

Public Consultation on the EDPB's DPIA template

Response from VIDEO GAMES EUROPE

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1. Video Games Europe welcomes the opportunity to provide comments on the template for Data Protection Impact Assessments (DPIA) which was adopted by the European Data Protection Board (EDPB) for public consultation. Our members welcome the issuing of ready-to-use templates to foster a European notification solution, easing the burden of organisations. Such templates promote a common understanding of the European data protection framework and provide a harmonised interpretation of key provisions in the GDPR. This will help to ensure an effective and meaningful implementation of the GPDR.
2. Overall, we are concerned that the draft template, if adopted in its current form, may inadvertently lead to DPIAs becoming overly prescriptive technical, contractual, or operational catalogues beyond what Article 35 of the GDPR requires. This could create unnecessary administrative burden and may oblige companies to disclose sensitive technical and operational information that is not necessary for a DPIA under the current practice. It also contains significant duplicative content – for example, section 2.1 and 2.2a address the purpose of processing and data minimisation and retention respectively, but section 2.3 requires the controller to justify its compliance with the core GDPR principles, including those immediately covered prior. In particular, we have identified following issues:
3. Section 0.2, explainer §1: The draft template should not require a detailed listing of sub-processors, and definition of their contractual obligation and tasks. Under Article 35 GDPR, a DPIA is required where a type of processing is likely to pose a "high risk" to individuals' rights and freedoms. Data processors are required to assist controllers in ensuring compliance, including declaring any sub-processors involved in the service. Processors and sub-processors are frequently updated to keep pace with technological developments and contractual arrangements. Keeping DPIAs up to date with a consistently changing list of sub-processors and their tasks is an onerous obligation which is error-prone at scale. Therefore, data processor and sub-processor details should be provided in the context of the processing operations under review, but not exhaustive, for example with functional categories of processors and sub-processors.

4. Section 0.5, explainer §9: The draft template should only address what is relevant in relation to the processing operations under review. Under Article 35.7 GDPR, a DPIA must provide a systematic description of the envisaged processing operations and the purposes of the processing. A requirement to document everything that is left out, and why it has been left out, risks creating an unnecessary inventory of features, configurations and deployment choices which will provide no added value while increasing the work required to create and maintain DPIAs.
5. Section 0.5, explainer §11: The draft template should not imply that its publication in full or external sharing is expected. Publishing a DPIA is not a legal requirement of the GDPR. DPIAs may contain confidential information about controls, system architecture, risk assumptions, mitigation strategies, protection measures, contractual arrangements, and operational dependencies. Controllers may consider publishing parts of it, such as a summary or a conclusion, but it remains their decision to do so and this requirement should be removed.¹
6. Section 1.3, explainer §20: The explanatory text of the draft template should acknowledge that requiring granular or exhaustive details about the technical and organizational methods, tools, infrastructure and resources may raise security or confidentiality concerns as this information may be protected under the trade secrets directive. Architecture and supporting assets such as asset-level hardware, network components, software modules, technical layers or functions should only be described at the appropriate level of detail.
7. Section 2.2.2, explainer §26: The draft template should focus on accuracy of the processed personal data rather than requiring prescriptive metrics, thresholds or quantified justifications for each data set which will provide little added value and may quickly become outdated. Data quality requirements should only be relevant to the processing operations under review. We recommend amending this explainer to “Provide **any relevant** data quality metrics, requirements or thresholds.”
8. Unstructured Assessment of Measures: The structural placement of Technical and Organizational Measures (TOMs) happens before the actual risk identification. This raises the question that if TOMs are meant to mitigate specific risks, how can their adequacy be assessed before those risks have been identified? The template’s “Action Plan” in Section 4.2 addresses this partially by providing for “additional mitigating measures” after risk identification. However, this is a further bifurcation of baseline TOMs documented pre-risk, with additional measures documented post-risk. It is unclear which measures belong where.

¹ [Guidelines on Data Protection Impact Assessment \(DPIA\) \(wp248rev.01\)](#), 2017, p.18.

9. Voluntary Adoption: The EDPB aims to use this as a unified baseline on a voluntary basis, but different EU supervisory authorities maintain their own localized requirements. Organizations operating across borders still face the hurdle of reconciling the EDPB's general baseline reflected in the template DPIA with specific, stricter national rules. This creates potential risks for companies that choose to adopt the EDPB template, without a clear upside or safe harbor for doing so. Local authorities may provide comments on the EDPB template, and further update their own localized templates, but it's not a guarantee that all regulatory expectations will be harmonized as a result of this process.

About VIDEO GAMES EUROPE

10. Since 1998, Video Games Europe has ensured that the voice of a responsible video games ecosystem is heard and understood. Its mission is to support and celebrate the sector's creative and economic potential and to ensure that players around the world enjoy the benefits of great video game playing experiences. Europe's video games sector is worth €26.8bn and accounts for 116,419 jobs. 54% of Europeans are video game players. We publish a yearly [Key Facts](#) report with the latest data on Europe's video games sector.

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