



EUROPEAN COMMISSION

DIRECTORATE GENERAL XV

Internal Market and Financial Services

Free movement of information, company law and financial information

Free movement of information and data protection, including international aspects

DG XV D/5004/98

WP 13

**Working Party on the Protection of Individuals
with regard to the Processing of Personal data**

**Future work on codes of conduct: Working Document on the procedure for the
consideration by the Working Party of Community codes of conduct**

Adopted on 10 September 1998

Future work on codes of conduct: procedure for the acceptance and consideration by the Working Party of Community codes of conduct

Introduction

This Working Document seeks to clarify the procedure to be followed by interested parties for the submission of Community Codes of Conduct, and for the subsequent evaluation by the Working Party in accordance with Articles 27 and 29 of Directive 95/46/EC.

This document will first summarise the basic procedural steps, after which some specific rules for each of the basic procedural steps will be defined. Where appropriate, the rules will be revised in the light of experience.

Basic procedural steps

The following are the steps in the procedure for the acceptance and the consideration of codes of conduct by the Working Party.

- I) Submission and acceptance.
- II) Preparation of the opinion of the Working Party.
- III) Opinion of the Working Party and communication to the parties concerned.

Article 1 General rules

For the purpose of these rules:

- 1.1 "Directives" shall mean Directive 95/46/EC of the European Parliament and the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and Directive 97/66/EC of the European Parliament and the Council of 15 December 1997 concerning the processing of personal data and the protection of privacy in the telecommunications sector;
- 1.2 "Working Party" shall mean the Working Party on the Protection of individuals with regard to the Processing of Personal Data as referred to in article 29 of Directive 95/46/EC;
- 1.3 "Code of conduct" shall mean any Community code of conduct as referred to in article 27, third paragraph of Directive 95/46/EC, including amendments and extensions to existing Community codes.

Article 2 Rules concerning the submission and acceptance of codes of conduct for consideration by the Working Party

- 2.1 A draft code of conduct may be submitted for consideration to the Working Party by any organisation representative of the sector concerned and established or active in a significant number of Member States;
- 2.2 Such draft code must be prepared carefully, preferably in consultation with the data subjects concerned or their representatives, and must clearly define the organisation or sector to which the code is intended to apply.

2.3 Draft codes must be sent in a Community language, accompanied by a translated version in English and French, to the Chairperson of the Working Party, via the secretariat (European Commission, DG XV-D1), and must be accompanied by an explanatory memorandum.

2.4 Premature drafts and draft codes that do not meet the above criteria (those in paragraphs 2.1 to 2.3), will not be accepted for consideration by the Working Party.

2.5 The secretariat will confirm receipt of a draft code to the submitting party.

2.6 In consultation with the chairperson the secretariat will prepare a report, establishing whether or not a submitted draft code meets the criteria for acceptance established under paragraphs 2.1 – 2.3.

2.7 The Chairperson shall decide whether a submitted draft Code meets the criteria for acceptance. If the Chairperson finds that the criteria are not met, he will inform the members of the Working Party and set a time limit for reactions. Unless two or more members request that the matter be discussed at the next meeting of the Working Party, the Chairperson's decision will be notified to the submitting party together with the reasons for the negative finding.

Article 3 Rules concerning the preparation of the opinion of the Working Party

3.1 Submitted draft codes that meet the criteria for acceptance, will be sent to all the members of the Working Party.

3.2 In consultation with the chairperson, the secretariat will draw up proposals for the preparation of the opinion, to be discussed by the Working Party. These proposals:

- may call for the establishment of specific working groups or task forces, consisting of one or more members of the Working Party and supported by the secretariat,
- may call for a simplified procedure for the consideration of a submitted code, especially in the case of amendments or extensions of existing codes, and
- will advise the Working Party on the question whether or not and how the Party should seek the views of the data subjects concerned or their representatives or other parties.

3.3 In a first discussion on a submitted code the Working Party will, on the basis of the proposals mentioned under Article 3, paragraph 3.2, establish the procedure for the opinion and the preparation thereof.

3.4 The preparation of the opinion may include contact with the submitting party and other interested parties, to obtain further information or clarification, or to discuss necessary improvements to the submitted code, with a view to submitting, where appropriate, a revised draft Code.

3.5 The Working Party may give further guidance or instructions for the preparation of the opinion on a submitted code.

Article 4 Rules concerning the opinion of the Working Party and the communication of the opinion to the parties concerned

4.1 The Working Party shall determine whether or not a submitted code of conduct:

- is in accordance with the data protection directives and, where relevant, the national provisions adopted pursuant to these directives,
- is of sufficient quality and internal consistency and provides sufficient added value to the directives and other applicable data protection legislation, specifically whether the draft code is sufficiently focussed on the specific data protection questions and problems in the organisation or sector to which it is intended to apply and offers sufficiently clear solutions for these questions and problems.

4.2 The Working Party will inform the submitting party and other concerned parties of its opinion. Where the opinion is not favorable, the opinion will state the reasons for the negative finding.

4.3 The Commission may ensure appropriate publicity to the Working Party's opinion.

Done at Brussels, 10 September
1998

For the Working Party

The Chairman

P.J. HUSTINX