Streamlining EU ’s Digital Regulation: The Digital Package

The digital capability of European businesses

One of the key targets of Europe's **Digital Decade for 2030** was for 75% of European companies to adopt AI, cloud computing, and/or big data by the end of the decade.

However, as **last year's report** shows, we are falling well short of this goal. At the current pace, only 64% of businesses will be using cloud services, 50% will adopt big data, and just 17% will implement AI by 2030.

According to Mario Draghi’s report **The future of European competitiveness - A competitiveness strategy for Europe**, one of the key barriers to competitiveness and the development of the digital and data economy within the EU is excessive regulation.

In particular, the GDPR has slowed down the growth of data-driven businesses in the EU by as much as 15-20%, for example, in sectors such as the health technology.

The Confederation of Finnish Industries (EK) acknowledges the Commission’s commitment to competitiveness and appreciates its engagement to streamlining regulations within the digital sector.

In addition, EK has prepared practical proposals to simplify digital and data regulations to enhance European business growth and advance the EU’s data-driven economy.

EK’s main messages for EU policymakers

The Digital Package should include a review of the GDPR, AI Act, and Data Act. While addressing cyber security and data sovereignty related issues is an important step, the level of ambition needs to be raised further.

- **New regulations should be avoided.** The benefits of new initiatives such as AI in the Workplace and the Digital Fairness Act should be carefully reviewed. These sectors are already highly regulated, and there is limited experience in applying recently introduced regulations such as the DSA and AI Act.
- **The withdrawals decided in the Commission's 2025 work programme should remain in place,** (e.g. AI Liability, ePrivacy, and SEP). New impact assessments should be carried for each initiative, if they are reviewed again, and market-based solutions should be preferred.
- **The GDPR should be conducted within the framework of the Digital Package** since there are ongoing uncertainties in its application alongside new EU regulations.
- **New legislative initiatives should prioritise advancing digitalisation** to facilitate the free movement of goods and services within the single market.
- **A concerted effort should be made to address overlapping obligations** in order to improve legal certainty and ease of doing business in the EU. This applies to content regulation, such as Data Act, DSA, GDPR, AVMS and AI Act. It also applies to DMA and traditional competition law.

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Proposals to streamline the GDPR

GDPR streamlining proposals

- **Non-personal use of personal data.** The concept of personal data has become excessively broad, as a result of interpretative and adjudicative practice. As a solution, we propose that the GDPR would not be applied to the processing of personal data, if the processing is temporary and if the purpose of the processing is unrelated to the data subject (see prof. Wenderhost's *"non personal use of personal data"* proposal **here**).
- **Legal grounds for processing personal data.** Legitimate interest and contract are the most important and widely used legal bases for companies' data processing. The application should be clear in ordinary, low-risk situations. The possibility of contractual processing should be extended. The balancing test required for legitimate interests should be unnecessary in most cases, and this should be explicitly stated in the regulation.
- **The concept of a quasi-controller.** Responsibilities between controller and processor do not reflect the reality for businesses in situations where large platform services (in the role of processor) define the policies, and smaller businesses using the platforms (in the role of controller) have no real influence on the process. Consideration should be given to adding the concept of quasi-registrar to the regulation. (See a more detailed *"quasi-controller"* proposal **here**).
- **Data transfers to third countries.** The EU-US Data Privacy Framework should be further developed and legal certainty about its permanence should be increased. The Commission should take more decisions on the adequate level of data protection and assess the legality of data transfers by large players rather than companies.
- **Adequate level of anonymisation and pseudonymisation** is still unstructured and unclear. In the future, it should be sufficient to de-identify datasets to meet the requirements, so that for a third party this would no longer be data containing personal data.
- **Creating the Codes of Conduct for low-risk use cases.** Businesses need scalable solutions for typical low-risk personal data processing situations. Before the GDPR, this was done effectively through industry codes of conduct, but the process under Article 40 of the GDPR has made it too burdensome to develop them.

GDPR and ePrivacy

- **The interaction between the Directive on Privacy and Electronic Communications (ePrivacy) and the GDPR must be clarified** to prevent companies from facing overlapping obligations. In particular, a more user-friendly approach to cookie policies is needed, allowing the use of functional, security-related, audience measurement, and editorial cookies without requiring consent
- For instance, **Article 5(3) of the ePrivacy Directive regarding cookie consent should be repealed** and incorporated into a GDPR-based solution, as cookies are primarily classified as personal data. The solution would increase legal certainty and reduce differences in the interpretation of the directive among Member States.

GDPR and the development of AI models

- **It is crucial that the GDPR does not disproportionately hinder the EU's goal of becoming a leader in AI development.** **The EDPB's 2024 guidance** indicates that the training of an AI model, including its outputs, may involve personal data, and that DPA's should evaluate on a case-by-case basis whether an AI model maintains sufficient anonymity. Currently, the guidance lacks consistency for businesses and is likely to lead to fragmented interpretation among Member States.
- AI systems are increasingly responsible for automated decision-making across various sectors. **There should be a clarification of the connection between the GDPR's restrictions on profiling (Article 22) and the AI Act.** Ambiguous requirements lead to legal uncertainty for companies engaged in AI development and usage as well as slow down AI pilots in the public sector and by authorities.

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Proposals on the Digital Package by the Confederation of Finnish Industries

Streamlining Data Act and AI Act

Data Act

Reassess the requirement to share data beyond the EEA in the light of the evolving geopolitical landscape. It is essential to enhance the protection of trade secrets and the data-driven expertise of European enterprises.

Strengthen the manufacturer's right to access data from IoT products and related services for purposes such as quality control, product innovation, failure prediction, and ensuring the safe functioning of products.

Establish a compliance framework similar to the GDPR. Currently, an IoT product may be subject to decisions and penalties from authorities in multiple Member States at the same time.

Greater clarity is needed regarding the obligation to contract, especially within complex supply chains.

Remove Articles 32 and 28(1)(b) of the Data Act due to redundancy with Chapter V of the GDPR.

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AI Act

To ensure the **AI Act fosters trust and innovation**, it must be refined into a more risk-based, proportionate framework that is future-proof and eases compliance.

For example, Article 59 of the AI Act defines when it is possible to deviate from the original purpose of personal data processing under the GDPR in a sandbox-environment during AI development.

This is allowed if the AI model is being developed, for instance, to promote public health, public security, critical infrastructure, or the green transition. **The scope of these exemptions should be clarified and expanded to also cover companies' own AI development needs.**

The roles and responsibilities among **providers, deployers, and downstream providers** within extensive supply chains **require clarification.**

Implementation of the AI Act should be postponed until standardized frameworks are in place, giving companies sufficient time to integrate these standards into their operations.

The provision allowing market surveillance authorities to access the source code of an AI system (Article 74(13)) should be repealed.

DMA

The implementation of the DMA should be reasonable and genuinely advantageous for SMEs that are subject to unfair contractual terms, rather than benefitting e.g., other gatekeepers at the expense of others.

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