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Answer given by Mr McGrath
on behalf of the European Commission
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Companies offering recreational genetic testing services in the EU and processing personal data in that context, such as where they may re-identify the data subject despite the application of pseudonymisation, are bound by the General Data Protection Regulation (EU) 2016/679 (GDPR)[1].

The processing of genetic data must be based on a valid legal basis under Article 6(1) GDPR. Furthermore, genetic data is considered a special category of personal data requiring that those data can only be processed if one of the conditions in Article 9(2) GDPR is fulfilled. Member States may introduce further conditions pursuant to Article 9(4) GDPR.

Article 13 GDPR already obliges the companies, acting as controllers, to provide detailed information to individuals, such as on the purposes for which the data is processed, the recipients and storage period of the data, and, where relevant, transfers of the data to a third country.

The monitoring and enforcement of the application of the GDPR falls within the competence of the national data protection authorities (DPAs) and courts, without prejudice to the Commission's role as guardian of the Treaties. It is for the competent DPA to examine the practices of the companies concerned to ensure that EU citizens' genetic data are effectively protected.

The companies concerned are also subject to consumer protection law. In particular, the Unfair Commercial Practice Directive[2] prohibits misleading practices towards consumers, such as advertising and marketing that is likely to deceive the average consumers, or omissions of material information, when that leads to consumers taking a transaction decision they would not have taken otherwise. National courts and consumer protection authorities are in charge of enforcing these rules in individual cases.

[1] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, p. 1–88.
[2] Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive'), OJ L 149, 11.6.2005, pp. 22–39.