

Data Protection Reform – a view from the consumer credit reference agencies

About ACCIS

The Association of Consumer Credit Information Suppliers (ACCIS <http://www.accis.eu/>) is an international non-profit trade association bringing together 37 consumer credit reference agencies in 27 European countries and associate members from all other continents and provides the largest representative group of credit reference agencies in the world. Credit reporting agencies sit at the heart of financial systems providing a critical service to help banks and other creditors make decisions about credit and risk in the financial services, communications and energy and water industries. These services impact on consumers and businesses helping organisations make responsible lending decisions based on accurate and verifiable data about the history on financial commitments and behaviour of applicants and customers. In all cases, those services operate transparently and are accessed in accordance with data protection regulations and/ or other specific regulations (i.e. banking law).

Overview

Whilst the data protection reform is welcome – the rise of social networks and the increasing reliance on the internet in our daily lives indeed makes it urgent – there are particular aspects of the draft Regulation (European Commission, 2012) that, whilst well meaning, could have serious repercussions for the users of consumer credit reference agencies, whether lenders, consumers or businesses. It is the view of ACCIS that the changes emanating from the review of the Data Protection Directive (European Commission, 1995) are primarily intended to tackle problems with social networks and could have unintended consequences elsewhere. So, for example, it is hard to envisage how reliable creditworthiness checks could be carried out in Europe if the right to be forgotten, (if applied to unpaid debts) is not tempered with some pragmatism. The consequences could be disastrous primarily for consumers but also for the future of financial services and commerce.

Summary

1. ACCIS supports the aims of the draft Regulation in seeking to raise and harmonise the overall level of protection for individuals across Member States.
2. ACCIS is concerned that the draft Regulation may have serious, adverse consequences for the users of credit reference agency services by reducing the amount of available data and restricting how it may be used. ACCIS believes these consequences are unintended.
3. Credit reference agency services are widely recognised as being essential to the effective operation of a developed economy. Disruption to those services would have a detrimental impact on the flow of credit to individuals and businesses (particularly small and medium-sized enterprises). This in turn would hinder economic recovery and growth in the EU.
4. There could also be very serious consequences for consumers and small businesses. More would become excluded as credit could be harder to secure for those with less data, whilst others may become over indebted if granted credit they cannot repay. In many respects, credit reference agency services play a crucial role in consumer protection. Decision-making by lenders would become slower, less objective and less fair. There would also be a significantly increased exposure to fraud.

5. ACCIS' main concerns are in respect of:

1. Right to be forgotten (Article 17),
2. Right to data portability (Article 18),
3. Restrictions on automated profiling (Article 20);
4. Data minimisation (Article 5);
5. The legitimate interests condition (Article 6);
6. Notification of a personal data breach (Article 31),
7. Data protection impact assessment (Article 33),
8. Administrative sanctions (Article 79),

Please see the attached appendix for more details on our proposed amendments.