17 November 2026

Subject: Concerns over data retention- and interception-related provisions in Digital Networks Act (DNA) and Mobile Satellite Services (MSS) Regulation proposals

We, the undersigned civil society organisations, write to express our serious concerns with regards to the attempt to introduce unlawful data retention obligations through EU authorisation procedures for satellite operators under the Digital Networks Act (DNA) and Mobile Satellite Services (MSS) Regulation proposals.

Article 38(3) DNA would give the Commission the power to define, by means of implementing acts, the conditions for satellite networks and satellite communications services to obtain the EU general authorisation, including "data retention or lawful interception obligations" (point (e)). The same provision specifies that the Commission's implementing act should set "objective criteria designating the obligations on data retention and lawful interception". Similarly, Article 13(5)(d) MSS would allow the Commission to lay down rules on data retention and interception for mobile satellite service providers via implementing acts, but additionally refers to obligations stemming from the legislative package on electronic evidence in criminal proceedings.[1]

In sum, the Commission could impose data retention and interception obligations on satellite operators and define their modalities through a comitology procedure, a procedure shrouded in secrecy,[2] The discretionary powers granted to the Commission are therefore far-reaching, bypass essential EU democratic processes, and may have serious implications for the rights to privacy and data protection – none of which is even considered in the Commission's deficient analysis of impacts on fundamental rights.[3]

It is settled case-law by the Court of Justice of the European Union that the general and indiscriminate retention of traffic and location data is a serious interference with fundamental rights, and is

1 Regulation (EU) 2023/1543 and Directive (EU) 2023/1544.
2 https://transparency.eu/wp-content/uploads/2021/02/EUIS2_EC.pdf
3 See Proposal for a Regulation, COM(2026) 16 final, page 15 and Proposal for a Regulation, COM(2026) 311 final, page 10.

incompatible with EU law as a preventive measure for combatting crime.[4] Article 52(1) of the EU Charter on Fundamental Rights requires that any limitation on the exercise of the rights and freedoms must be provided for by law and respect the principles of necessity and proportionality. Commission implementing acts cannot be reasonably considered as meeting the Charter's legality requirement. In light of the level of interference with fundamental rights that such measures entail, the involvement of the legislature is required, as confirmed by CJEU's case-law.[5]

Furthermore, according to the Treaty on the Functioning of the European Union (TFEU), implementing acts may be adopted to ensure "uniform conditions for implementing legally binding Union acts" (Article 291). However, there is currently no EU act on data retention and interception and, in any case, it certainly does not correspond to the introduction of a fully-fledged data retention and interception regime for a certain type of service providers.

The introduction of data retention obligations in the DNA and the MSS is also wholly inappropriate as the Commission is currently assessing the impacts of data retention, as part of a wider process to determine the need for a new EU framework or not.[6] Sectoral rules imposed unilaterally by the Commission would undermine all efforts to base EU policy decisions on the best available evidence and ultimately, to truly achieve harmonisation of data retention rules at EU level in a way that provides a level playing field and legal certainty.

We strongly urge the European Parliament and the Council to reject the possibility for the Commission to impose data retention and interception obligations on satellite services as part of the EU authorisation procedure, as it would undermine the standards set by EU jurisprudence, fundamental rights and the EU's principles for good law-making.

Yours sincerely,

Signatories
European Digital Rights (EDRi)
epicenter.works – for digital rights
Asociația pentru Tehnologie și Internet (ApTI)
Bits of Freedom
Chaos Computer Club
Data Rights
Digital Rights Ireland
Digitalcourage
Digitale Gesellschaft (Germany)
Electronic Frontier Norway (EFN)
IT-Pol Denmark
Iuridicum Remedium (IuRe)
Politiscope
Privacy International
Wikimedia Europe (WMEU)

4 CJEU, Judgment of 8 April 2014, Digital Rights Ireland and Seitlinger and Others, Joined Cases C-293/12 and C-594/12; CJEU, Judgment of 21 December 2016, Tele2 Sverige AB and Watson and Others, Joined Cases C-203/15 and C-698/15.
5 CJEU, Judgment of 5 September 2012, Parliament v Council, C-355/10, ECLI:EU:C:2012:516, para 77.
6 https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14680-Data-retention-by-service-providers-for-criminal-proceedings-impact-assessment_en