

Letters



Moritz Körner
Member of the European Parliament

By e-mail only

Brussels, 7 July 2023

Ref: OUT2023-0055

Dear Mr Körner,

Thank you for your letter of 09 November 2022 as regards your proposal on the possibility of establishing that all new laptops entering the EU market would need to be equipped with a physical camera cover based on Article 25 GDPR.

I would like to use this opportunity to reaffirm the position stated in the EDPB's letter of 16 June 2020 as follows:

The measures aimed at protecting and guaranteeing the rights and freedoms of natural persons must be established by the controller. Although manufacturers should be encouraged to take into account the right to data protection when developing and designing such products, services and applications, they are not responsible for the processing carried out with their products¹. The GDPR does not provide for means to establish legal obligations on manufacturers, unless they also act as controllers or processors.

The GDPR does not specify any specific measure to fulfil the requirements of data protection by design and by default. Therefore, the controller shall choose the most appropriate measures according to the circumstances for the specific processing. As indicated in your letter, the physical camera cover is a tested, simple, cheap and efficient technology to prevent the camera from unduly collecting images. Nevertheless, there are other measures that could also be taken into consideration, inter alia, incorporating a physical on/off switch, or an easy way to deactivate the camera.

In addition, there are software solutions that can serve the same purpose and that give the control to the user. Nonetheless, the use of a software measure could present other associated risks, like bugs, introduction of unwanted "features" or the possibility of disabling the measure through remote access.

¹ Recital (78) GDPR.

To summarize, the objective of the controller shall be to provide sufficient guarantees to implement appropriate technical and organisational measures in such manner that the processing will meet the requirements of the GDPR and ensure the protection of the rights of the data subjects. The controller shall choose the most appropriate measures for each specific processing according to the circumstances and following a risk assessment, in compliance with the GDPR.

Yours sincerely,

Anu Talus