

Ms Margrethe Vestager
Executive Vice-President for
A Europe Fit for the Digital Age
European Commission

The Consumer Voice in Europe

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30 January 2023

Subject: Telecoms Joint Venture on a new digital identification solution for online advertising

Dear Executive Vice President,

We refer to the recently announced joint venture between large European telecommunications companies to create a new digital identification system for digital marketing and advertising which was recently notified to the Commission (Case M.10815).

While this joint venture may create an alternative to the incumbent intermediary service providers in online advertising, it is crucial that this proposed product does not hamper or preclude the emergence of other rivals who may offer more-privacy friendly solutions to consumers. We assume that the Commission will be thoroughly investigating whether this joint venture between four leading telecommunications companies, (and which could potentially also include further telcos), will not be able to use their vast reach with consumers to foreclose rivals.

Separately, as the joint venture's product purports to be "privacy-led" we would be very concerned from both a consumer and a fundamental rights perspective if the Commission were to allow this product to proceed to market without the certainty that it respects the requirements under the General Data Protection Regulation (GDPR) and the ePrivacy Directive.

For example, first, it is claimed the system will be based on consumers' consent. However, it is unclear how the data is legally collected in all instances and how the network operators, advertisers and publishers involved will obtain valid consent.¹

Secondly, the companies setting up the joint venture claim to have a centralised TrustPid's "Privacy portal" to withdraw consent.² Journalists that tried to use it reported many so-called 'dark patterns'.³ BEUC has tried to access it via the website <https://trustpid.com/> and also found the Privacy Portal is not even accessible if consumers use ad blockers, not to mention that the site contains many trackers itself. It is also very unclear how consumers will become aware of this portal, how they will be able to access it and how the privacy settings would be respected by all companies in practice.

Finally, with the information available, it is unclear how consumers would be lawfully presented with behavioural advertising based on the tokens provided by the telecom providers.

Investigating this further is essential to determine the legality of the proposed solution, accountability and liabilities of parties involved. In this regard, we would like to stress the need to ensure that authorities responsible for data protection and privacy are duly consulted to ensure that the claims made for this product effectively translate into concrete consumer benefits

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¹ See, for example, <https://www.forbrukerradet.no/out-of-control/>

² <https://trustpid.com/pages/privacynotice>

³ <https://techcrunch.com/2022/06/24/trustpid/>

⁴ *Ibid.*

We urge you to take these considerations into account and to consult the European Data Protection Supervisor (EDPS), the European Data Protection Board (EDPB) and relevant data protection authorities and other competent authorities on this aspect. It has been reported that some authorities have already voiced concerns and there is at least one complaint pending before the Spanish data protection authority.⁴ This analysis merits close cooperation and coordination between the relevant authorities.

Please note we are sending a copy of this letter to the cabinets of Commissioner Vice-President Věra Jourová and Commissioner Didier Reynders, as well as to the EDPS and the EDPB.

Yours sincerely,

Monique Goyens
Director General

Ursula Pachi
Deputy Director General