POSITION PAPER

VAUNET
Verband Privater Medien

VAUNET Position Paper

on the Proposal of the European Commission from 19 November 2025 for a Regulation of the European Parliament and the Council ‚amending Regulations (EU) 2016/679, (EU) 2018/1724, (EU) 2018/1725, (EU) 2023/2854 and Directives 2002/58/EC, (EU) 2022/2555 and (EU) 2022/2557 as regards the simplification of the digital legislative framework, and repealing Regulations (EU) 2018/1807, (EU) 2019/1150, (EU) 2022/868, and Directive (EU) 2019/1024 (Digital Omnibus) - COM(2025) 837 final

Date March 13, 2026

1. General remarks

VAUNET – the German Association of Private Media would like to thank the European Commission (COM) for the opportunity to provide feedback on its proposal for a "Digital Omnibus Regulation." The following feedback focuses on the proposed amendments to the EU General Data Protection Regulation (GDPR).

VAUNET is the leading umbrella organization of private audio and audiovisual media in Germany. The diverse business areas of more than 160 members operate commercial journalistic-editorial media, including broadcasting, web and streaming offerings. The trade association aims to create acceptance for the political and economic concerns of audio and audiovisual media at national and European level and to raise awareness of the great socio-political and cultural importance of the sector.

VAUNET welcomes the COM´s aim to revise, modernize, and simplify the EU's existing digital regulatory framework through the Digital Omnibus Regulation to enhance competitiveness within the EU. In practice, legal uncertainties, divergent legal interpretations, and excessive regulatory requirements, especially in the field of data protection, have frequently impeded innovation in media distribution, particularly for SMEs. VAUNET therefore generally welcomes the intention of the draft Regulation and the amendments to the GDPR as far as it promotes an innovation-friendly data protection framework.

The refinancing of private audio-visual media is based on subscription-based models as well as advertising revenues. In many cases, they hereby rely on the use of personal data and cookies. Also core functions of their services, such as content recommendations, or the further development of content require the collection and processing of personal data. Oftentimes data are used to maintain the technical operation of services and to detect and to combat misuse as well

as to collect basic performance indicators. These data processing operations are not only essential for private media services, but also low-risk regarding the protection of personal data.

A Digital Omnibus Regulation that provides pragmatic clarification and simplification within the GDPR could offer genuine added value for private media providers and thereby contribute to supporting media plurality and media freedom. However, it is crucial that the legislation is limited to targeted simplification and does not lead to a fundamental revision of core provisions that jeopardize the refinancing and sustainability of private media.

With this in mind, VAUNET welcomes the COM's apparent recognition of the democracy-securing relevance of private media and the planned reduction of bureaucratic burdens, e.g. through the intended extension of deadlines for reporting data breaches (article 33 GDPR) or the suggested practical adjustment of data subjects' right of access in cases of abusive information requests (article 12(5) and article 15 GDPR).

However, the proposals regarding the regulation of device-stored personal data (including cookies) in article 88a GDPR-new, and the introduction of a centralized consent management system at browser level via article 88b GDPR-new, create an imbalanced regulatory framework that could ultimately harm the media ecosystem. An ecosystem that is already under considerable pressure, with declining advertising revenues, high production costs, and competition from big-tech gatekeepers making it increasingly difficult to refinance democracy-relevant private media.

Further weakening of private media and their business models through additional regulatory burdens must therefore be urgently avoided. Even though VAUNET fully supports the protection of personal data, the interests of private media must be adequately reflected.

VAUNET therefore recommends deleting the proposed articles 88a and 88b GDPR-new or, at the very least, to fundamentally revise them.

Please find details on this below:

2. Art. 88a GDPR-new

The proposed article 88a GDPR transposes the provisions of article 5(3) of the ePrivacy Directive, regarding the use of data stored on end devices, into the GDPR. In consequence, if access to data stored on a device concerns personal data, article 88a GDPR-new would apply in the future, meaning that access to or use of such data would only be permitted with consent and under the conditions set out in article 88a(4) GDPR-new.

Exceptions to the consent requirement are included in the draft article 88a(3) GDPR-new. Stating that consent is not required i.a. when data use is necessary to provide a service explicitly requested (lit. b) or when data use is necessary for creating aggregated information about audience and reach measurement, provided the processing is carried out exclusively by the controller for its own use (lit. c). Consent is also not required when data collection is necessary to maintain or restore service security (lit. d).

In VAUNET's understanding, Article 88a(4)-new GDPR furthermore lays down additional requirements for obtaining necessary consent. Among other things, users must be able to reject consent easily via a one-click mechanism or an equivalent method (lit. a). If users reject consent, the controller may not request consent for the same processing purpose for a period of six months.

In VAUNET's perspective, the proposal in its current form raises significant concerns and should therefore be deleted or, at the very least, amended for the following reasons:

a) Duplication contradicts simplification

VAUNET believes that introducing article 88a-new GDPR contradicts the Digital Omnibus Regulation's goal of simplification.

By reproducing Article 5(3) of the ePrivacy Directive in the GDPR, a duplicative structure is created, as Article 5(3) of the ePrivacy Directive continues to apply to the processing of device-related data. This creates the substantial risk of additional legal uncertainties that could prevent innovation.

This applies particularly to advertising, where private media frequently relies on third-party services. to deliver or measure advertising.

b) Exemptions from the consent requirement are too narrow – independent audience measurement needs to be enabled

Furthermore, VAUNET considers the list of consent exemptions in article 88a(3)-new GDPR as too narrow for private media. It does not adequately reflect the fact that private media's use of personal data is generally low-risk - unlike that of big tech gatekeepers.

VAUNET however welcomes the recognition in article 88a(3)(c)-new GDPR that exempts performance measurement for a provider's own services from the consent requirement. This would allow private media to improve and market their services based on corresponding metrics and data. But the exemption is of limited practical value since it disregards that measurement optimization, and analytic activities are often - and have long been - carried out jointly and in partnership with third parties. Restricting the exemptions from article 88a sec. 3c) to first-party analysis and "for its own use" only, undermines especially neutral, audited, comparable audience measurement systems, e.g. organized by Joint Industry Committees (JICs).

This could result in a fragmented landscape of non-comparable first-party metrics. Media providers would be equally disadvantaged, as many cannot conduct their own measurement and are reliant on JIC systems. Dependencies on proprietary first-party data and analytics from gatekeeping big tech companies, would create competitive disadvantages for providers that are not vertically integrated.

Moreover, such outcome contradicts the objectives of article 24 of the European Media Freedom Act (EMFA), which recognizes the importance of audience measurement for a sustainable media ecosystem and strengthens the independence of JICs.

In its impact assessment on the EMFA, the European Commission itself emphasized that

> *"Audience measurement is of key importance for the media and advertising ecosystem, being the core tool for understanding the market dynamics, calculating advertising prices, allocating advertising revenue, and planning the content production in accordance with the preferences of the audiences."*[1]

VAUNET therefore argues that restrictions on neutral, cross-media audience measurement must be prevented.

c) Excessive requirements for consent requests undermine data use in the media market

In addition, VAUNET considers the requirements in article 88a(4)-new GDPR to disproportionately disadvantage private media and to be not feasible in practice.

This is particularly the case for Article 88a(4)(c) -new GDPR, which prohibits controllers from re-requesting consent for six months after refusal.

VAUNET wants to highlight that this ban on requesting consent excessively and unreasonably restricts the essential ability of private media outlets to contact their users and therefore places a disproportionate burden on private media outlets. A rigid six-month ban on contact with users prevents media companies from responding to changes in user preferences, which are particularly frequent in content distribution. For example, the willingness to give consent may change simply due to the addition of new content (such as films or documentaries) to streaming portals. The regulation is therefore not only to the detriment of media providers, but also to the user.

Moreover, VAUNET believes the requirement to be technically impracticable as well, as media websites cannot technically distinguish between multiple users of a device, device switches, or cookie deletions. The regulation would therefore impose significant administrative burdens, particularly on small and medium-sized media companies. In addition, VAUNET fears that this would result in a massive increase in administrative burdens for those controllers, as it could lead to a confusing network of individual time points for each user decision, which would have to be considered by the company using individual process rules. This entails unaffordable compliance costs, especially for SMEs.

Furthermore, the single-click-refusal requirement in article 88a(4)(a)-new GDPR significantly reduces data usage opportunities, negatively affects economic viability, and consequently limits its media plurality.

[1] European Commission, Impact Assessment Report, Accompanying the Proposal for a European Media Freedom Act, COM(2022) 457, 16.9.2022, Part 1/3, p. 21.

Pursuant to Article 88a(4)(a)-new GDPR, consent to the use of personal data stored on terminal devices shall only be permitted if the user is able to refuse consent with a single click. In practice, this would oblige media providers to implement an "reject-all button," even though users are already protected by the existing prohibition on processing personal data without consent. A stark contrast to the simplification efforts of the COM.

Based on the legislative proposal, it is furthermore not possible to integrate a blanket refusal option into the "consent-or-pay" models, that is highly important to the refinancing of private media. In such models, access to content is either subject to payment ("pay") or, as an alternative form of consideration, granted in exchange for the user's agreement to data-based advertising ("consent").

A blanket "reject-all option," prevents the "consent option" by definition, since it cannot be implemented without the binary choice and thereby undermines the business model itself. From a VAUNET perspective, a Digital Omnibus that restricts the broad accessibility and diversity of reliable media offerings is unacceptable. Excluding consumers who are unwilling or unable to subscribe to paid services from access to reliable information will consequently drive them towards freely accessible disinformation platforms.

In summary, VAUNET calls for article 88a-new GDPR to be deleted. At a minimum, article 88a(4)(a) and (c)-new GDPR should be removed, and article 88a(3)(c)-new GDPR should be strategically revised to allow for audience measurement for a provider's own purposes as well as audience measurement by independent JICs.

3. Centralized consent systems are impractical and not suitable for media – deletion of Article 88b GDPR-new recommended

VAUNET highlights the necessity of a more practical, robust, and balanced regulatory framework for private media providers as well as consumers to support Europe's competitiveness objectives in a complex digital media environment. However, proposed Article 88b-new GDPR, which would require providers of "online interfaces" to respect automated and machine-readable consent signals, does not meet this objective. On the contrary:

With its proposal, the COM seeks to introduce the concept of Personal Information Management Systems (PIMS). Users would be able to express general consent preferences centrally, across interfaces and websites. VAUNET generally supports the underlying aim of reducing the number of consent banners.

However, VAUNET also recognizes that the current proposal entails serious disadvantages for the refinancing of private media and thus for safeguarding media pluralism. It creates new follow-up problems and could only be implemented with disproportionate effort.

According to VAUNET, the proposal ultimately enables browser providers to position themselves between media providers and users. Private media providers would thereby be cut off from their users, despite being recognized by their users as trusted partners. The proposal

therefore risks perpetuating the already considerable market dominance of browser providers at the expense of the relationship between private media and their users and may even create new gatekeeper structures – leading to an increased un-level-playing field.

In practice it will also be virtually impossible to reconcile the GDPR's requirements for "specific" and "informed" consent with universal browser signals. General preferences are, by definition, broad and taken out of context. The design of the proposal therefore creates unpredictable liability risks for those providers who must rely on the lawful collection of user consent on browser level.

Additionally, VAUNET fears that the proposed concept will be accompanied by lower consent rates, thereby further weakening the refinancing of private media, which are already under significant pressure. A users' decision to grant consent is dependent on the concrete design of an offering and the trustworthiness of the provider—especially in relation to media content. Mandatory consideration of external consent-management systems therefore has detrimental effects on companies' ability to monetize their services, while simultaneously limiting user choice and providers' creative freedom.

It is also highly questionable whether the proposal would lead to reduction of the number of cookie banners and thereby achieve its stated regulatory objectives. Consent requests would still be required for all preferences not covered by the centralized system, in addition to a central banner displayed at browser level.

VAUNET also wants to highlight that mandatory consideration of signals from a central consent system entail increased technical efforts for website operators. Adjustments would be required not only at CMP level but also in the front- and backend. This would place a disproportionate burden particularly on SME media companies, missing the simplification objective of the draft regulation once again.

These disadvantages are not balanced out by the exemptions for media services under article 88b(3)-new GDPR.

While VAUNET welcomes the COM's general intention to recognize and protect the special role of private media through the media exemption, the exemption is ineffective in practice, as it applies only when the media provider is acting within the context of providing a media service. By contrast, many media offerings rely on cooperation with third parties. For instance, private media rely on external ad-tech providers or analytical platforms to sufficiently refinance their services. It is unclear whether such cooperation would also fall under the concept of the media exemption.

In summary, VAUNET calls for article 88b-new GDPR to be deleted. At least, the media exemption in article 88b(3) GDPR-new should be expanded. An expansion could provide that media services may always rely on "legitimate interests" within the meaning of article 6(f) GDPR when using personal data, given their importance for safeguarding freedom of expression and media pluralism.

4. Data subject's right of access must be proportionate – Article 12(5)-new GDPR

VAUNET members continuously invest substantial time as well as personnel and financial resources to comply with the GDPR, particularly regarding data subject rights.

In practice, however, data subject rights are often instrumentalized contrary to their purpose. This applies particularly to the right of access under article 15 GDPR. Many individuals affected by data processing do not exercise their right of access to verify the accuracy of processing, but rather to obtain documentation and information with which they subsequently initiate or support civil proceedings. Access requests are therefore often vague and detached from specific case situations, aiming solely to raise fundamental questions before the courts.

While VAUNET recognizes the right of access under article 15 GDPR as a central component of data subject rights and effective data protection, it should not be misused as a tool for gathering evidence with the aim of obtaining procedural or ultimately commercial advantages.

VAUNET therefore welcomes the amendments in article 12(5) in conjunction with article 15-new GDPR, according to which manifestly unfounded, excessive, or abusive information requests may be subject to a fee or may be refused. This does not reduce consumer protection rights but rather creates an appropriate and practical balance.

5. Clarification of the scope of application – Article 4(1)-new GDPR provides legal certainty

Finally, VAUNET welcomes the COM's proposed clarifications regarding the term "personal data" in Article 4(1) GDPR-new and thus the scope of the GDPR.

According to the revised wording, data shall not be considered personal data for a specific entity if that entity cannot identify the natural person to whom the information relates. In doing so, only the means reasonably likely to be used by that entity shall be considered. Recital 27 of the proposal emphasizes that the existence of additional information held by third parties does not automatically render the data personal for all parties involved.

This clarification is risk-appropriate. If identification is not reasonably possible for a specific controller, the risk to individuals is reduced. In such cases, it would therefore be disproportionate to declare the entire GDPR applicable regardless of whether the controller can identify the individuals concerned.

Moreover, VAUNET welcomes the clarification as it reflects the legislative intention to codify the Court of Justice's "relative identifiability" standard developed in the SRB judgment (C-413/23 P). The COM's proposal thereby creates legal certainty, particularly in data-driven value chains involving numerous decentralized processing operations. It introduces a risk-based standard that can be aligned with the actual role and circumstances of the processor in question.
VAUNET also believes that the clarification may significantly strengthen the use of pseudonymized and context-dependent data (with low identifiability risk) in data protection practice. If the recipient of pseudonymized data has no realistic means of re-identifying individuals, the

transfer of such data to the recipient would no longer fall under the GDPR. This may also simplify the framework conditions for AI applications.