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Dear Ms Serban,

On 23 October 2012 you notified personal data processing operations relating to the Telephone Use at the ETF for prior checking. Having examined your notification, we are of the view that the present processing is not subject to prior checking by the European Data Protection Supervisor ("EDPS").

The EDPS considers electronic communications (and in particular the processing of telephone records) to be subject to prior checking under three main cases: if there is a breach of confidentiality of communication or the processing relates to suspected offences, offences or security measures or it is intended to evaluate personal aspects relating to the data subject. This means that not all electronic communication systems are necessarily subject to prior checking.

In the present case, it appears that the personal data in question are processed only to ensure the payment of private phone calls, i.e. for billing purposes. Nothing in the notification indicates that the processing is aimed at processing data relating to offences or at the evaluation of personal aspects. At the same time, the processing does not appear to violate the confidentiality of communications, as certain traffic data are solely processed in order to allow data subjects to identify their private calls with no interference with the content of the communications. This corresponds to an established line of EDPS decisions.<sup>1</sup>

In the notification you flagged that the processing would fall under Article 27(2)(c) of the Regulation as it would allow linkages not provided for pursuant to national or EU legislation between data processed for different purposes. The EDPS does not share this conclusion. First, the notification does not mention any specific example of such linkages. It only

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<sup>1</sup> See, e.g., EDPS non prior-check letters 29 March 2007, C2006-0507 (ECSC Telephony); 25 April 2007, C2007-0204 (OLAF Service GSMs); 23 May 2007, C2004-0302 (EIB Fixed Telephony); 28 June 2007, C2007-0357 (Commission Gestel, e-Gestel).

mentions the fact that the data collected "might be used for different purposes without the information to the data subjects, including monitoring of performance". However, this is not an example of linkage with data collected with other purposes, but rather a use for a different purpose. Such use may be prohibited under Article 4(1)(b) as a purpose incompatible with the purpose for which the data were collected (ensure payment of private phone calls, as stated in the notification).

It is true that telephone records may be used in the framework of specific administrative inquiries or disciplinary investigations, for instance to investigate suspected abuses of telephone systems. However, this does not appear to be the case for the processing operations under consideration here. The purpose of the notified processing is technical and budgetary, not the evaluation of the conduct of members of staff. The data are only evaluated if a specific procedure is launched to look into an abuse of the telephone system in the context of an administrative investigation. However, that kind of procedures is not considered by the present notification. If traffic data may be used in the context of administrative investigations and disciplinary proceedings, the EDPS therefore recommends specifying the applicable procedures in the context of the related notification.

Having regard to the above, the EDPS concludes that the present processing is not subject to prior checking. Should you have further doubts, we remain at your disposal for further consultation on these matters.

Without prejudice to the above, on the basis of the notification received, we have examined some aspects of the notification and would like to comment on the following aspects:

- Information to data subjects. The notification specifies that data subjects are informed but does not indicate how. The EDPS advises to notify individually ETF staff, for instance by e-mail with the information required in Articles 11 and 12 of the Regulation and publish a privacy statement in the Intranet.
- Retention policy. The time limit on one year is not in line with Article 37 of the Regulation. The EDPS recommends to set a as short a storage period as possible of no more than six months after collecting the data, also taking into account that some of the data in question may no longer be needed once the approval has been given.

In the context of the follow-up procedure, please inform the EDPS of the concrete measures adopted based on the specific recommendations of this note within a period of 3 months.

Should you have any questions or requests for clarifications, do not hesitate to contact us.

Yours sincerely,

**(signed)**

Giovanni BUTTARELLI

Cc : Ms Tiziana CICCARONE, *Data Protection Officer ETF*