000 ICT Companies in Europe represented by 66 Corporate Members and 40 National Trade Associations from across Europe. Our website provides further information on our recent news and activities: <http://www.digitaleurope.org>

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