

Given the judgment of the Court of Justice of the European Union in C-311/18, especially paragraphs 138 to 145, Clause II of the Annex of Decision 2004/915/EC, and/or Clause 5(b) of the Annex to Decision 2010/87, we urgently seek clarification on the following questions:

**Direct Application of 50 U.S.C. § 1881a (= FISA 702)**

(1) Do you or any other relevant US entity (controller or processor) that processes or has access to EU personal data that is transferred to you fall under one of the following definitions in 50 U.S.C. § 1881(b)(4), that could likely render such activities directly subject to 50 U.S.C. § 1881a (= FISA 702)?

Yes       No       We are under a legal obligation not to answer this question

(2) Especially,

(A) are you or any other relevant US entity a telecommunications carrier, as that term is defined in section 153 of title 47 U.S.C.;

Yes       No       We are under a legal obligation not to answer this question

(B) are you or any other relevant US entity a provider of electronic communication service, as that term is defined in section 2510 of title 18 U.S.C.;

Yes       No       We are under a legal obligation not to answer this question

(C) are you or any other relevant US entity a provider of a remote computing service, as that term is defined in section 2711 of title 18 U.S.C.;

Yes       No       We are under a legal obligation not to answer this question

(D) are you or any other relevant US entity any other communication service provider who has access to wire or electronic communications either as such communications are transmitted or as such communications are stored; or

Yes       No       We are under a legal obligation not to answer this question

(E) are you or any other relevant US entity an officer, employee, or agent of an entity described in (A), (B), (C), or (D)?

Yes       No       We are under a legal obligation not to answer this question

### Processing under EO 12.333

(3) Do you, or any other relevant US entity (controller or processor) that processes personal data that is transferred from us to you, cooperate in any respect with US authorities conducting surveillance of communications under EO 12.333, should this be mandatory or voluntary?

Yes       No     We are under a legal obligation not to answer this question

### Other relevant Laws

(4) Are you or any other relevant US entity (controller or processor) that processes personal data that is transferred from us to you subject to any other law that could be seen as undermining the protection of personal data under the GDPR (Article 44 GDPR)?

Yes       No     We are under a legal obligation not to answer this question If

so, please specify these laws:

**Measures against Mass and Indiscriminate Processing in Transit (FISA 702 and EO 12.333)**

(5) As the Court of Justice has also highlighted the need to ensure that personal data is not subject to mass surveillance in transit, we seek the following clarifications:

(A) Have you implemented appropriate technical and organisational measures (see Article 32 GDPR) for every step of the processing operations which ensure that mass and indiscriminate processing of personal data by or on behalf of authorities in transit (such as under the “Upstream” program in the US) is made impossible?

Yes     No     We are under a legal obligation not to answer this question

(B) If so, please specify which technical and organisational measures (including encryption) have been taken so that neither content nor meta data can be processed by sophisticated state actors with direct access to the internet backbone, switches, hubs, cables and alike:

Please refer to the KnowBe4 DPA and SCCs, which can be found [here](#).