

# EU Member States must do more to guarantee cross-border data flows in trade agreements

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DIGITALEUROPE acknowledges the Commission's proposal for a horizontal provision for cross-border data flows and data protection in trade agreements, submitted to the Trade Policy Committee of the Council in May 2018.

*"International data flows have the huge potential to boost global and not least European growth and GDP, and already account for more than one third of the total value generated by the flows of goods at global level",* said Cecilia Bonefeld-Dahl, Director General of DIGITALEUROPE.

*"Data is a key driver for AI innovation, the creation of new business models and Europe's competitiveness in the digital age. With the rapid developments in the fields of industry digitisation, AI technologies and the Internet of Things, it has become imperative for trade partners to guarantee seamless and unrestricted cross-border flows of data. A mere commitment to ensure trade-facilitating data flows, as we see now, is insufficient",* she added.

DIGITALEUROPE reminds that unrestricted cross-border data flows in FTAs is also about enabling the flow of personal data and mixed data sets into the EU. Increased market-driven inbound data flows to the EU is particularly pertinent for Industry 4.0 and to ensure that jobs remain in the EU.

DIGITALEUROPE warns that, if adopted as such, the provisions proposed by the European Commission will hurt the EU's interest in digital trade, allowing arbitrary interventions from trade partners that could limit legitimate cross-border data flows. Without significant amendments to the text proposal, the EU's interest would be better protected under existing general GATS rules and exemptions based on the well-established trade law principles of necessity, proportionality and non-discrimination.

DIGITALEUROPE advises against adopting Article B2 of the proposed provisions, which proposes a self-declaratory exception that allows trade partners to restrict cross-border data flows when the purpose of the measure is to safeguard privacy or data protection. To DIGITALEUROPE, any such additional safeguards should be clearly aimed at achieving that objective without imposing unjustifiable restrictions.

DIGITALEUROPE closely follows the ongoing discussions in the Council and reminds of the potential misuse of data protection regulation for protectionist purposes under Article B2. This article should be withdrawn to prevent unnecessary barriers for European businesses operating overseas and a negative impact on their competitiveness.

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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 in total over 35,000 ICT Companies in Europe represented by 63 Corporate Members and 39 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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