



# DPI & DATA PROTECTION LAW

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# E-privacy Directive



- Principle of confidentiality of communications

Art. 5

Member States shall ensure **the confidentiality of communications and the related traffic data** ....


In particular, they shall prohibit listening, tapping, storage or other kinds of interception or surveillance of communications and the related traffic data

# E-privacy Directive

- Principle of erasure of traffic data

Art. 6(1)

***Traffic data relating to subscribers and users ...must be **erased or made anonymous** when it is no longer needed for the purpose of the transmission of a communication ....***




"traffic data" means any data processed for the purpose of the conveyance of a communication on an electronic communications network or for the billing thereof

# E-privacy Directive

## 1. Exceptions

Art. 6(2-4)

- a. Traffic data necessary for the purposes of **subscriber billing and interconnection payments** may be processed
- b. Traffic data necessary for the purpose of **marketing electronic communications services or for the provision of value added services** may be processed but **consent** of users required



any service which requires the processing of traffic data or location data other than traffic data beyond what is necessary for the transmission of a communication or the billing thereof

# E-privacy Directive

## 1. Exceptions

### Art. 6(5)

*Processing of traffic data, in accordance with paragraphs 1, 2, 3 and 4, must be restricted to **persons acting under the authority of providers** of the public communications networks and publicly available electronic communications services handling billing or **traffic management**, customer enquiries, **fraud detection**, marketing electronic communications services or providing a value added service, and must be restricted to what is necessary for the purposes of such activities.*

# E-privacy Directive

## 1. Exceptions

Art. 6(5)

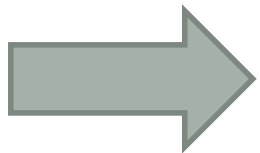
Traffic  
management  
would include  
network security



Possible to process traffic data for traffic management purposes without users consent



UK: it would seem that you need consent



If it is possible to process traffic data for traffic management and network security purposes :

1. How **deep** can you go?
2. What can you do with the data?  
Can ISPs **retain** the data?

CJEU in  
2014



The **systematic** retention  
of traffic data, location  
data and the related data  
necessary to identify the  
subscriber or user

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Interference with the right  
to respect for private life