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The Rt. Honourable Theresa May, MP  
Prime Minister  
10 Downing Street  
London  
SW1A 2AA

30<sup>th</sup> October 2018

Dear Prime Minister,

**Norway in the EEA is a data protection law model which would work well for the UK**

I am following up my letter to you of 20<sup>th</sup> July this year in which I argued the case, from the data protection law perspective, for the UK to stay inside the European Economic Area (EEA). That letter was based on the evidence from Iceland. I am now writing to supplement my case with evidence from Norway based on my visit last month to Oslo to interview Norway's Data Protection Commissioner. You can see the resulting article starting on p.1 of the attached October edition of *Privacy Laws & Business International Report*.

The headline, *Norway takes active role on the European stage*, shows what can be achieved from a position in the EEA. The article provides several examples of how Norway's Data Protection Commissioner retains independence while actively participating in the EU mainstream:

1. Norway's new Personal Data Act mostly follows the EU General Data Protection Regulation (GDPR) but has some exceptions within its right to national room for manoeuvre permitted by the GDPR.
2. Supplementary national regulations will be introduced when the government considers it necessary.
3. Norway's Supreme Court applies its jurisdiction where necessary.
4. The Data Protection Commissioner (DPC) and his office is independent and respected.
5. The DPC actively engages with its counterparts in the EU and the other EEA countries on its regulation of multinational companies and other parties. The EEA Member States Norway, Iceland and Liechtenstein have permanent seats on the data protection authorities' coordination body, the European Data Protection Board (EDPB). Norway plays an active role in several sectoral sub-groups, and has a good relationship with the other EEA countries and the 28 EU Members.
6. Norway and the other EEA countries have a role in the One Stop Shop regulatory mechanism, likely to be increasingly important to resolve disputes when companies operate in different Member States.

In summary, Norway is clearly making a substantial contribution from its position in the EEA by engaging in the work of Data Protection Authorities across Europe, providing an environment for maximum stability and minimum disruption regarding individuals' rights balanced against companies' legal duties.

### **Implications of the Norway model for the UK**

The free flow of personal data between the UK and EEA countries is essential for the efficient functioning of every area of society: business, voluntary organisations and public sector bodies. Although if the UK left the EEA, there would be legal mechanisms for the transfer of personal data from the EEA to other countries, they would be costly and time-consuming. Therefore, the UK leaving the EU and becoming a member of the EEA would keep the UK in a legally established and recognised association for mutual benefit.

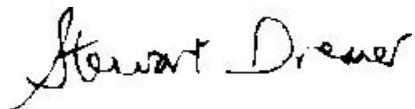
By staying in the EEA rather than leaving it, the UK's Data Protection Act 2018 would not be subject to a critical review by the European Commission when seeking an adequacy assessment, as it would have no need of one. Furthermore, the UK would not be subject to disruptive negotiations on a legally binding international UK-EU treaty. Rather than create a complex new arrangement, the EEA already exists and works harmoniously alongside the EU.

By the UK staying in the EEA, the international role of Elizabeth Denham, the UK Information Commissioner, would continue without interruption which would be beneficial for the UK's business and civil society. This position would not limit the ICO's wider international mission, confirmed by the election last week of Ms. Denham as the Chair of the International Conference of Data Protection and Privacy Commissioners.

Retaining EEA membership would suit the UK's interests well from a data protection perspective. With widespread recognition of the importance of data protection law as an essential element of international trade and protection of individuals' rights, I respectfully suggest that now is the time to take the decision to remain inside the EEA.

I would be pleased to provide further information or discuss any points if you wish.

Yours sincerely,



**Stewart Dresner**  
**Founder and Publisher, Privacy Laws & Business Reports**



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for Exiting the  
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Our ref: TO18/0829

3 January 2019

Dear Mr Dresner,

Thank you for writing to the Department for Exiting the European Union. We apologise for the delay in writing to you.

The UK and the EU agree that the continued free flow of personal data is an important underpinning feature of the future relationship for both economic and security purposes. In a globalised digital economy, data flows envelop all trade in goods and services as well as other business and personal relations. They are critical for both sides in a modern trading relationship.

The UK government's Political Declaration (available on [gov.uk](http://gov.uk)) sets out an ambitious future relationship with the EU on data protection that builds on standard EU adequacy arrangements to provide for ongoing regulatory cooperation between the ICO and the EU Data Protection Authorities and a clear, transparent framework to facilitate dialogue and minimise the risk of disruption to data flows..

As set out in the Political Declaration, the EU will begin its assessment of the UK as soon as possible after the United Kingdom's withdrawal, endeavouring to adopt decisions by the end of the implementation period. The UK is ready to begin those assessments. In the same timeframe, the UK will take steps to ensure the flow of personal data to the EU.

The Political Declaration also states that the UK and the EU should make arrangements for cooperation between the UK's Information Commissioner's Office (ICO) and the EU Data Protection Authorities. The UK is a global leader in strong data protection standards and protecting the privacy of individuals will continue to be a priority for the UK. The UK and the EU start from a position of trust in each other's standards and regulatory alignment on data protection. The UK's recent Data Protection Act 2018 strengthened UK standards in line with the EU's General Data Protection Regulation (GDPR) and the Law Enforcement Directive, providing a unique starting point for these arrangements.

It's important that data and information which has been exchanged between the UK and the EU before the end of the Implementation Period (and on the basis of the Withdrawal Agreement) is appropriately protected. Title VII of the Withdrawal Agreement sets out how this data will be protected. Following a number of detailed technical discussions, we have now reached agreement on these Articles. They address the protection of personal data, data subject to specific rules, and classified information. These provisions will not require businesses to do anything differently.

The UK will also continue to protect personal data under Union law until Adequacy Decisions have been granted, after which time the 'stock' of personal data will be protected under UK domestic rules. It is important these Decisions are in place by the end of the Implementation Period to allow for the continued free flow of personal data between the UK and the EU. UK authorities, official bodies and certain contracting entities will continue to apply specific rules, such as those on confidential treatment to non-personal data. The EU have agreed not to treat UK data and information differently on the grounds that the UK is no longer a member state, and as such, the UK's data and information will continue to be protected to high standards.

More broadly, seeking to remain in the EEA would not pass the first test that the PM set out for our future economic partnership with the EU. It would not deliver control of our borders or our laws. On borders, remaining in the EEA Agreement would mean continuing to accept all four freedoms of the Single Market - including freedom of movement. On laws, it would mean having to implement new EU legislation - automatically and in its entirety - over which in future we will have little influence and no vote. This would not deliver on the British people's desire, as expressed in the referendum, to have more direct control over the decisions that affect their daily lives.

Once the implementation period ends, the EEA Agreement will no longer apply to the UK. Instead of remaining in the EEA, we will seek to put in place new arrangements to secure our relationship with Norway, Iceland and Liechtenstein.

Thank you for taking the time to write.

Yours sincerely,  
DExEU Correspondence Team

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Mr Stewart Dresner  
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Your ref:  
Our ref: 2018/0037974  
November 2018

Mr Dresner

Many thanks for your email of 30 October to the First Minister and other ministers attaching evidence for Ministers about the Norwegian approach to data protection.

Data protection is a reserved matter, but there should be scope to examine the potential for proposals like this as the withdrawal process continues. You may wish to send any evidence to the Department for Digital, Creative, Media and Sport – further details can be found at: <https://www.gov.uk/government/organisations/department-for-digital-culture-media-sport>

The Scottish Government argues strongly for the UK to remain within the European Union, which we have demonstrated is the best option for Scotland's future. Failing that, our analysis shows that continued membership of the European Single Market and Customs Union is essential for our economy, society and people. Last month we produced '[Scotland's Place in Europe: Our Way Forward](#)', updating the case for this.

If the UK Government does not wish to maintain membership of the Single Market and Customs Union, then given the strong preference of the people of Scotland to stay in the European Union, the Scottish Government would pursue the differentiated approach for Scotland that would allow us to stay in the European Economic Area (EEA). We have already published [detailed proposals](#) for how Scotland's place in the European Single Market could be maintained if the rest of the UK chooses to leave. The Scottish Government believes that the UK Government should reconsider these proposals, which provide a credible plan for Scotland to have a future relationship with the EU that meets our particular needs.

Kind regards,

Data protection and information assets team  
Scottish Government