

General Data Protection Regulation

BT's amendments to the proposed Regulation on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) - COM (2012) 11/4

November 2012

Overview

BT suggests amendments to cover eight key areas:

1. The need for a general proportionality principle
2. The need for clarity on key concepts, rights and definitions, in particular the definitions of 'personal data', 'data subject', 'consent'
3. Burgeoning operational costs resulting from Article 5(f)
4. Privacy by design and privacy by default
5. Electronic data subject access requests
6. Transfers of personal data to third countries
7. The impact of the right of data portability
8. The impact of the right to be forgotten

BT's proposed changes are marked in ***bold italics***.

1. General proportionality principle

EC Proposal	Proposed BT's amendments
<p>Article 22 Responsibility of the controller</p> <p>1. The controller shall adopt policies and implement appropriate measures to ensure and be able to demonstrate that the processing of personal data is performed in compliance with this Regulation.</p> <p>2. The measures provided for in paragraph 1 shall in particular include:</p> <p>(a) keeping the documentation pursuant to Article 28;</p> <p>(b) implementing the data security requirements laid down in Article 30;</p> <p>(c) performing a data protection impact assessment pursuant to Article 33;</p> <p>(d) complying with the requirements for prior authorisation or prior consultation of the supervisory authority pursuant to Article 34(1) and (2); [...]</p> <p>3. The controller shall implement mechanisms to ensure the verification of the effectiveness of the measures referred to in paragraphs 1 and 2. If proportionate, this verification shall be carried out by independent internal or external auditors.</p> <p>4. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of specifying any further criteria and requirements for appropriate measures referred to in paragraph 1 other than those already referred to in paragraph 2, the conditions for the verification and auditing mechanisms referred to in paragraph 3 and as regards the criteria for proportionality under paragraph 3, and considering specific measures for micro, small and medium-sized-enterprises.</p>	<p>Article 22 Responsibility of the controller</p> <p>1. (a) The controller shall adopt policies and implement appropriate measures to ensure and be able to demonstrate that the processing of personal data is performed in compliance with this Regulation.</p> <p>(b) <i>The policies to be adopted and measures to be implemented by the controller in accordance with sub-paragraph (a) above shall be proportionate to the risks of the processing to the rights of the data subject and to the burdens on and infringement of the rights of the data controller.</i></p> <p>2. The measures provided for in paragraph 1 shall in particular include:</p> <p>(a) keeping the documentation pursuant to Article 28;</p> <p>(b) implementing the data security requirements laid down in Article 30;</p> <p>(c) performing a data protection impact assessment pursuant to Article 33;</p> <p>(d) complying with the requirements for prior authorisation or prior consultation of the supervisory authority pursuant to Article 34(1) and (2); [...]</p> <p>3. The controller shall implement mechanisms to ensure the verification of the effectiveness of the measures referred to in paragraphs 1 and 2. <i>[deleted]</i></p>

Justification

The Regulation is intended to protect the fundamental rights of individuals particularly their right to the protection of personal data. A broad and inclusive definition of personal data has consequently been adopted. The scope of the Regulation, therefore, extends from the processing in commonly accepted ways of data of little significance to the processing of highly sensitive information in perhaps surprising ways. The Regulation should recognise this breadth of application and also the need to reconcile the rights protected by the Regulation with other fundamental rights assured by the Treaty on the Functioning of the European Union. Accordingly, the application of the principles and procedures of the Regulation and the duties of data controllers should be expressly adjusted to this range of sensitivity by a clear proportionality principle. It would also be excessive to require mandatory verification by an auditor of the measures taken by a data controller in all circumstances, even where that requirement is expressed to be 'if proportionate'. It is sufficient for the controller to implement verification mechanisms and the choice of mechanism should be left to the controller's discretion.

We have also removed the reference to mandatory data protection officers from Article 22 given the concept of the main establishment of the data controller has not yet been clarified, and the extent of the obligation not yet certain,

2. Definitions of data subject, personal data and data subject's consent

EC Proposal	Proposed BT's amendments
<p>Article 4 Definitions</p> <p>(1) 'data subject' means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural or legal person, in particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person;</p> <p>(2) 'personal data' means any information relating to a data subject;</p> <p>[...]</p> <p>(8) 'the data subject's consent' means any freely given specific, informed and explicit indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed;</p>	<p>[In Article 4 for paragraphs (1) and (2), substitute the following:]</p> <p><i>(1)'personal data' shall mean any information relating to an identified or identifiable living natural person ('data subject'); an identifiable person is one who can be identified, directly or indirectly, by the data controller in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity;</i></p> <p>[And renumber the subsequent paragraphs include:]</p> <p><i>(7) 'the data subject's consent' means any freely given specific, and informed [delete] indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to them being processed and which indication is capable of being demonstrated by the data controller,</i></p>

Justification

The existing definition of 'personal data' is proposed on the basis that it must be clear it should only include within its scope that which relates to a living individual. It should not be so widely cast so as to include any information relating to a data subject as to do so would include within the scope of the definition data which is of so little significance it is of no use to anyone including the data subject. This is particularly of concern in relation to the online world. Data controllers must have certainty around this definition and where to draw the line between that which is relevant to a data subject and that which is not, in terms of building systems to comply with the Regulation and operation of its obligations in respect thereof.

Whilst consent is an important element of data protection particularly in relation to the processing of sensitive data, the Regulation is too prescriptive about the form of consent. To require 'explicit' consent in all data processing circumstances is excessive, and removes the opportunity for consent to be implied by a course of conduct as a lawful option. 'Implied' consent is a necessary and accepted concept and essential to verify and complete a number of customer transactions. The word 'explicit' has therefore been removed. The essential elements are that the data subject has knowingly agreed to the processing of data and for procedural purposes that agreement can later be demonstrated. The proposed amendment seeks to implement those essentials.

3. Principles relating to personal data processing

EC Proposal	Proposed BT's amendments
<p>Article 5 Principles relating to personal data processing</p> <p>Personal data must be:</p> <p>(a) processed lawfully, fairly and in a transparent manner in relation to the data subject;</p> <p>(b) collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes;</p> <p>(c) adequate, relevant, and limited to the minimum necessary in relation to the purposes for which they are processed; they shall only be processed if, and as long as, the purposes could not be fulfilled by processing information that does not involve personal data;</p> <p>(d) accurate and kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;</p> <p>(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the data will be processed solely for historical, statistical or scientific research purposes in accordance with the rules and conditions of Article 83 and if a periodic review is carried out to assess the necessity to continue the storage;</p> <p>(f) processed under the responsibility and liability of the controller, who shall ensure and demonstrate for each processing operation the compliance with the provisions of this Regulation.</p>	<p>Article 5 Principles relating to personal data processing</p> <p>Personal data must be:</p> <p>(a) processed lawfully, fairly and in a transparent manner in relation to the data subject;</p> <p>(b) collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes;</p> <p>(c) adequate, relevant, and limited to the minimum necessary in relation to the purposes for which they are processed; they shall only be processed if, and as long as, the purposes could not be fulfilled by processing information that does not involve personal data;</p> <p>(d) accurate and kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;</p> <p>(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the data will be processed solely for historical, statistical or scientific research purposes in accordance with the rules and conditions of Article 83 and if a periodic review is carried out to assess the necessity to continue the storage;</p> <p>(f) processed under the responsibility and liability of the controller, who shall ensure and <i>if required to do so demonstrate compliance of the controller's processing with the provisions of this Regulation to the supervisory authority having competence under paragraph 2 of Article 51.</i></p>

Justification

Article 5(f) runs the risk of imposing on data controllers unnecessarily burdensome logging and auditing requirements for *each* processing of personal data, which would provide no proportionate benefit to individuals by securing their rights.

'Each processing operation' is an ambiguous expression. The potential size of data storage requirements, which are needed to demonstrate compliance as required by this proposed Regulation, would directly contradict those requirements in the proposed text, which relate to data minimisation.

Article 5f contains no time limit in terms of data retention for the ability to demonstrate compliance for each processing operation, which would inevitably add to the cost and uncertainty of the proposal. We have therefore suggest a general duty to ensure compliance and to demonstrate it to the supervisory authority on an inspection would be a) more acceptable and b) more efficient for data controllers to implement without prejudicing the rights of data subjects.

4. Privacy by Design and by Default

EC Proposal	Proposed BT's amendments
<p>Article 23 Data protection by design and by default</p> <p>1. Having regard to the state of the art and the cost of implementation, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures and procedures in such a way that the processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.</p> <p>2. The controller shall implement mechanisms for ensuring that, by default, only those personal data are processed which are necessary for each specific purpose of the processing and are especially not collected or retained beyond the minimum necessary for those purposes, both in terms of the amount of the data and the time of their storage. In particular, those mechanisms shall ensure that by default personal data are not made accessible to an indefinite number of individuals.</p> <p>3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of specifying any further criteria and requirements for appropriate measures and mechanisms referred to in paragraph 1 and 2, in particular for data protection by design requirements applicable across sectors, products and services.</p> <p>4. The Commission may lay down technical standards for the requirements laid down in paragraph 1 and 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).</p>	<p>Article 23 Data protection by design and by default</p> <p>1. Having regard to the state of the art and the cost of implementation, the controller shall design [deleted] and implement appropriate technical and organisational measures and procedures with the objective of the processing meeting the requirements of this Regulation [deleted].</p> <p>2. [Deleted and replaced with:] The controller shall be accountable in accordance with article 5 for the effectiveness of the design and implementation of the measures and procedures referred to in paragraph 1 of this article.</p> <p>3.</p> <p>4. [Deleted]</p>

Justification

The objective of privacy by design is laudable, but legislation needs to be flexible to permit innovative design which accommodates itself to developing technology and the variety of circumstances confronting a controller. The article should be expressed in terms of its broad objective; that is that the initial design phase should take account of the requirements of the Regulation, rather than adding them as an afterthought. It should not be dependent on detailed technical implementing measures and should refer to the accountability of the controller for achieving that objective. There is no need to repeat any detailed aspects of the Regulation, such as data minimisation or data subject access rights, as they are a given due to the reference to meeting the requirements of the Regulation. Nor is it appropriate for the European Commission to lay down technical standards in this area as these could add substantially to the cost of compliance, and uncertainty to data controllers' obligations in this area.

5. Right of access for the data subject

EC Proposal	Proposed BT's amendments
<p>Article 15 Right of access for the data subject</p> <p>1. The data subject shall have the right to obtain from the controller at any time, on request, confirmation as to whether or not personal data relating to the data subject are being processed. Where such personal data are being processed, the controller shall provide the following information: (a) the purposes of the processing; [...]</p> <p>2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing. Where the data subject makes the request in electronic form, the information shall be provided in electronic form, unless otherwise requested by the data subject.</p> <p>3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the communication to the data subject of the content of the personal data referred to in point (g) of paragraph 1.</p> <p>4. The Commission may specify standard forms and procedures for requesting and granting access to the information referred to in paragraph 1, including for verification of the identity of the data subject and communicating the personal data to the data subject, taking into account the specific features and necessities of various sectors and data processing situations. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).</p>	<p>Article 15 Right of access for the data subject</p> <p>1. The data subject shall have the right to obtain from the controller at any time, on request, confirmation as to whether or not personal data relating to the data subject are being processed. Where such personal data are being processed, the controller shall provide the following information: (a) the purposes of the processing; [...]</p> <p>2. The data subject shall have the right to obtain from the controller communication of the personal data undergoing processing. [deleted] Where so requested by the data subject the information shall be provided in electronic form unless that is not reasonably practical.</p> <p>3. Where a data controller— (a) reasonably requires further information in order to satisfy himself as to the identity of the person making a request under this article and to locate the information which that person seeks, and (b) has informed that person of that requirement, the data controller is not obliged to comply with the request unless he is supplied with that further information.</p> <p>4. Where a data controller cannot comply with the request without disclosing information relating to another individual who can be identified from that information, he is not obliged to comply with the request unless— (a) the other individual has consented to the disclosure of the information to the person making the request, or (b) it is reasonable in all the circumstances to comply with the request without the consent of the other individual.</p> <p>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for the communication to the data subject of the content of the personal data referred to in point (g) of paragraph 1.</p> <p>6. The Commission may specify standard forms and procedures for requesting and granting access to the information referred to in paragraph 1, including for verification of the identity of the data subject and communicating the personal data to the data subject, taking into account the specific features and necessities of various sectors and data processing situations. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).</p>

Justification

First, there is no reason to restrict to cases where the request has been made electronically, an electronic response to a subject access request. Subject to the method being practical in the circumstances of the case, it should be up to the data subject to choose whether an electronic response is acceptable.

Secondly, the right of subject access needs elaboration and qualification particularly to ensure that the request is from the person whose data are being requested and in order to protect the data protection and privacy rights of third parties. In cases of complex data systems and extensive data records it is also reasonable for the controller to be able to seek help from the data subject to track down the information required. The right of subject access has also to be qualified by other exemptions to protect the public interest, the interests of the data subject and the fundamental rights of third parties. The European Commission and the co-legislators are urged to develop further amendments to this article in order to provide for those essential protections.

6. Transfer of Personal Data to Third Countries

EC Proposal	Proposed BT's amendments
<p>Article 43 Transfers by way of binding corporate rules</p> <p>1. A supervisory authority shall in accordance with the consistency mechanism set out in Article 58 approve binding corporate rules, provided that they:</p> <p>(a) are legally binding and apply to and are enforced by every member within the controller's or processor's group of undertakings, and include their employees;</p> <p>(b) expressly confer enforceable rights on data subjects;</p> <p>(c) fulfil the requirements laid down in paragraph 2.</p> <p>2. The binding corporate rules shall at least specify:</p> <p>(a) the structure and contact details of the group of undertakings and its members;</p> <p>[...]</p> <p>3. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for binding corporate rules within the meaning of this Article, in particular as regards the criteria for their approval, the application of points (b), (d), (e) and (f) of paragraph 2 to binding corporate rules adhered to by processors and on further necessary requirements to ensure the protection of personal data of the data subjects concerned.</p> <p>4. The Commission may specify the format and procedures for the exchange of information by electronic means between controllers, processors and supervisory authorities for binding corporate rules within the meaning of this Article. Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 87(2).</p> <p>Article 58 (2)(f) Opinion by the European Data Protection Board: 'aims to approve binding corporate rules within the meaning of Article 43. '</p>	<p>Article 43 Transfers by way of binding corporate rules</p> <p>1. A supervisory authority <i>shall in accordance with the procedure set out in paragraph 3 below</i> approve binding corporate rules, provided that they:</p> <p>(a) are legally binding and apply to and are enforced by every member within the controller's or processor's group of undertakings, and include their employees;</p> <p>(b) expressly confer enforceable rights on data subjects;</p> <p>(c) fulfil the requirements laid down in paragraph 2.</p> <p>2. The binding corporate rules shall at least specify:</p> <p>(a) the structure and contact details of the group of undertakings and its members;</p> <p>[...]</p> <p><i>3. A data controller or processor may request the supervisory authority having competence under Article 51 to approve binding corporate rules for that data controller or processor. The competent supervisory authority shall nominate two further supervisory authorities to assist in the examination and approval of the binding corporate rules. The unanimous approval of the three authorities is sufficient to authorise the binding corporate rules without their being communicated in accordance with Article 58. In the absence of unanimity, the competent supervisory authority may implement the consistency mechanism in accordance with Article 58.</i></p> <p>4. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for binding corporate rules within the meaning of this Article, in particular as regards the criteria for their approval, the application of points (b), (d), (e) and (f) of paragraph 2 to binding corporate rules adhered to by processors and on further necessary requirements to ensure the protection of personal data of the data subjects concerned.</p> <p>5. The Commission may specify the format and procedures for the exchange of information by electronic means between controllers, processors and supervisory authorities for binding corporate rules within the meaning of this Article. Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 87(2).</p> <p>[Article 58 (2)(f) shall be amended to read as follows:] <i>'aims to approve binding corporate rules within the meaning of Article 43 on which the competent supervisory authority and the two other nominated supervisory authorities are unable to reach unanimous agreement.'</i></p>

Justification

The binding corporate rules process needs to be as efficient as possible. There is a severe risk for the European Data Protection Board and for the Commission to be overloaded with applications, many of which will on further examination prove to be acceptable.

The data protection authorities have themselves developed a mutual recognition system by which a lead authority with the assistance of two others examine and agree binding corporate rules on behalf of those authorities – the majority – who have been able to agree to the mutual recognition procedure.

In the interests of efficiency and without any prejudice to the substance of data protection, that procedure should be incorporated into the new arrangements.

7. Data Portability

EC Proposal	Proposed BT's amendments
<p>Article 18 - Right to data portability</p> <p>1. The data subject shall have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain from the controller a copy of data undergoing processing in an electronic and structured format which is commonly used and allows for further use by the data subject.</p> <p>2. Where the data subject has provided the personal data and the processing is based on consent or on a contract, the data subject shall have the right to transmit those personal data and any other information provided by the data subject and retained by an automated processing system, into another one, in an electronic format which is commonly used, without hindrance from the controller from whom the personal data are withdrawn.</p> <p>3. The Commission may specify the electronic format referred to in paragraph 1 and the technical standards, modalities and procedures for the transmission of personal data pursuant to paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).</p>	<p>Article 18 - Right to data portability</p> <p>1 Where the data subject has provided the personal data and the processing is based on consent or on a contract:</p> <p>a. the data subject shall have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain from the controller in an electronic and structured format which is commonly used and allows for further use by the data subject, a copy of those data provided by the data subject and undergoing processing;</p> <p>b. the data subject shall have the right to transmit those personal data and any other information provided by the data subject and retained by an automated processing system, into another one, in an electronic format which is commonly used, without hindrance from the controller from whom the personal data are withdrawn.</p> <p>2. The rights of the data subject set out in paragraph 1 above:</p> <p>(a) are subject to:</p> <p>(i) the right of the data controller to retain and not disclose data which are commercially confidential;</p> <p>(ii) any legal duties imposed on the controller to retain the data;</p> <p>(iii) the right of the controller to retain data to protect or assert its own interests; and</p> <p>(b) in any event may not be exercised until the expiry or other termination of a contract for the purposes of which the data were provided.</p> <p>3. The Commission may specify the electronic format referred to in paragraph 1 and the technical standards, modalities and procedures for the transmission of personal data pursuant to paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).</p>

Justification

The right of data portability was conceived in the context of social networking sites in order to allow individuals to carry to another similar site the data which they have provided. The current version of Article 18 is drawn so widely that it is capable of prejudicing routine consumer contractual arrangements and depriving data controllers of their special and commercially confidential data. The amended text addresses both problems whilst still allowing individuals to transport data provided by them to other sites on the termination of any consumer contractually agreed period.

8. Right to be forgotten

EC Proposal	Proposed BT's amendments
<p>Article 17 Right to be forgotten and to erasure</p> <p>1. The data subject shall have the right to obtain from the controller the erasure of personal data relating to them and the abstention from further dissemination of such data, especially in relation to personal data which are made available by the data subject while he or she was a child, where one of the following grounds applies:</p> <p>(a) the data are no longer necessary in relation to the purposes for which they were collected or otherwise processed;</p> <p>(b) the data subject withdraws consent on which the processing is based according to point (a) of Article 6(1), or when the storage period consented to has expired, and where there is no other legal ground for the processing of the data;</p> <p>(c) the data subject objects to the processing of personal data pursuant to Article 19;</p> <p>(d) the processing of the data does not comply with this Regulation for other reasons.</p> <p>...</p> <p>3. The controller shall carry out the erasure without delay, except to the extent that the retention of the personal data is necessary:</p> <p>(a) for exercising the right of freedom of expression in accordance with Article 80;</p> <p>(b) for reasons of public interest in the area of public health in accordance with Article 81;</p> <p>(c) for historical, statistical and scientific research purposes in accordance with Article 83;</p> <p>(d) for compliance with a legal obligation to retain the personal data by Union or Member State law to which the controller is subject; Member State laws shall meet an objective of public interest, respect the essence of the right to the protection of personal data and be proportionate to the legitimate aim pursued;</p> <p>(e) in the cases referred to in paragraph 4.</p> <p>...</p>	<p>Article 17 Right to be forgotten and to erasure</p> <p>1. The data subject shall have the right to obtain from the controller the erasure of personal data relating to them and the abstention from further dissemination of such data, especially in relation to personal data which are made available by the data subject while he or she was a child, where one of the following grounds applies:</p> <p>(a) the data are no longer necessary in relation to the purposes for which they were collected or otherwise processed;</p> <p>(b) the data subject withdraws consent on which the processing is based according to point (a) of Article 6(1), or when the storage period consented to has expired, and where there is no other legal ground for the processing of the data;</p> <p>(c) the data subject objects to the processing of personal data pursuant to Article 19;</p> <p>(d) [deleted]</p> <p>....</p> <p>3. The controller shall carry out the erasure without delay, except to the extent that the retention of the personal data is necessary:</p> <p>(a) for exercising the right of freedom of expression in accordance with Article 80;</p> <p>(b) for reasons of public interest in the area of public health in accordance with Article 81;</p> <p>(c) for historical, statistical and scientific research purposes in accordance with Article 83;</p> <p>(d) for compliance with a legal obligation to retain the personal data by Union or Member State law to which the controller is subject; Member State laws shall meet an objective of public interest, respect the essence of the right to the protection of personal data and be proportionate to the legitimate aim pursued;</p> <p>(e) for the protection of the data subject rights and freedoms of third parties;</p> <p>(f) for the protection or assertion of the rights of the data controller, or</p> <p>(g) in the cases referred to in paragraph 4.</p> <p>...</p>

Justification

Traditional data protection rules already require that, subject to limited exceptions, data be kept for no longer than is necessary for the purpose for they were obtained. The conversion of the duty to delete data into a right to be forgotten has been provoked by several notorious cases relating to the use of information on social network sites.

Whilst the objective of the new right is laudable, it must be carefully drawn so as not to prejudice the rights of data controllers and third parties operating in other industry sectors. Article 17(1) (d) is drawn so widely as to be unpredictable in its consequences and lacking legal certainty in its effect. Paragraph 3 of the article does not seem to make adequate provision for the protection of the rights of the data controller and others. Indeed, it is entirely likely in some cases – e.g. those relating to mental health – that data should be retained for the protection of the data subject. Data controllers should also have the flexibility to retain data to protect their own interests, such as proving the existence of a contract entered into by a data subject, and to comply with legal requirements.

For further Information please contact:

tilmann.kupfer@bt.com

or

cecile.plaidy@bt.com

in Brussels

© British Telecommunications plc
Registered office: 81 Newgate Street, London
EC1A 7AJ
Registered in England No: 1800000

