

Feedback: Guidelines 1/2024 on processing of personal data based on Article 6(1)(f) GDPR

The following are some constructive suggestions for improvement:

1. **Clarify the Balancing Test Criteria:** While the guidelines outline that a balancing test is required between a controller's legitimate interests and the rights of data subjects, it could benefit from more concrete, industry-specific examples. This would assist organizations in different sectors in conducting these evaluations more effectively, particularly for complex cases like commercial data uses, where nuances can make the difference between lawful and unlawful processing.
2. **Provide Sector-Specific Guidance:** The guidelines could be expanded to include more detailed examples for specific industries, such as e-commerce, financial services, or healthcare, where data processing varies significantly. Offering clearer examples would help businesses assess whether their processing activities meet the necessary criteria under legitimate interest.
3. **Expand on Commercial Interests:** Given the evolving role of commercial interests, it would be helpful to provide additional guidance on how purely commercial interests, such as marketing or customer profiling, can be balanced with the fundamental rights of individuals. Recent rulings have indicated that commercial interests may be included under legitimate interest, but controllers still need more clarity to avoid over-reliance on this legal basis.
4. **Address Emerging Technologies:** More explicit guidance on the use of legitimate interest for processing activities involving AI, machine learning, and IoT technologies would be valuable. These technologies are becoming more prevalent, and companies need to understand how to apply the balancing test in these contexts.
5. **More Guidance on Risk Assessments:** The guidelines could offer more practical tools, such as checklists or decision trees, to assist controllers in assessing risks to data subjects. This would help companies ensure they are not only fulfilling their obligations but also making informed, defensible decisions.

These improvements would make the guidelines more actionable and help foster both compliance and innovation.

Kind regards,

A handwritten signature in blue ink, appearing to read 'Valentina De Giorgis'.

Valentina De Giorgis

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