

Don't burden the taxpayer!

Make eIDAS 2 even more powerful by deleting Article 6a 3g.

On 9th February the ITRE Committee voted to approve a new version of eIDAS¹ that establishes a framework for a European Digital Identity. The European Signature Dialog (ESD)² supports the upcoming triilogue but wants to draw attention to an important change to the ITRE draft that can make eIDAS even **more powerful and coherent**.

ITRE has, *unlike* the Council and the Commission, *added* a requirement that the European Digital Identity Wallet (EDIW) will enable the user to “*sign by means of **qualified electronic signatures** which shall be offered to all users by default and free of charge*”³.

The free of charge obligations would apply to *all users*, irrespective of being a natural or a legal person, including the largest corporate and government users.

ESD understands that MEPs would want qualified electronic signatures to be “free of charge” to foster the acceptance and use of this trust service.

However, the proposal does not take into account the different approaches in the member states. It interferes with existing models of trust services. Finally, trust services have to be paid for. This is especially true for large companies, who would profit from this new provision without any need.

Our chief concern is that the amendment will create uncertainty as to whether anyone and who *will actually step up to pay* for the **critical infrastructure and ongoing maintenance necessary** to support the issuance of qualified certificates that are required for qualified electronic signatures.

Here are the **unfortunate results** likely to occur:

- ⇒ ... **‘free of charge’ would shift the financial burden to the taxpayer for no good reason**. Such change will lead to the disappearance of the existing private solutions market since possible “free” business models would ultimately have to be subsidised by all taxpayers.
- ⇒**‘free of charge’ would interfere adversely with a healthy, competitive and highly innovative market**. At this moment there are 254 QTSPs offering qualified signature and seal certificates in the EU, and even more *non*-qualified signature and seal offerings.

This is a highly competitive and innovative market which strongly benefits the consumer. Companies that currently provide trust services are required to make significant up-front investment and provide regular audits and security checks.

¹ Regulation (EU) No 910/2014.

² The European Signature Dialog (ESD) represents the leading Trust Service Providers (TSPs) that enable secure digital interactions across Europe every day.

³ European Digital Identity Wallet (EDIW). Article 6a Nr.3. g - CA eIDAS adopted by ITRE.

A free-of-charge model would deprive many TSPs of an economic basis to continue and so would reduce market dominance to very few.

- ⇒ ... **'free of charge' would primarily favor large companies.** While natural persons may use their wallet on a normal scale (e.g., a few signature a month), legal persons will likely be major users of a wallet. Some organizations may do massive numbers of electronic signatures every day and/or need multiple wallet credentials. Is it really appropriate and the intended objective of MEPs that all legal persons get all these services for free?
- ⇒ **'free of charge' risks tearing apart the entire European electronic signature and seal market.** This is potentially a €2 billion market⁴ which is the backbone of eIDAS, with hundreds of companies and tens of thousands of employees distributed across all member states.
- ⇒ ... **'free of charge' poses a real threat that will undermine the eIDAS trust framework** . It will mean that ultimately Member States will be responsible for the issuance and protection of subscriber keys and qualified certificates (and associated costs) according to the trust services requirements for qualified signatures and seals, which currently is spread across hundreds of QTSPs. Such concentration could drive the market to a 'single point of failure'.
- ⇒ **'free of charge' does not equal wide acceptance and use.** Wide acceptance and use of the EDIW - which is rightly a key point in the legislator's considerations - will depend on the user experience e.g. user friendliness, availability, reliability and trust into EDIW. If issuance and use of the wallet is limited to member state providers only, the user experience may be poor and therefore adoption of electronic signatures and seals may be very slow.

In case you wish more information please write or call us:

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⁴ REPORT OCEAN – Europe Digital Transaction Management (DTM) Market, September 2022