

Data economy package fails to deliver where needed – over delivers where not necessary

BRUSSELS (January 10th 2017) - DIGITALEUROPE has serious reservations about the ‘data economy package’ put forth by the European Commission today. While the European Commission aims to build a thriving European data economy, it has today put forward rules that will hamper European companies ability to benefit from data driven innovation, while simultaneously shying away from measures that could future proof the Digital Single Market.

The New ePrivacy Rules

DIGITALEUROPE has severe concerns regarding the proposed ePrivacy Regulation. We regret that the European Commission did not take the opportunity provided by the General Data Protection Regulation (GDPR) to simplify the legislative landscape in line with ‘Better Regulation’ principles. Instead, the European Commission has opted for an approach that is disproportionate to the objective of ensuring an appropriate level of protection for consumers and risks undermining the balance of the digital ecosystem.

“How can European companies build a data economy without data?” asked John Higgins, Director General of DIGITALEUROPE. “We fear that the Commission’s ePrivacy rules will overlap unnecessarily with the GDPR and cause countless problems for those companies seeking to digitise their industry. We struggle to understand how a legislative instrument written with an end-user at its core can apply to technologies that by definition have no end-users, such as in the case of Internet of Things,” warned Mr Higgins.

DIGITALEUROPE member companies are strongly committed to ensuring that their services provide confidential communication. However, the European Commission’s proposal does not provide any reassurance that such protection can continue to be applicable. On the contrary, it rather extends the reach of law enforcement authorities.

Data Economy Communication

DIGITALEUROPE has repeatedly called on the European Commission to use the ‘data economy package’ as a way to future proof the Single Market and extend its principles to the digital economy. Regretfully, the European Commission has failed to introduce a legal instrument on the free flow of data, which would ban unjustified national data localisation requirements. This comes despite strong cross-sectoral industry desire for legislation and support from a majority of Member States. Data localisation runs counter to the objectives of the Digital Single Market and DIGITALEUROPE believes the objective of the European Commission and Member States should be to promote the free flow of data within Europe.

“Backpedalling on the free flow of data initiative shows a worrying lack of commitment to the whole Digital Single Market project,” said Mr Higgins. “There is no indication that national laws provide better protection to citizens, but plenty of evidence that they lead to undesired fragmentation of the Single Market,” added Mr Higgins. “At a time of growing protectionism around the world, Europe needs to send a message to its trading partners that the free flow of data should be championed and localisation measures discouraged,” noted Mr Higgins.

On emerging data issues, we continue to struggle to see the existence of the specific market failure that the European Commission seeks to address. We are firmly convinced existing frameworks and contractual arrangements provide a sufficient legal framework. Various rounds of consultation have led to the same conclusion: legislative intervention is not necessary.

“We believe that further consultation will show that legislative intervention is not needed, just as all previous consultations with stakeholders have concluded. If there is any particular sectoral issue, it should be specifically addressed without adding an additional layer of complex legislation,” Mr Higgins emphasised.

Strategy on New Adequacy Decisions

We firmly support the European Commission’s strategy of pursuing additional adequacy decisions of third countries. There are many third country trading partners with strong data protection regimes that warrant a full assessment over potential adequacy standing. South Korea and Japan are excellent examples of trading partners with strong data protection regimes that require a proper assessment. The EU should work to make full use of this underutilised and difficult to obtain tool within the international data flow toolbox.

“We trust that the establishment of a new unit in DG JUST to handle international data transfer issues means the Commission is finally putting the necessary resources into this important topic,” concluded Mr Higgins.

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ABOUT DIGITALEUROPE

DIGITALEUROPE represents the digital technology industry in Europe. Our members include some of the world's largest IT, telecoms and consumer electronics companies and national associations from every part of Europe. DIGITALEUROPE wants European businesses and citizens to benefit fully from digital technologies and for Europe to grow, attract and sustain the world's best digital technology companies.

DIGITALEUROPE ensures industry participation in the development and implementation of EU policies. DIGITALEUROPE's members include 62 corporate members and 37 national trade associations from across Europe. Our website provides further information on our recent news and activities: <http://www.digitaleurope.org>

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