

We have outlined two suggested clarifications in the table below relating to *Guidelines 07/2020 on the concepts of controller and processor in the GDPR*.

Ref	Text from Guidelines	YouGov comment
Page 16, para 42	It is not necessary that the controller actually has access to the data that is being processed. Someone who outsources a processing activity and in doing so, has a determinative influence on the purpose and (essential) means of the processing (e.g. by adjusting parameters of a service in such a way that it influences whose personal data shall be processed), is to be regarded as controller even though he or she will never have actual access to the data.	<p>We suggest making it clear if there is (or is not) a distinction between an organisation that –</p> <ul style="list-style-type: none"> a. Does not have access to the personal data in practice, but can access should it want to do so, e.g. it has a legal right to access the data. b. Does not have access to the personal data in practice, <u>and</u> does not any right to access the data.
Page 16, example	Market research case study.	<p>We suggest that some further clarifications are made to this case study, to make it clear that Company ABC has more control than is currently drafted. For example, Company ABC chooses the participants and the research methodology. Or, making it clear that the EDPB recognises that market research may be structured in many ways, and that the appropriate controllership will depend on the facts.</p> <p>As a market research company, we have found that some of our clients have looked at examples like this (such as the market research example provided by the ICO here), and take those examples as the definitive answer to how market research should be structured from a privacy perspective. In reality, research can be structured in many different ways.</p>