

## POLICY SHEET

# E-PRIVACY REGULATION

In January 2017, the European Commission published a proposal to adapt the protection of privacy in electronic communications to technological evolutions. The new regulation will repeal the current directive and complement the General Data Protection Regulation (GDPR), in effect since May 2018, to further modernize the EU data protection framework and reinforce trust in the Digital Single Market.

### WHAT IS AT STAKE?

Electronic communications data enables Public Service Media (PSM) to connect with their audiences and develop content and services that better serve their needs or preferences. From accurate audience measurement to untapped data sources for news stories, viewing or listening recommendations and automated programme curation tools, electronic communications data unlocks tremendous opportunities for PSM to develop innovative services and create greater public value. Audiences can have access to a range of personalized content and services on multiple devices and across channels without interruption.

In this context, it is essential that their right to privacy and confidentiality is guaranteed in the digital environment. As such, PSM strongly support the development of adequate and clear conditions for information service providers to store and process data for users to fully enjoy audio, video and online media.

### FREE ON-DEMAND



95%

of EBU PSM TV Members have a free on-demand video service

Source: EBU based on Members' data, including 43 organizations with a TV offer



86%

of EBU PSM radio Members have a free on-demand / podcast service for audio content

Source: EBU based on Members' data, including 37 organizations with a radio offer

### EBU KEY PRIORITIES FOR AN EFFECTIVE EU DATA PROTECTION FRAMEWORK

**The EBU supports an updated e-privacy regulation that establishes proportionate and consistent data protection safeguards. To achieve this goal, it is paramount to ensure a sustainable legislative framework which captures the broad range and potential of data usage for media services.**

With a view to supporting policymakers in striking the right balance, the EBU

1. provides a series of recommendations to enable data processing under certain conditions that do not impinge on users' privacy;
2. makes proposals to ensure that users are empowered to set their privacy preferences at the service providers' level, thus maintaining a trusted, direct relationship between PSM and their audiences;
3. stresses the need for consistency with the GDPR.

## 1. **ENABLE AUDIENCE MEASUREMENT AND FUNCTIONALITIES FOR CONTENT PERSONALIZATION THAT SAFEGUARD USERS' PRIVACY.**

- Allow processing and/or storage of information from users' devices (e.g. computers, tablets or mobile phones) for content personalization and recommendation provided that appropriate privacy safeguards are in place and that users are clearly informed about the use of cookies for such functionalities.
- Clarify that processing of information is allowed for non-privacy intrusive audience measurement, whatever the technology: not only measuring web traffic but also broadcast and other online audience data. In addition, the regulation should clearly state that audience measurement may be conducted by third parties on behalf of media organizations.

Audience measurement and data analytics help PSM to fulfil their public service mission, constantly improve their offer and adapt to their audiences' needs and wishes. Content personalization allows them to fine-tune this offer with specific services in both video and audio.

## 2. **EMPOWER USERS TO MANAGE THEIR PRIVACY PREFERENCES AT SERVICE PROVIDER LEVEL.**

- Privacy settings cannot be placed exclusively in the custody of browsers. Information service providers should be able to ask for consent to data processing in relation to their services at website level. Such consent should prevail over any privacy setting at the browser level to avoid legal uncertainty for information service providers and opacity for users.
- Empowering users to set their privacy choices at website level is crucial for PSM to build and maintain trusted relationships with all audiences and improve their services.

EBU Members have their own privacy settings on their websites, to ensure a direct relationship with their audience and foster trust. It is essential for them to retain this link.

## 3. **ENSURE ALIGNMENT WITH GDPR TO ENHANCE LEGAL CERTAINTY.**

- The e-Privacy regulation's consistency with the GDPR is essential to create a clear, long-lasting and effective legal framework for data protection in the EU.
- The legal basis for storing or processing information from users' devices should be further aligned with the GDPR.

PSM endeavour to maintain and strengthen a trustful relationship with their audiences. They have made the protection for personal data through the implementation of the GDPR their highest priority. Clear and consistent conditions for processing data across EU law are essential for them to further offer their best services.