



Federation of Business Information Services
Föderation für Wirtschaftsinformationsdienste e.V.

FEBIS COMMENTS

ON THE EDPB GUIDELINES ON DATA SUBJECTS ACCESS RIGHTS

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INTRODUCTION

FEBIS stands for Federation of Business Information Services, the specialized and recognized industry body of providers of global B2B business intelligence services for managing trade risks.

Today's 140 plus members of our federation are present in nearly 60 countries throughout Europe, Asia, Africa, and the Americas.

FEBIS members facilitate B2B trade relations and transactions with a focus on credit and risk intelligence services. These services require updated, accurate and relevant business information to produce beneficial, tailor-made solutions as well as scorings to assess the risk of default of businesses. By interacting between different business users and/or institutions of all sectors and sizes and helping them to take relevant decisions on their cashflow management, FEBIS members can be seen as trustworthy partners providing data and relevant financial information on trade counterparts. They are instrumental in helping companies manage their trade credit (*amounting to *4 times the bank lending in several EU Member States*), their onboarding and their KYC processes.

FEBIS welcome the European Data Protection Board's will to better define the guidelines applicable to data access rights under GDPR and to give data controllers more clarity about the way they should handle data access requests. Thus, one of the key issues that remains for business information providers is how to identify an individual in a B2B relationship and how the differentiation between a natural person acting in or out of his/her business capacity should be done.

The guidelines refer to data subjects access rights and what data controllers have to do when they are receiving a data access request from a natural person. The GDPR defines what is personal data in its article 4 but the capacity in which an individual can interact is not mentioned, as there may be very different capacities in which a natural person interacts. For business information purposes and for economic transparency purposes, natural persons who are acting in their business capacity must in our view be seen as equated to legal persons.

The natural persons referred to in the guidelines should in our view be understood as **consumers** in the sense of EU Consumer Credit Directive and of other related EU consumer laws i.e., as **a natural person, who is acting for purposes which are outside his trade, business, or profession** and thus in a purely private capacity.

Therefore, sole entrepreneurs, as well as companies' legal representatives or ultimate beneficial owners should be seen as "natural persons acting in their trade or business capacity" to ensure that business transparency, trade credit checks and management and fight against fraud can continue to be performed with business reporting services.

The key question for FEBIS members is how to identify an individual in a B2B. It is often the case that full information to the actual identity of an individual is not available because of data protection restrictions (e.g., no access to personal address, date of birth) for directors, managers or beneficial owners. Therefore, when they do exercise their access rights towards a business information

provider, it may be difficult to match the exact identification. Furthermore, since directors, shareholders and ultimate beneficial owners are interacting in their business capacity, their right of access should also be balanced with the legitimate right of access to information or third-party creditors as outlined in the Manni ECJ ruling.

Sole entrepreneurs, as well as legal representatives or UBOs personal data must be registered to different legal registers and made publicly available to inform third parties. That same data is also made available as Public Sector Information in open data by public bodies in charge of legal registers. It would be much more understandable for all parties, including the concerned individuals, if the logic was the same from registering to public bodies to re-use of PSI on enterprises / businesses.

As recognised by the recent French Law 2022-172 on sole entrepreneur's activity dated 14 February 2022 on sole entrepreneur's activity, personal and professional assets of a sole entrepreneur should be seen and handled separately, thus in order to protect sole traders' personal assets. It is therefore all the more important to be able to have access to updated and relevant information on the business part/capacity of a sole trader to ensure this is handled correctly.

We remain at your disposal for any further information and would very much welcome the possibility to exchange with you on this issue at your convenience.

Yours sincerely,

Silvia Amaral
FEBIS Secretary General
Silvia.amaral@febis.org

Stéphanie Verilhac
FEBIS Regulatory Affairs Coordinator
stephanie@svmconsult.com

**FEDERATION OF BUSINESS INFORMATION SERVICES
FÖDERATION FÜR WIRTSCHAFTSINFORMATIONSDIENSTE E.V.**

**WINSBERGRING 10
22525 HAMBURG
GERMANY**

**T: +49 40 890 69 29 - 90
E: secretariat@febis.org
www.febis.org**

