DIGITALEUROPE

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Shaping DPP service providers: Building a secure and flexible framework

Executive summary

The Delegated Act on rules for DPP service providers presents a critical opportunity to establish a framework that is both effective and pragmatic. Open and constructive dialogue with industry will key moving forward to shape a framework that meets regulatory goals, reduces administrative burdens for all actors, and guarantees the safety and integrity of the DPP system.

As the Commission defines the Delegated Act, we recommend the following:

- Ensure key principles like data security, confidentiality, and technological neutrality are embedded in the legal text, with a thorough assessment of economic, competitive, and environmental impacts of mandatory third-party DPP services and infrastructure;
- Clarify the definition of "independent" DPP service providers under the ESPR, to ensure legal consistency and secure DPP system continuity for third-party back-up copies;
- Clarify that economic operators can authorise one DPP service provider for both primary DPP services and for back-up storage;
- Establish a common, EU-wide certification scheme for back-up services by DPP providers to fulfil the requirements of Article 10 (4) of the ESPR. Certification will ensure data security Economic operators that make DPPs available by themselves should be exempted from any certification need.

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Key principles

Data confidentiality

The DPP and its back-up copy in line with Article 10 (4) of the ESPR will include both public and confidential information such as intellectual property. This may include for instance detailed circuit diagrams needed for repair, which could allow for product re-engineering. To avoid leakage of DPP information and to protect the “need to know” principle for DPP data access, the ESPR-mandated back-up copy of the DPP should be fully accessible only to authorities and authorised stakeholders.

Technological neutrality

DPP service requirements must remain technology-neutral to ensure flexibility in how the DPP is provided. Additionally, the technologies employed must adhere to international standards to ensure interoperability.

Balanced evaluation of impact of DPP requirements, investments in infrastructure, set-up and operational expenditures to host DPPs impose extra cost on economic operators in Europe. This affects their global competitiveness.

We strongly recommend that the upcoming impact assessment for the Delegated Act considers the benefits and costs of requiring a third-party DPP service provider. The impact assessment should also consider the environmental footprint and CO2 footprint generated from necessary additional IT infrastructure in relation to DPP mandatory data sets and their management along the supply chain. Such considerations should also include DPP service providers for economic operators and the other actors in the supply chain.

Clarified notion of ‘independence’

The Ecodesign for Sustainable Products Regulation (ESPR) defines a DPP service provider as “*a natural or legal person that is an independent third-party authorised by the economic operator.*”[1] While this definition establishes the requirement for independence, greater legal clarity is needed to ensure the provision of DPP system continuity through a back-up copy stored by a third party is met. The term ‘independent’ contained in the ESPR could be currently interpreted in different ways from a legal perspective.

[1] Art 2 (32) of Regulation (EU) 2024/1781

Streamlined DPP service provider roles and flexibility for economic operators

In line with the ESPR, the upcoming Delegated Act should clarify that economic operators can authorise a single DPP service provider for offering both primary DPP services as well as storing the required back-up copy. This would simplify compliance, avoid duplication, and reduce costs for economic operators.

We also note that, without prejudice to Article 10 (4) of the ESPR, economic operators who wish to manage their DPP data and process it internally should retain the flexibility to do so. One option to interpret the notion of ''independence'' here is to understand ''independent'' as an undertaking that is part of a group that provides predominantly DPP-related services to entities within the same group.

The market for DPP service providers can be an opportunity to advance digital innovation and lower the cost for companies that may not want to host DPP data themselves, creating economies of scale. In particular, access to third-party DPP service providers should significantly lower compliance costs for SMEs and smaller actors, making regulatory adherence more accessible. Furthermore, fostering a diverse ecosystem of providers will drive innovation, enhance competition, and strengthen the resilience of the system as a whole.

Therefore, for economic operators who choose to outsource primary DPP services, it is essential that they have access to reliable, robust, and cost-competitive service providers.

Verified compliance for DPP service providers

Whichever policy option is chosen in the preparation of the Delegated Act, it should ultimately lead to minimal bureaucracy and cost implications for service providers and economic operators.

At the same time, a strong and robust DPP system is critical to maintaining integrity and data security. Potential DPP service providers should undergo proper check processes, including financial stability and information security assessments. This is particularly important to mitigate the risk of service providers, especially new businesses, going out of business or having inadequate cybersecurity mechanisms in place.

We recommend the establishment of a mandatory certification scheme for DPP service providers offering back-up services as an effective approach to address these priorities. Should such a scheme be introduced, we recommend it includes the following aspects:

- **Service-specific focus**: the scheme should allow organisations to certify at the organisational level, without requiring separate certifications for each affiliate. This approach avoids duplication and minimizes administrative effort and costs. This is key to allow organisations with multiple affiliates to comply without unnecessary

burdens. The certification process should also be unified, covering all service requirements at once.

- **Centralised defined scheme at EU level with accredited bodies:** This would prevent fragmentation across Member States, ensure consistency, and avoid the inefficiencies and increased costs associated with multiple national schemes, and mirror product legislation under the NLF. It would also eliminate the need for service providers to obtain separate certifications in each Member State, aligning with the harmonized approach of product legislation under the NLF.

- **Scope limited to service providers**: the certification scheme should apply only to DPP service providers and exclude economic operators. Economic operators may not be offering DPP back-up as a commercial service to other parties and should therefore not be bound by the same regulatory requirements applicable to service providers. If economic operators eventually opt for offering DPP back-up services to other actors, they should then obtain certification as DPP service providers. This latter point would ensure fair competition, equal standards, and a level playing field within the DPP ecosystem.

- **Adequate timeline for service providers to obtain certification:** It is important to ensure that appropriate transition periods are provided to enable DPP service providers to obtain certifications, should this be a chosen route, and for economic operators to adapt their agreements accordingly.

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