



18 June 2025

Feedback on the Call for Evidence – Impact Assessment on Retention of Data by Service Providers for Criminal Proceedings

*Submitted on behalf of telecommunications providers in Denmark
Telecommunications Industry Association Denmark - Teleindustrien*

We welcome the Commission's initiative to assess the need for an EU-wide framework on data retention for criminal investigations. Denmark has already adapted its national framework to align with CJEU rulings, and we therefore stress the importance of designing any future EU measures in a way that avoids excessive costs and operational burdens for telecommunications providers.

In our view, the following principles are essential for any future regulation:

- **Scope limitation:** Data retention obligations must be limited to data naturally generated within telecommunications networks. Telecom providers' primary role is to deliver communications services—not to act as investigative entities. Future regulation must avoid any requirement for providers to modify their network architecture or technical set-up for the purpose of enabling surveillance or data collection beyond what is already produced as part of normal operations. Requiring such changes would be both disproportionate and costly, and would divert resources away from the core task of delivering high-quality connectivity.
- **Best-effort basis:** Retained data should be provided on a best-effort basis only, with no quality or completeness requirements. Telecommunications providers collect data for operational and billing purposes, not for evidentiary use, and this data may vary in quality and structure. Imposing requirements for data validation, integrity, or completeness would create significant technical and financial burdens without improving investigative outcomes. Furthermore, retained data should not be processed or analyzed by telecom providers before being handed over. Any interpretation, correlation, or further processing should be carried out exclusively by law enforcement authorities, to ensure integrity of the data and avoid the risk of compromising or altering its evidential value.
- **Traffic data only:** Retention should apply strictly to non-content traffic data, in line with fundamental rights and legal precedent. This includes metadata such as call logs, timestamps, and location data—but never the substance of the communications. It is important to stress that existing legal frameworks already provide the necessary tools for lawful interception of communication content, under strict judicial oversight and in

clearly defined cases involving serious crime. Content surveillance should remain entirely outside the scope of general data retention rules.

- **Proportionality and legality:** Any retention obligations must be proportionate, and fully compliant with EU case law—especially in terms of necessity, purpose limitation, and judicial safeguards. Blanket or indiscriminate retention measures have been repeatedly rejected by the CJEU. Future rules must be narrowly tailored to avoid undue interference with fundamental rights.
- **Geographic targeting:** Data retention should be based on geographic criteria rather than person-specific targeting, which is technically difficult and administrative burdensome. Geographic targeting is a practical and feasible method for limiting retention to areas relevant for investigations, while respecting the principle of proportionality.

Moreover, to ensure **fair competition** and **level playing field**, we urge that:

- **OTT service providers** (e.g. messaging apps and communication platforms) be subject to the same rules as traditional ISPs—with regard to data retention. The current regulatory asymmetry distorts competition and undermines the effectiveness of retention rules.
- The **ePrivacy Directive**, which introduces outdated and inconsistent obligations across different service types, is repealed.
- **No mandatory data delivery format** should be imposed. It should be sufficient for data to be provided in a machine-readable format, as this enables automated processing by authorities while allowing technical flexibility for providers. Requiring harmonised delivery formats across the EU would introduce unnecessary complexity, increase compliance costs, and delay implementation without providing significant added value.

We appreciate the Commission's engagement with stakeholders and look forward to contributing further during the public consultation phase.

/Jakob Willer, Director, Telecom Industry Association Denmark