**Viviane REDING**

Vice-President of the European Commission
Justice, Fundamental Rights and Citizenship

Rue de la Loi, 200
B-1049 Brussels
T. +32 2 298 16 00

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Ares (2013)633289*

Dear Lord Chancellor,

I take note of your letter of 4 June 2013. I share your view that the progress made under the Irish Presidency is impressive. I am therefore surprised that in your letter you warn against a rapid pace of negotiations.

I already indicated in my letter of 8 March 2013 that when discussing the Data Protection Reform package we should seek to generate growth and save costs. This was my overarching objective when drafting the Reform and this remains my objective when discussing it with the co-legislators.

Growth will be generated through the adoption of a single law for Europe to replace the current inconsistent patchwork of 27 different national laws. The proposal will ensure the free flow of data in the EU and facilitate its flow beyond the EU. It will also create a regulatory one-stop-shop for business. It allows companies to deal with a single supervisory authority, not 27. This twin objective is explicitly endorsed by BusinessEurope and can only be achieved through the adoption of a Regulation as proposed by the Commission and not a Directive as advocated by the UK.

I have also sought to reduce costs for business by cutting red tape. Substantial savings will come from, inter alia, the elimination of the current obligation to notify data processing and the abolition of multiple authorisations for international transfers of personal data.

In this connection, your call to reduce the administrative burden for companies is half-hearted. On the one hand you fear that the proposal will render the EU economy uncompetitive by creating costs for business. On the other hand, you appear to endorse the ICO's request not to do away with the existing costly notification system.

As regards the need for a strengthened risk-based approach, as strongly advocated by BusinessEurope in its letter, this is precisely the angle on which the Irish Presidency has been working so effectively. Compromises have been tabled to this effect. This should dispel any remaining doubts about the administrative burden or excessive compliance costs for businesses. On this point, the BusinessEurope letter does not take into account the current state of play in the Council – it is 18 months out of date.

*The Right Honourable Chris Grayling MP
Lord Chancellor and Secretary of State for Justice
United Kingdom*

As regards other points raised by ICO, several of them do not correspond to the Commission's proposal. For instance, the regime for international transfers is greatly simplified by several mechanisms including the use of standard contractual solutions. As regards administrative sanctions, the European data protection authorities will enjoy a wide discretion to impose them. Such sanctions will have to be effective, proportionate and dissuasive in light of the specific circumstances of each individual case.

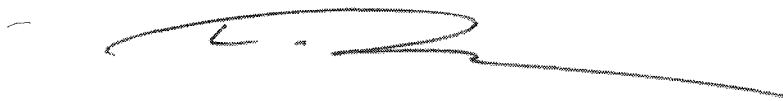
Privacy and competitiveness should not be presented as antagonistic objectives. On the contrary, modernised data protection rules are a crucial market opener in our digital economy. Instead of bureaucracy, the proposed rules focus on strengthening consumer confidence through stronger and more enforceable rights, thus taking advantage of the empirically proven synergies between a high level of data protection and trust-driven growth.

We are also encouraging innovation by introducing tools, such as "privacy by design" or data portability, which will give companies the right incentives to gain a competitive edge in digital marketplaces where privacy does increasingly matter for consumers. This presupposes also credible enforcement and, when necessary, appropriate sanctions: otherwise, we would not only let down individuals whose rights have been infringed, but also penalise the companies who play by the rules.

This file is of great interest to our citizens who are increasingly worried about their privacy and expect a clear response to their concerns. This file is also in the interest of our companies that need to operate more effectively on the Single Market. Therefore, it is time to make progress.

When dealing with files which limit civil liberties online, the Council has a proven track record of acting fast. The Data Retention Directive was negotiated by Ministers in less than 6 months. It is time for the Council to prove it can act with the same speed and determination on a file which strengthens such rights. The proposals have now been discussed for 18 months. This reform is too important to be debated endlessly.

Yours sincerely,

A handwritten signature in black ink, consisting of a large, stylized initial 'R' followed by a long horizontal line extending to the right.