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## **Statement on the European Commission's Inception Impact Assessment: Revision of the eIDAS-Regulation – European Digital Identity (EUID) (Ares (2020) 3899583)**

Berlin, 28 August 2020

With the eIDAS Regulation from 2016, the European Commission set out to regulate electronic communication for so-called trust services in order to take advancing digitalisation into account. With the digital strategy “Shaping Europe’s Digital Future” presented in February 2020, the Commission announced that it intended to revise the regulation and place a stronger focus on digital identities. In this context, the Commission published an Inception Impact Assessment and launched a consultation.

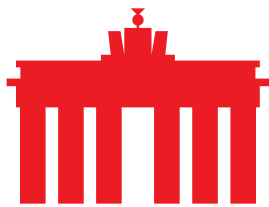
### **I. General remarks**

Secure digital identities are seen as a key factor for further digitalisation in Europe, as well as for a stronger fusion of the Digital Single Market and more efficient administration. eco therefore welcomes the efforts to strengthen trust services based on appropriate technologies. The efforts made to date have yet to meet with a sufficient level of success, and it would be desirable to see a greater penetration of associated services in public administration, the economy, and society. In general, it can be observed here that the eIDAS legal framework has created the groundwork for a wide range of special applications which are mainly used in business transactions (B2B). For simple single sign-on services, which are used in areas of lower criticality, the legal framework is not yet very advanced. However, it is precisely this area (C2B) that is central to the continued success of trust services.

### **II. On the Inception Impact Assessment in detail**

#### **▪ On the “Problem the initiative aims to tackle”**

In the Commission’s view, there is still room for improvement when it comes to the full exploitation of trust services. eco deems this assessment to be correct in principle, as is the Commission’s concern about the rather slow implementation of the regulation in the Member States. As the Commission rightly recognises, the legal framework for digital identities, which at present is not particularly well developed, is leading to a rather tentative expansion of the possibilities for digital identities. Although a market approach is essentially welcome for the development of different solutions for digital



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identities and related services such as single sign-on services, the problem of insufficient scaling and frequent fragmentation in the market remains. From eco's point of view, the creation of a standardised digital identity based on an open standard with an appropriate data format would be welcome.

#### ▪ On “Objectives and Policy Options”

For an ambitious project such as a European Digital Identity (EUid), the legal framework would have to be adapted and, if necessary, further pre-legislative rules would need to be introduced. Bearing this in mind, eco does not consider the retention of the existing framework as described under “baseline scenario” to be a particularly suitable approach for achieving the project's goals.

In eco's opinion, the “reinforced baseline scenario” described under “Option 1” would also not go far enough in guaranteeing a sufficient degree of homogenisation in the development of digital identities. The national eIDs developed in the Member States within this framework would also carry the risk of fragmentation, which, in light of the goal of a common Digital Single Market, would be less than ideal.

The proposal outlined under “Option 2” to extend the scope of the eIDAS Regulation around a European digital identity based on market design is, from eco's point of view, promising, and could serve as a basis for further digitalisation and the promotion of digital identities. However, any further development of the proposal would require care to be taken to ensure that the planned regulations would not vary too much in the individual Member States, and that fragmentation of the market does not occur.

With regard to the ideas presented under “Option 3”, eco is in favour of the approach of a single European Digital ID (EUid) which would complement the eIDAS framework and other legislation. eco would like to point out, however, that the provision of services and IDs should ideally take place on the market and not through sovereign acts introduced by national administrations. When it comes to a potential obligation for providing corresponding products and services for their use, eco believes that further discussion is needed. In eco's view, an obligation upon private providers to use EUid or, in the worst-case scenario, even one single specific product, is not very constructive. However, the wording of the Inception Impact Assessment suggests that this is precisely what the Commission has in mind. eco opposes this proposal. It should also be emphasised that the planned EUid should ideally be designed as an open standard/open data format, possibly with additional technical requirements, so that a wide variety of providers would be able to integrate it easily into their services and link it to other services and products; conversely, EU citizens would be able to



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register an EUid with a provider of their choice across borders. eco advises against a state solution.

Similar efforts to date have not been successful in the market due to their almost exclusive focus on administrative services.

#### ▪ On “Preliminary Assessment of Expected Impacts”

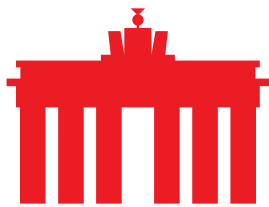
As already stated, the retention of the existing legal framework is unlikely to provide significant impetus for the broader penetration of digital services. eco therefore advocates an adaptation of the legal framework.

As it currently stands, it is not possible to conclusively assess the extent to which the two scenarios listed under Option 2 and Option 3 are suitable in their level of detail for promoting the desired objectives of increased use of digital services, with such an assessment dependent on the concrete form that such scenarios would take.

In general, eco regards the Europe-wide approach and a standardised ID, as described in Option 3 – with the help of the EUid – as desirable, as this would help to establish a Digital Single Market with rules that are standardised and uniform across Europe. However, it is crucial that such plans for an EUid and the associated services would take into account the character of an open Internet that can be used by everyone, and that basic connectivity and integration with other services and a high degree of interoperability would be guaranteed. In contrast to previous national projects, which opted for proprietary solutions, the EUid should accordingly be open and allow a wide variety of service providers and product developers to integrate it into their services and applications without difficulty, and without additional costs or license fees. At the same time, such a provision for the private sector should not entail an obligation to use it. eco is firmly of the opinion that the provision of a standardised ID, combined with market-driven solutions for the provision of services and applications around the ID, would provide the best possible solution for society, the economy, and the state.

### III. Summary and Assessment

eco supports the revision of the legal framework for trust services. In eco's view, this is particularly welcome from the perspective of strengthening digital identities and general services in areas of lower criticality (single sign-on) and is necessary in view of the current low level of penetration. With the Digital Single Market in mind, a Europe-wide standardised solution would



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make sense for citizens as well as for governments and the economy. However, when redesigning the legal framework, care should be taken to ensure that any planned EUID or alternative solution does not fall foul of the mistake made in similar national thinking from previous years, where the focus was on specific services or products or on seeking proprietary and costly solutions. If the Commission's plans are to be successful, eco regards the following to be essential: an open connectivity system with a high degree of interoperability which would allow the simplest and most cost-effective integration into various products and services and acceptable requirements for the authorisation to operate corresponding ID services; otherwise such plans will fail either because of a lack of demand due to excessive specialisation, or because of a lack of offers on the market. From eco's point of view, an obligation to use such a system would then no longer make sense, even if it were to establish itself one way or another on the market. There is scope here for innovation. Minimum requirements for the security of hardware and deployed software should nevertheless be pursued in the context of the security-by-design approach in order to reduce the risks of misuse and identity theft.

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### **About eco:**

With over 1,100 member companies, eco is the largest Internet industry association in Europe. Since 1995 eco has played a decisive role in shaping the Internet, fostering new technologies, forming framework conditions, and representing the interests of members in politics and international committees. eco's key topics are the reliability and strengthening of digital infrastructure, IT security, and trust, ethics, and self-regulation. That is why eco advocates for a free, technologically-neutral, and high-performance Internet.