

POSITION PAPER
**Intergraf contribution to 2020 evaluation
and review report on the General Data Protection Regulation**
October 2019

Intergraf is the European federation for print and digital communication. Intergraf represents 21 national printing federations in 20 countries in Europe. The printing industry in the 28 European countries comprises some 112,000 companies and employs around 625,000 people, generating a turnover of about € 79.5 billion.

We are committed to support European printing companies in implementing the General Data Protection Regulation (GDPR). Printing companies have an overall benefit in securing good compliance with the Regulation to maintain the trust of their customers and their employees.

The following features characterised the European printing industry and are relevant in the context of the GDPR implementation:

- The industry throughout Europe consists mainly of small companies as 90% of them employ fewer than 20 persons.
- When processing addresses on behalf of their customers, printing companies are generally processors of personal data.
- Printing companies are generally not processing sensitive data and are generally not processing data with a high risk to the rights and freedoms of natural persons.

The GDPR has created overall high bureaucratic burdens to companies. Increased administrative procedures are particularly burdensome for small and medium sized companies. They cannot easily rely on external counsel support as larger companies do. When reviewing the Regulation, a pragmatic implementation of the Regulation should be considered for small and medium-sized companies. Information and documentation obligations under GDPR generally create efforts that are particularly burdensome for smaller companies.

The European printing industry would like herewith to present its views at the occasion of the stock-taking exercise and in view of the evaluation and review report on the GDPR to be carried out by May 2020:

Duty of information

The practical implementation of articles 13 and 14 of the GDPR on information to be provided to the data subject is challenging, in particular for small and medium-sized companies processing low-risk data. Considering the high volume and flow of data nowadays, a key element is the ability to distinguish high-risk from low-risk data processing. The provisions of the GDPR, in particular when it comes to the duty of information, should focus on high-risk data processing.

For low-risk data processing activities, the duty of information should be changed into a special right to information, whereby information should be provided by the controller upon request from the data subject.

Concerning the right of access by the data subject, it should be clarified in Art. 15 III of the GDPR that this does not mean, that it includes all documents, e-mails, etc., in which for example the name of the person concerned is included or any other information about this person. Experiences are reported from printing companies about the abusive request for information under the GDPR following a discontent of a customer on an unrelated topic. The same problem apparently occurs to dismissed employees who are in disagreement with their employer. The abusive use of the duty of information for small and medium-sized companies can easily become financially and administratively burdensome. It must therefore be prevented that the right of information is misused.

Right to erasure

The requirement under Article 17 for the data subject to have the complete erasure of its personal data is sometimes difficult in practice. Exemptions should be considered when data is stored in a way that complete deletion is practically impossible - this is for instance the case with the use of backups.

Records of processing activities

The requirement under Article 30(2) for data processors to maintain a record of all processing activities is a significant new burden for printing companies. Again, no distinction is made between high-risk or low-risk data processing. A printing company, typically processing names and addresses of subscribers, would be subject to the same requirements as a company processing sensitive data for example.

Article 30(5) of the GDPR provides an exemption to the obligation to maintain a record for a company employing fewer than 250 persons unless the processing is likely to result in a risk to the rights and freedoms of data subjects, the processing is not occasional, or the processing includes special categories of data. This exemption does not represent a relief from the obligation for small and medium-sized companies. Special categories of data are indeed processed by small and medium-sized companies when it comes to employees' information. Moreover, with digitalisation, processing is no longer occasional. Hardly any company will fall under this derogation. In order to actually achieve the desired relief for small and medium-sized companies, the exemption should be adjusted accordingly. This is in particular relevant since infringements to this provision are subject to significant administrative fines under Article 83(4).

Processor-controller relationship

The distinction between a processor and a controller is a key element of the GDPR but is not always self-evident. Providing guidance, including concrete case examples, would help companies identify better their role under GDPR. This should also include explanations on the fact that a company is a controller for certain personal data (e.g. employees' data) and a processor of other types of personal data (e.g. lettershops).

Furthermore, the concept of 'third-party' referred to in the legislation should be clarified, in particular it should be explained how it differs from the role of processor.