



Accelerating Innovation in  
Technology, Data & Media

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European Commission  
DG Connect  
CNECT-PLATFORMS\_CONSULTATION@ec.europa.eu

Dear Sir/Madam:

On behalf of the Software & Information Industry Association (SIIA), I am submitting these comments on the European Commission's consultation on "Online platforms, cloud & data, liability of intermediaries, collaborative economy." We very much appreciate the opportunity to comment on the important work the European Commission is conducting in this area. Our comments are focused on liability; the importance of trade openness; and data localization.

The Software & Information Industry Association is the principal trade association for the software and digital content industries. SIIA provides global services in government relations, business development, corporate education and intellectual property protection to the leading companies that are setting the pace for the digital age. SIIA is engaged in the European policy debate and has organized conferences and events in Brussels, London, Berlin and Geneva. We are registered in the European Commission's Transparency Register. Our ID number is: 502425118410-86.

At the outset, SIIA notes that the consultation is wide ranging covering a vast array of issues that cross different markets. As such, establishing a one size fits all approach on the complex issues outlined in the Consultation is, as a starting point, likely to be neither productive nor constructive. By way of just one example is the concept of an "online platform," which does not currently exist in law or regulation. Without developing a consensus on this fundamental definition and ensuring that it does not duplicate or confuse the myriad of laws and rules that operate in the online environment, there is a high risk that this initiative will be detrimental. In particular, it is premature to discuss additional regulations directed specifically at online platforms.

Understandably, in the wake of the attacks in Paris and San Bernardino, efforts to combat terrorism and online radicalization are being discussed with greater



intensity on both sides of the Atlantic. SIIA has [written](#) that tech companies – including online platform companies – should not be deputized in the war on terror. Instead, companies should continue to take socially responsible action to combat extremism while at the same time protecting free speech.

Continued data flows, both within the EU and between the EU and other markets, are important drivers of growth. SIIA therefore supports the concept of the Digital Single Market. For U.S. firms interested in doing business in the EU, including investing in the Union, currently an important constraint is the lack of a valid Safe Harbor Framework allowing personal data to be transferred from the European Union to the United States. It is therefore essential to complete an agreement on a new Safe Harbor Framework as soon as possible. Many European companies are also negatively affected by the lack of a Safe Harbor Framework. In this context, it is important for Europe to remain open to foreign investment. The European Center for International Political Economy recently published a [report](#) on: “The Importance of Complementary Policy for ICT in the EU.” That report highlighted the importance of trade openness. For example, foreign R&D investments and foreign investments in patents have a greater payoff in increasing ICT productivity than domestic R&D investments and patent acquisitions. This suggests that trade agreements such as the Transatlantic Trade and Investment Partnership and the Trade in Services Agreement could help develop the online market in Europe.

In general, data location restrictions are not justifiable on economic or security grounds. SIIA analyzes this issue from a trade perspective. If a country decides to impose a data location restriction, international trade laws may well permit that restriction, but it should not be discriminatory and it should restrict trade to the least extent possible. SIIA’s strong preference is for data to be permitted to flow. Our member companies are committed to complying with the laws in the countries from which they transfer personal data. In order to do this, countries need to have interoperable legal systems that permit data transfers and at the same time ensure compliance with national law. SIIA co-hosted an [event](#) in Geneva for Trade in Services Agreement negotiators on October 9, 2015 with DIGITALEUROPE which provides detail on this position.

SIIA extends its thanks again to the Commission for this opportunity to comment. We would be pleased to provide additional information or participate in Commission-organized events upon request.



Sincerely,

A handwritten signature in black ink that reads "Carl Schonander". The signature is fluid and cursive, with the first name "Carl" being more prominent.

Carl Schonander

Senior Director for International Public Policy  
Software & Information Industry Association