

Amsterdam, 18 May 2022

To:

MEP Birgit SIPPPEL
MEP Axel VOSS
MEP Sophie IN 'T VELD
MEP Patrick BREYER
MEP Annalisa TARDINO
MEP Jadwiga WIŚNIEWSKA
MEP Cornelia ERNST

Mr. Philippe LÉGLISE-COSTA, Permanent Representative of France to the EU

Ms. Margrethe VESTAGER, Executive Vice-President
Mr. Didier REYNDERS, Commissioner for Justice
Mr. Thierry BRETON, Commissioner for Internal Market
Mr. Nicolas SCHMIT, Commissioner for Jobs and Social Rights

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Simona Biancu
Jan Gregor
Siri Nodland
Larissa Probst

Subject: Distinguish calls from non-profit organisations from commercial marketing calls

Dear Sir/Madam,

The work of non-profit organisations, such as charities and NGOs, is essential for the EU. Their assistance during the COVID-19 crisis proved crucial to help overcome economic and social problems. They support vulnerable people, they help to protect the environment and safeguard human rights. Many of them are now at the forefront, fundraising and helping the people of Ukraine.

However, it is important to note that non-profit organisations, such as Greenpeace, the Red Cross or Human Rights Watch, rely on the goodwill of people and their interest to contribute to their causes in order for them to be able to deliver. One of the best ways for these organisations to reach out, inform about their work and raise funds is through personal contacts via the use of telemarketing.

Another way for non-profits and charities to raise funds for their activities is through charity lotteries, that each year raise around 1 billion euros for civil society in Europe. This unrestricted source of income is essential for hundreds of civil society organisations active in a range areas. But the main way for the charity lotteries to reach out is also through telemarketing.

In short, without personal contacts the fundraising efforts for the NGOs would be directly affected if the e-Privacy Regulation were to make a prefix compulsory, even for non-commercial calls from non-profits. As a marketing prefix would also apply to those who have consented that they would like to receive a call from an NGO or charity, this would hinder NGOs and charities in their work of reaching out to donors or members, or when reaching out with calls for action, as happened during the COVID-19 crises or during environmental disasters, such as floods. Being identified with a prefix as a marketing call would thus strongly damage both the NGOs and the charity lotteries' ability to interact with people and raise funds. Moreover, the indiscriminate blocking of all prefixed marketing calls would create a huge barrier for NGOs and charities.

We are therefore surprised that the option between a calling line identification and a prefix may be suddenly replaced by a mandatory prefix as part of the trilogue negotiations. Neither the Council nor the European Parliament has received a mandate for such a measure, and this was not in the original proposal from the Commission. It is inconceivable that the opacity of the trilogue would lead to such large repercussions for the fundraising activities of NGOs and charities.

Member States should be allowed to keep the choice between asking for line identification or a prefix which identifies direct marketing calls. This is especially important to allow fundraising activities by and for non-profits through direct voice-to-voice calls.

We ask the trilogue parties to stick to the text which was proposed by the European Commission, and which was agreed by the European Parliament:

Article 16

3. Without prejudice to paragraphs 1 and 2, natural or legal persons using electronic communications services for the purposes of placing direct marketing calls shall:

- (a) present the identity of a line on which they can be contacted; or*
- (b) present a specific code/or prefix identifying the fact that the call is a marketing call.*

We would also like to point to the amendments proposed by the Council in recital 32 as part of its Negotiating Agreement (February 2021). It clarifies that communication from political parties and non-profit organisations are not direct marketing communications, although Member States keep the discretionary power to decide otherwise. (The amendments proposed by the Council are in **bold**)

Recital 32

*(...) In addition **to direct communications advertising for the offering of products and services for commercial purposes, Member States may decide that direct marketing communications may include direct marketing communications sent by political parties that contact natural persons via **publicly available** electronic communications services in order to promote their parties. The same applies to messages sent by other non-profit organisations to support the purposes of the organisation.***

NGOs and charities are in favour of the identification of their calling lines, but a mandatory prefix would generate the false impression that their calls are for commercial or marketing activities instead of fundraising for activities in the general interest.

Non-profit and collaborative organisations are a key pillar of Europe's social and economic resilience according to the Social Economy Action Plan which was recently launched by the European Commissioner. We therefore ask you to take into account the differences between commercial direct marketing calls and the calls non-profit organisations make to raise funds.

Especially at a time when other forms of funding continue to be under pressure, this is not something to take a chance on. We therefore call on you to take this adverse impact into account, which would hinder the crucial fundraising activities of non-profits, if they were required to use a prefix associated with commercial marketing activities.

European Fundraising Association (EFA)

Please reply to: Charlotte Rydh, President
president@efa-net.eu

Registered Office: James Wattstraat 100, NL-1097 DM Amsterdam
Registered at: Chamber of Commerce Amsterdam, Nr. 342.128.17

Bank

Rabobank, Utrechtseweg 25
3704 HA Zeist, Netherlands
SWIFT/BIC: RABONL2U
IBAN: NL20 RABO 0132 4511 58

We thank you for your consideration of the matter and look forward to receiving your response.

Yours sincerely



Charlotte Rydh
President

On behalf of EFA members:

Fundraising Verband Austria, Austria
Fundraisers Alliance Belgium, Belgium
Coalition for Easy Giving, Czech Republic
Czech Fundraising Center, Czech Republic
Finnish Fundraising Association, Finland
Association Française des Fundraisers, France
Deutscher Fundraising Verband, Germany
Charities Institute Ireland, Ireland
Associazione Italiana Fundraiser, Italy
Geros valios projektai, Lithuania
Goede Doelen Nederland, Netherlands
Fundraising Norge, Norway
Fundacja Akademia Organizacji Obywatelskich, Poland
Polish Fundraising Association, Poland
Slovak Fundraising Center, Slovakia
Agencija LARS, Slovenia
Asociación Española de Fundraising, Spain
Giva Sverige, Sweden
Swissfundraising, Switzerland
Chartered Institute of Fundraising, United Kingdom

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