BUILDING THE EUROPEAN DATA ECONOMY

> Fields marked with * are mandatory.

INTRODUCTION

Data has become an essential resource for economic growth, job creation and societal progress.
Data analysis facilitates better decision-making, innovation and the prediction of future events. Europe aims to exploit this potential without infringing the rights and freedoms of people or damaging economic investments made into generating data. Within this context, the Commission aims to foster an efficient, competitive single market for data services including cloud-based ones. It needs to identify the legal, economic, and regulatory challenges, and to launch a discussion with stakeholders on future action.

On 10 January 2017, the Commission adopted the "Building the European Data Economy" package consisting of a [Communication](#) and a [Staff Working Document](#). These policy documents give an overview of issues at stake, and of the context of this consultation. Respondents are invited to read them prior to completing the questionnaire.

Purpose

The public consultation will help shape the future policy agenda on the European data economy. It will feed into a possible Commission's initiative in 2017 on Building the European Data Economy.

The objective of the consultation is to collect information on:

- whether and how local or national data localisation restrictions inhibit the free flow of data in Europe
- whether and to what extent digital non-personal machine-generated data are traded and exchanged
- the nature and magnitude of any barriers to accessing such data
- ways of tackling those barriers
- emerging Internet of Things and robotics liability challenges
- practices and issues relating to data portability, interoperability and standard

Context

The "Building the European Data Economy" package addresses restrictions on the free flow of data, including legal barriers on the location of data for storage and/or processing purposes, and a series of emerging issues relating to data such as ownership, access, reuse, portability and liability.

While the questions on liability issues in this consultation are addressed in a data economy context, a separate consultation separate consultation on the overall evaluation of the application of the Product Liability Directive (85/374/EEC) is being launched.

This consultation does not cover any issues related to personal data protection. These are extensively regulated elsewhere, namely in the new EU data protection rules, as well as through the review of the ePrivacy Directive. Issues of access to and re-use of public sector information are excluded from this consultation because they will be tackled under the upcoming review of the Directive on the re-use of public sector information (2003/98/EC).

The Commission has already engaged in an extensive dialogue on the data economy with stakeholders, in the form of sector-specific (e.g. manufacturing and financial sectors) and crosssector round-tables, workshops, conferences, bilateral meetings including targeted consultations of the Member States on data economy topics, and a public consultation in which the data economy was one of a broader range of topics.

Targeted respondents

This consultation targets:

- Businesses of all sizes
- Manufacturers and users of connected devices
- Operators and users of online platforms
- Data brokers
- Businesses commercialising data-based products and services
- Public authorities
- Non-governmental organisations
- Researcher and research organisations
- Consumers

As data collected by sensors are used in many areas, this consultation targets all sectors. Some of the sectors likely to be concerned are manufacturing, energy, automotive, health, consumer-facing commerce, Internet of Things (IoT), etc.

Consultation period

10 January – 26 April 2017

Replies received after the closing date will not be considered.

How to respond

You can reply in any EU language, even to the online English version of the questionnaire. The questionnaire in all of the other EU languages will be available as from 1 February 2017.

Only responses received through the online questionnaire will be considered for analysis. Questionnaires sent by e-mail or on paper will not be analysed except those due to accessibility needs of persons with disabilities (see below).

All questions and sections are optional. You can pause any time and continue later. You can download your contribution once you have submitted your answers.

Given the volume of this consultation, you can download a PDF version before responding to the survey online. The PDF version includes all possible questions. When you fill the survey in online, you will not see all of the questions; only those applicable to your chosen respondent category and to other choices made when you answer previous questions.

The questionnaire is divided between 4 sections:
1. *Localisation of data for storage and / or processing purposes*
2. *Access to and re-use of non-personal data*
3. *Liability*
4. *Portability of non-personal data, interoperability and standards*
While you may want to contribute to the entire questionnaire, it is also possible for you to contribute only to the sections (s) that is / are relevant to you or your organisation.

Accessibility for persons with disabilities

We accept questionnaires by e-mail or by post from people with disabilities and their representative organisations.

Please send either e-mail with your reply attached as Word, PDF or ODF document

to CNECT-CONSULTATION-DATA-ECONOMY@ec.europa.eu

or write to us at:

European Commission

DG Communication Networks, Content & Technology

Unit G1 – Data Policy and Innovation

Euroforum Building

10 rue Robert Stumper

L-2557 Luxembourg

Luxembourg

Transparency

In the survey you will be asked whether you are responding as an individual or representing the views of an organisation. We ask responding organisations to register in the Transparency Register.

We publish the submissions of non-registered organisations separately from those of registered ones.

Replies & next steps

We shall publish all contributions to the consultation unless non-publication is specifically requested in the 'About you' section of the questionnaire.

A short summary of the consultation results will be published on this page 1 month after the consultation closes. We shall issue a report with the qualitative analysis of the contributions in due course.

In case your response includes confidential data please provide a non-confidential version. Please read the Specific Privacy Statement below on how we deal with your personal data and contribution.

Protection of personal data & privacy statement

Protection of personal data
Specific privacy statement

Contact

CNECT-CONSULTATION-DATA-ECONOMY@ec.europa.eu

About you

*

 My contribution (Note that, whatever option chosen, your answers may be subject to a request for public access to documents under Regulation (EC) N°1049/2001):

○ **can be published with my personal information** (I consent to the publication of all information in my contribution in whole or in part including my name or my organisation's name, and I declare that nothing within my response is unlawful or would infringe the rights of any third party in a manner that would prevent publication.) ○ **can be published provided that I remain anonymous** (I consent to the publication of any information in my contribution in whole or in part (which may include quotes or opinions I express) provided that it is done anonymously. I declare that nothing within my response is unlawful or would infringe the rights of any third party in a manner that would prevent the publication.)

*   You are replying as:

○   an individual in your personal

○   capacity as a self-employed individual

○   on behalf <mark>of a business/ organisation</mark>

*First Name

Alena

*Last Name

Havlova

*e-mail address

cer@cer.be

*Name of your organisation

CER

Website of your organization

www.cer.be

Contact details of your organization

*

Avenue des Arts 53, 1000 Bruxelles

* What is your nationality?

- ○ Austria
- ○ Belgium
- ○ Bulgaria
- ○ Czech Republic
- ○ Croatia
- ○ Cyprus
- ○ Denmark
- ○ Estonia
- ○ France
- ○ Germany
- ○ Greece
- ○ Hungary
- ○ Italy
- ○ Ireland
- ○ Latvia
- ○ Lithuania
- ○ Luxembourg
- ○ Malta
- ○ Netherlands
- ○ Poland
- ○ Portugal
- ○ Romania
- ○ Slovakia
- ○ Slovenia
- ○ Spain
- ○ Sweden

*

◉ United Kingdom

◉ Other

Please indicate the place(s) of operation of your activity.

☐ Austria

☐ <mark>Belgium</mark>

☐ Bulgaria

☐ Czech Republic

☐ Croatia

☐ Cyprus

☐ Denmark

☐ Estonia

☐ France

☐ Germany

☐ Greece

☐ Hungary

☐ Italy

☐ Ireland

☐ Latvia

☐ Lithuania

☐ Luxembourg

☐ Malta

☐ Netherlands

☐ Poland

☐ Portugal

☐ Romania

☐ Slovakia

☐ Slovenia

☐ Spain

☐ Sweden

☐ United Kingdom

☐ <mark>Other</mark>

Please indicate the place(s) of operation of your business/organisation.

*

- ☐ Austria
- ☐ Belgium
- ☐ Bulgaria
- ☐ Czech Republic
- ☐ Croatia
- ☐ Cyprus
- ☐ Denmark
- ☐ Estonia
- ☐ France
- ☐ Germany
- ☐ Greece
- ☐ Hungary
- ☐ Italy
- ☐ Ireland
- ☐ Latvia
- ☐ Lithuania
- ☐ Luxembourg
- ☐ Malta
- ☐ Netherlands
- ☐ Poland
- ☐ Portugal
- ☐ Romania
- ☐ Slovakia
- ☐ Slovenia
- ☐ Spain
- ☐ Sweden
- ☐ United Kingdom

*

☐ Other

* Please specify

EFTA and EU candidate and neighbouring countries

☐ Other

Please indicate the sector/s in which your business/organisation mainly operates:

☐ Manufacturing and processing

☐ IT services, including app/software developers

☐ Agriculture and Food

☐ Health and Care

☐ Energy and utilities

☐ <mark>Automotive and Transport</mark>

☐ Financial services/banking/insurance

☐ Retail/electronic commerce

☐ Wholesale trade

☐ Electronic communications

☐ Media, communication, entertainment

☐ Education

☐ Public sector

☐ Research ☐

Other

* Please specify

[   ]

Which (if any) of these statements apply to you (it is possible to answer yes to several of these statements)?

☐ My organisation has significant business in the production and market commercialisation of sensorequipped machines, tools, devices

☐ <mark>My organisation has significant business in internet-based platforms that also aim at generating data through the usage of such platforms by the various users</mark>

☐ <mark>My organisation is or is interested in accessing data held by an organisation which has significant business in the production and market commercialisation of sensor-equipped machines, tools, devices</mark>

☐ <mark>My organisation is or is interested in accessing data held by an organisation which has significant business in internet-based platforms that also aim at generating data through the usage of such platforms by the various users</mark>

☐ My organisation is an SME and/or a start-up

* Is your organisation included in the Transparency Register?

If your organisation is not registered, we invite you to register here, although it is not compulsory to be registered to reply to this consultation. See Why a transparency register?

○ <mark>Yes</mark>

○ No

○ Not applicable

If yes, please indicate your Register ID Number.
   7574621118-27

1. Localisation of data for storage and/or processing purposes

The main objective of this part of the questionnaire is to get detailed insights into the extent, nature and impacts of data localisation restrictions within the EU and what could constitute limited, justified grounds for such restrictions without unduly jeopardising the free movement of data within the EU (except for restrictions to the free movement of personal data for reasons connected with the protection of natural persons with regard to the processing of personal data. The Treaty on the Functioning of the European Union and the General Data Protection Regulation (GDPR) establish the free flow of personal data within the EU and set out the rules relating to that free movement).

Another important aspect is to find out to what extent businesses store or process data in multiple geographical locations within the EU and what are the reasons for this multiple location and, respectively, local storage or processing. The Commission also seeks respondents' views on the perceived impacts of the removal of data localisation restrictions within the EU. The Commission welcomes replies particularly from businesses, including SMEs, and public sector organisations.

Which of these statements apply to you in relation to data storage or processing?

- ☐ My organisation is a data service provider
- ☐ My organisation operates its own data infrastructure without using third-party services
- ☐ My organisation is a user of third-party data services
- ☐ My organisation is a scientific research organisation
- ☐ None of the above
- ☐ I don't know

Do you know about legislation or administrative rules or guidelines (including those adopted in the context of public procurement) requiring to store or process data in your or other EU countries (please see part 2 of the Staff Working Document linked to on the consultation webpage for the summary of data localisation restrictions identified so far)?

- ☉ Yes
- ☐ No

If yes, please specify:

- ☐ Legislative requirement
- ☐ Administrative rule
- ☐ Guidelines

If yes, the legislation, administrative rules or guidelines concern:

- ☐ Personal data for reasons other than the protection of natural persons with regard to the processing of personal data

☐ Business privately-held data

☐ Non-personal publicly-held data

Is your business or organisation required to comply with any of the measures?

🔘 Yes

⚪ No

⚪ I don't know

Please describe briefly the requirement

1000 character(s) maximum

CER members have to comply with EU and national legislations, which lay down rules on internal data and its storage, i.e. :
-       NIS Directive and its transposition into national laws, where railways can be identified by the MS as an operator of essential services
-       Specific accounting rules, public finance legislation and banking norms;
-       Other requirements on security of IT systems;
-       Personal data protection rules with regard to anonymised personal data

Please describe briefly the reasons, such as lack of clear information, uncertainty how the requirement is interpreted or applied in practice.

1000 character(s) maximum

Is there any impact of such a measure, notably on your business or organisation?

☐ Impact on (you) providing a service to private entities

☐ Impact on (you) providing a service to public entities, e.g. following public procurement

☐ Impact on costs

☐ Impact on entering a new market

☐ Impact on launching a new product or service

☐ Impact on (your) ability to carry out scientific research projects/studies

☐ Other

☐ No impact

☐ I don't know

Please describe

1000 character(s) maximum

What is the impact (if any) of such a measure, notably on your business or organisation?

	Small	Medium	High
Impact on (you) providing a service to private entities	☐	✖	☐
Impact on (you) providing a service to public entities, e.g. following public procurement	☐	✖	☐
Impact on costs	☐	✖	☐
Impact on entering a new market	☐	☐	✖
Impact on launching a new product or service	☐	☐	✖
Impact on (your) ability to carry out scientific research projects/studies	☐	☐	☐

If you identified an impact, what are the main additional costs or additional (regulatory) burdens:

☐ Storage of multiple copies
☐ Multiplication of servers
☐ Administrative costs
☐ Difficulties pertaining to scientific research
☐ Other
☐ I don't know

Please specify

1000 character(s) maximum

As regards the storage of multiple copies, what is the impact?

◉ Small
◉ Medium ◉
High

As regards the storage of multiple copies, what is the type of cost?

13

○ One-off cost

○ <mark>Recurring cost</mark>

As regards the storage of multiple copies, please quantify the cost.

1000 character(s) maximum
<mark>The answer to this question is delicate as it can relate to business secret interest of companies.</mark>

As regards the multiplication of servers, what is the impact?

○ Small

○ <mark>Medium</mark> ○

High

As regards the multiplication of servers, what is the type of cost?

○ One-off cost

○ <mark>Recurring cost</mark>

As regards the multiplication of servers, please quantify the cost.

1000 character(s) maximum
<mark>The answer to this question is delicate because it can relate to business secret interest of companies and the figures can be confidential</mark>

As regards the administrative costs, what is the impact?

○ Small

○ Medium

○ <mark>High</mark>

As regards the administrative costs, what is the type of cost?

○ One-off cost

○ <mark>Recurring cost</mark>

As regards the administrative costs, please quantify the cost.

1000 character(s) maximum
<mark>The answer to this question is delicate because the figures can be confidential and it can relate to business secret interest of companies</mark>

As regards the difficulties pertaining to scientific research, what are they

○ Difficulties to access the data-sets needed

○ Difficulties to process accessible data

○ Other

○ I don't know

Please specify

1000 character(s) maximum

[   ]

As regards the difficulties to access the data-sets needed, what is the impact?

○ Small

○ Medium

○ High

As regards the difficulties to process accessible data, what is the impact?

○ Small

○ Medium

○ High

For your own organisation's purposes, do you store or process your data in multiple locations within the EU?

○ Yes ○

No

If you answered yes, what are the main reasons?

☐ Economic

☐ Business continuity

☐ Access to performant technology

☐ Improve security

☐ Other

Please describe

1000 character(s) maximum

Companies usually do not buy a software and licenses nowadays but instead they increasingly subscribe to software as a service. The client companies should be in control of the host and the editor of the software and the related data, but there is not always the choice of having the control.
There is a constraint induced by obsolete technologies and administrative processes, e.g. for sharing information through copies to sector-specific centralised databases.

What is the importance of these economic reasons?

◎ Small
◎ Medium
◎   High

What is the importance of these business continuity reasons?

◎ Small
◎ Medium
◎   High

What is the importance of this reason (access to perfomant technology)?

◎ Small
◎ Medium
◎ High

What is the importance of these security improvement reasons?

◎ Small
◎ Medium
◎ High

Please quantify the savings from multiple-country storage or processing

◎ More than 75%
◎ More than 50%
◎ Less than 50%

If you answered no, what are the main reasons?

☐ Audit reasons

☐ Law enforcement concerns

☐ Critical/confidential nature of the data ☐

Other

Please describe

1000 character(s) maximum

What is the importance of audit as a reason for not storing or processing your data in multiple locations within the EU?

◎ Small

◎ Medium

○ <mark>High</mark>

What is the importance of law enforcement concerns as a reason for not storing or processing your data in multiple locations within the EU?

○ Small

○ Medium

○ High

What is the importance of critical / confidential nature of the data as a reason for not storing or processing your data in multiple locations within the EU?

○ Small

○ Medium

○ High

When providing IT-related services (e.g. cloud, applications, software, infrastructure, hosting, Over-TheTop, etc.), have your customers demanded that their data is stored or processed locally (in the same country as their relevant business establishment)?

○ Yes

○ <mark>No</mark>

○ I don't know

What is/are the main reason(s) indicated by your customers?

☐ An assumption/perception that there is a local legal or administrative requirement to do so

☐ A lack of familiarity with EU-wide rules ☐

Other

What is the importance of assumption/perception by your customers that they have to comply with a local legal or administrative requirement as a reason to demand local storage or processing?

○ <mark>Small</mark>

○ Medium

○ High

What is the importance of the lack of familiarity by your customers with EU-wide rules as a reason to demand local storage or processing?

○ Small

○ Medium

○ High

Please describe

1000 character(s) maximum

[   ]

In your opinion, should data localisation restrictions be removed within the EU?

- ◯ Yes
- ◯ No
- ◯ I don't know

In your opinion, what grounds would justify keeping data localisation restrictions within the EU?

- ☐ Public security
- ☐ Law enforcement needs
- ☐ Public policy (such as immediate availability of data for supervisory authorities)
- ☐ Public health (please note that patient data may already be covered by a free movement provision under the General Data Protection Regulation) ☐ Other

Please describe

1000 character(s) maximum

Data localisation is usually not an issue for most CER members. However, and as reflected in the previous answer, there are situations and legitimate reasons, which can justify national restrictions for data localisations. In general:
-       A high level of safety and security is necessary everywhere;
-       The IT market is global; sometimes the software publisher is different from the hosting company; for instance, some data can be provided by a software publisher in an EU country but the hosting company is outside the EU; therefore, it needs to be taken into account that more and more actors are involved and some data can be stored in the EU and later or due to the different publisher / hosting company, data can be stored outside the EU;
-       The minimum requirement could be for some data to be based in the country where the headquarter of the firm is based;

Please describe

1000 character(s) maximum

[   ]

If you answered yes, how would the removal of the localisation restrictions be beneficial to your business or organisation?

- ☐ Faster start-up or scale-up of business
- ☐ Cost reduction
- ☐ Accessing more performant or secure technologies
- ☐ Entering new Member States market(s)
- ☐ Expanding sales to foreign market(s)

☐ Developing new products/services ☐

Other

Please describe

1000 character(s) maximum

How important this benefit would be (Faster start-up or scale-up of business)?

○ Small
○ Medium
○ High

Please quantify if possible

1000 character(s) maximum

How important this benefit would be (Cost reduction)?

○ Small
○ Medium
○ High

Please quantify if possible

1000 character(s) maximum

How important this benefit would be (accessing more performant or secure technologies)?

○ Small
○ Medium
○ High

Please quantify if possible

1000 character(s) maximum

More performant solutions / globalised / EU-wide markets.

How important this benefit would be (entering new Member States market(s))?

○ Small
○ Medium
○ High

Please quantify if possible

1000 character(s) maximum

How important this benefit would be (expanding sales to foreign market(s))?

○ Small

○ Medium

○ High

Please quantify if possible

1000 character(s) maximum

How important this benefit would be (developing new products/services)?

○ Small

○ Medium

○ High

Please quantify if possible

1000 character(s) maximum

What kind of action at EU level do you consider appropriate to address the restrictions?

☐ The EU should not address the issue

☐ A legislative instrument

☐ Guidance on data storage / processing within the EU

☐ Increasing the transparency of restrictions

☐ Other

☐ I don't know

Please describe

1000 character(s) maximum

It is necessary to bear in mind that companies do not always choose where to locate their data. The offer is provided by IT / software and the choice can sometimes be limited or no choice can be made on the data localisations.

For instance, when using Microsoft office 365, the data will be based in Ireland or in the Netherlands, except for Germany, where Microsoft was forced to propose an offer based in the country with Deutsche Telekom (which means 25% increase in the cost).

2. Access to and re-use of non-personal data

This part of the questionnaire aims to understand the data trading practices of businesses, and how all businesses, in particular SMEs, and other stakeholders access and trade non-personal data, and what are the perceived barriers to such trading and re-use of such data. The Commission seeks the views of businesses and other respondents on ways to enhance access to and re-use of data and data trading in Europe today.

2.1. Accessing data

This section is addressed to businesses and organisations of any size, and especially SMEs and start-ups which are seeking access to non-personal or anonymised data for running their businesses or developing new businesses. For consumer access issues, please see section 4.1 on data portability for non-personal. The aim is to find out whether and to what extent businesses and organisations have access to the data they need to develop or conduct their tasks, and furthermore to find out what role existing legislation plays in today's data markets, and whether there is a need to revise or introduce legislation to support the European data economy.

Do you currently depend to a significant extent on data resources that you acquire from others (for products or services you offer, for your internal business processes)?

- ○ Yes
- ○ No

From what sources do you currently or would you need to acquire non-personal or anonymised data for the purposes mentioned in the previous question?

- ○ Mainly from public sector sources
- ○ Mainly from other commercial or technical sources ○
- ○ Other

Please specify

1000 character(s) maximum

CER members buy some data, but not to "a significant extent".

If you are acquiring non-personal or anonymised data produced by others, what are the remuneration conditions for accessing the data?

- ☐ For free
- ☐ Against payment
- ☐ Against the provision of a service
- ☐ Against some other form of (indirect) remuneration

Please specify

1000 character(s) maximum

It is important to realise that "open data" does not mean "data free of charge". Indeed, the investment in IT systems and providing access to data (through APIs for instance) has a cost. In addition, the volume of required data must also be taken into account: if a data user needs a huge amount of our data, the costs of increasing the IT system capacity to ensure a quality service need to be shared. (The bigger the volume of data required, the strongest the server capacity needed)
It should be determined by demand/supply, i.e. economic market structure determinants.

Have you had difficulties in acquiring data from other business actors (i.e. limited or no access to the data) or have you been exposed to business practices that you consider unfair with respect to access to such data?

- ○ Yes
- ◉ No

What is the nature of the difficulties?

- ☐ Denial of data access
- ☐ Prohibitive prices
- ☐ Terms and conditions you consider unfair
- ☐ Unforeseen termination of access that did not allow you to adapt your business model
- ☐ Other

Please specify

1000 character(s) maximum

Most business actors we deal with impose conditions based on a rudimentary evaluations of the cost of distributing the data, which they understand, and the risk of "loosing transactions" or "control" (in many forms, including "quality") to others, which they do not understand or understand only in terms of current business models, product, services, competitors and customers. What is more than anything lacking is an understanding that in a data economy the most relevant industries are network industries and trading platforms, and of the economic determinants (cost and revenue structures, externalities, etc.) of network industries and multi-sided markets. While there may be an understanding of "data" there is however a misunderstanding of the exploitation of data for new products and services, and new producers and consumers.

Our difficulties in accessing data are because (esp. in the past, when data access was not yet an issue in procurement) producers-of-machines/manufacturers prefer to grant access to (and price) the data platform, not the technical interface of the sensors. Users-of-machines (like railway undertakings) would prefer manufacturers to open the technical interfaces so as to enable "real" data access instead of access to a data platform

Does current legislation applicable to you regarding unfair contract terms or unfair commercial practices in business-to-business relations sufficiently address such problems related to access to the data?

- ◉ Yes
- ○ No

Please specify the legislation in question

1000 character(s) maximum

==There are some situations, where railways have problems accessing data, e.g. in the case of older vehicles.==

==However, it is also crucial to preserve commercial and contractual freedom, business interests need to be safeguarded. In particular, confidential business data, must remain in the control of the company. The approach of having one size fits all contract at EU level will be highly detrimental to European businesses.==

==On a case-by-case basis, railways have decided to share some of the data and developed open innovation programmes with third-parties through fitted contracts (without any legislative requirements) in order to encourage the development of new products of interest to those using the railways. Companies need to remain free to conclude bilateral contracts in a flexible way to adapt to different situations.==

==In addition, when entering into negotiation with IT / software providers, the clauses are predetermined by the IT company, nevertheless there is room for negotiation and some details can still be discussed. This does not prevent the organisation from choosing the best provider.==

To which extent does the current legislation applicable to you regarding unfair contract terms or unfair commercial practices in business-to-business relations address problems related to access to data?

- ○ To a great extent
- ○ ==To some extent==
- ○ To a minor extent

What are the reasons for the problems?

- ☐ Inadequate legal framework for unfair contract terms in B2B relations
- ☐ Inadequate legal framework for unfair commercial practices in B2B relations
- ☐ Difficulty to enforce the existing rules concerning B2B relations ☐
- ☐ Other

Please specify

1000 character(s) maximum

When acquiring data from other economic operators or when negotiating such acquisition: To what extent do you consider to be in a situation of equal bargaining power when negotiating data usage licences?

- ○ To a great extent
- ○ To some extent
- ○ To a minor extent
- ○ Not at all
- ○ I don't know

When acquiring data from other economic operators or when negotiating such acquisition: How often do you consider having been exposed to a situation that in your view would amount to an abuse of dominant position (as defined in competition law)?

- ○ Never
- ○ Rarely
- ○ A number of times
- ○ Often
- ○ I don't know

Does current competition law and its enforcement mechanisms sufficiently address potentially anticompetitive behaviour of companies holding or using data?

- ○ To a great extent
- ○ To some extent
- ○ To a minor extent
- ○ No
- ○ I don't know

Please explain

1000 character(s) maximum

Have you entered contracts in which certain data was defined as a trade secret?

○ Yes ○

No

In which circumstances did you enter into such contracts:

- ○ In relations to sales or acquisition of machines, tools and or devices with embedded sensors
- ○ In relation to performing or buying data analysis services
- ○ In relation to licensing in or out data for further re-use ○ Other

Please explain

1000 character(s) maximum

How were the data in question defined as trade secrets?

1500 character(s) maximum

As the question concerns trade secrets, we cannot provide more specific information, thus complying with the law.

Who typically invokes the right (type of party)?

☐ Users of machines, tools and or devices with embedded sensors

☐ Producers of machines, tools and or devices with embedded sensors

☐ Data platforms gathering large datasets from embedded sensors in machines, tools and/or devices ☐

Enterprises performing data analysis of machine generated data on demand (of machine owner or producer)

☐ Other

Please specify

1000 character(s) maximum

2.2. Holding and supplying data

This section is addressed mostly to businesses that hold non-personal or anonymised data not subject to significant data processing ("raw" data), in particular data collected by sensors embedded in machines, tools and/or devices and who are in a position to share them. The aim is to get more information about data licensing practices.

Do you believe existing EU legislation sufficiently protects investments made into data collection by sensors embedded in machines, tools and/or devices?

◉ Yes

◉ No

◉ Only in some scenarios ◉

I don't know

Please specify scenarios you believe are **not** covered.

1500 character(s) maximum

At the moment, there is no viable and general solution to the question of ownership for raw data generated by sensors. Companies use contracts to deal with these questions.

What needs to be protected are not the investments in themselves but a legal right to claim a fair share of the benefits that result from the investments as reward for the investment

Companies are investing heavily in IT systems in order to collect, process, use and re-use data. These investments need to be taken into account; open data policy does not mean 'open bar' for data free of charge.

Some railway companies have been developing ambitious open data policy: dedicated websites covering a wide range of data from schedules to maps (theoretical schedules of trains, location and schedules of arrivals and departures of trains in stations, daily and monthly regularity of trains, safety incidents, public transport Journey planner etc.). The railways are promoting access to data and other information that could be of use to customers. In some cases, access has been given even to dynamic data: train itineraries, stop points, train schedules and the nearest station through APIs.

The open data policies are gradually growing, as it can boost innovation by enabling third-parties to find solutions and develop services and applications of use to rail customers, and create jobs inside and outside of railways, boost mobility and increase customers' experience by enabling him/her to make choices that better fit his/her needs.

Furthermore, the data can also be used by researchers to better understand transport and its implications on other sectors.

Data has great value but it has to be properly and effectively used. The goal is to encourage innovation through a constructive dialogue with users and to create a user-friendly community forum that provides technical support if needed.

If you/your organisation hold/s raw data or data sets, do you license its usage to others?

- ☐ No / to a minor extent

- ☐ Only to sub-contractors that perform tasks closely related to the organisation's business processes

- ☐ Only to companies within an economic group (e.g. parent and subsidiaries in a corporate group /holding; affiliate, etc.)

- ☐ Only within IT innovation environments, collaborating with other companies on concrete projects

- ☐ Yes, to a wider range of players based on paying licences

- ☐ My company makes certain datasets accessible as open data (accessible online, e.g. through a web API), licensing conditions allow many re-use options and re-use is free of charge, at least for noncommercial re-use of the data

- ☐ Other

Please specify

1000 character(s) maximum
It depends on the type of data and company strategy.

What are the reasons for this?

- ☐ I cannot see any secondary use for the data

- ☐ I fear misappropriation of the data by others

- ☐ I see legal risks or legal uncertainty about what I can lawfully do with the data (please specify the nature of this uncertainty) or about the control I can exert on data especially if data is shared with third parties

☐ It is a commercial/strategic business decision (e.g. the data have strategic value for my company in competition with others)

☐ I have not been able to identify the appropriate means to license usage of my data

☐ Other reasons

Please specify

1000 character(s) maximum

Licensing is an important tool but it depends on the type of data and company strategy. Data must be designed for openness and with a clear understanding of the economic determinants of a "data" economy. Attempts at simply "opening" data that was not designed for openness, on obsolete technology or not for use in a data economy result in only adding restrictions which make the assessment of economic impacts and business benefits of an open data economy more uncertain.

By sharing data with a wider range of economic operators, railways hope to encourage the development of new products of interest to those who use the railway in order to come up with innovative solutions for our final customers. For example organising hackathons allows railways to raise interest for railways among groups such as programmers , which the rail companies would otherwise not have access to, and with a "fresh" view on how to use this data.

What kind of incentive would make you share data with a wider range of economic operators?

1000 character(s) maximum

The ability to fully participate in a data economy. A data economy is not to be confused with or reduced to policies on data.

APIs and freemium are a good model to develop open data policies.

What are the reasons for this?

☐ The data have been generated in view of onward sale

☐ I would like to generate additional revenue from the data

☐ I have amortised the costs of data generation already and would like others to innovate or benefit from the data

☐ By the nature of the data it is important that they are re-used as widely as possible (e.g. data on available means of transport; data that can have the character of a quasi-standard in a certain field)

☐ I am legally obliged to license the data

To what extent does the intended use of the data by your business partner influence the price you request for the data use?

○ Not at all

○ To a minor extent

○ To a major extent (e.g. lower licence fees are requested for non-commercial use of the data)

Which type(s) of data do you share and which type(s) of data do you not share?

1000 character(s) maximum

Railway companies have e.g. dedicated websites with a wide range of data from schedules to maps (theoretical schedules of trains, location and schedules of arrivals and departures of trains in stations, daily and monthly regularity of trains, safety incidents, public transport journey planner etc.). Also, in some cases access has been given to some types of dynamic data: train itineraries, stop points, train schedules and the nearest station through APIs. This API is a central element to bring dynamism to digital economy.

Are you including the value of at least some of the data you hold as a business asset in your balance sheets?

○ Yes ○

No

Please explain how you detail such data on the balance sheet.

1000 character(s) maximum

Please explain why.

☐ This is not required by the applicable accounting/financing reporting standards

☐ I am not sure how to measure the value of the data I have or do consider that this would prove difficult

☐ Considerations of commercial strategy

☐ I have not given this a thought ☐

Other

Please specify

1000 character(s) maximum

2.3. Possible solutions

Sections 2.3.1 and 2.3.3 are directed at all respondents, including consumers and businesses. Section 2.3.2 is directed at businesses that deal with data collected by sensors embedded in machines, tools and/or devices. The aim is to receive input on what a possible future EU framework should look like to support a thriving, diverse and innovative European data economy.

2.3.1. General objectives for a future EU framework for data access

To what extent do you agree with the following statements (1=not at all,2=to a minor extent, 3=neutral/I don't know, 4=to some extent, 5=to a great extent):

	1	2	3	4	5
Trading of non-personal machine-generated data should be enabled to a greater extent than it is today.	○	○	✖	○	○
The sharing of non-personal machine-generated data should be facilitated and incentivised.	○	○	✖	○	○
Investments made into data collection capabilities and data assets should be protected.	○	○	○	○	✖
Sensitive business and confidential data should always be safeguarded.	○	○	○	○	✖
Lock-in effects in the data market should be minimised, especially for SMEs and start-ups.	○	○	✖	○	○

2.3.2. Access for public sector bodies and scientific research

Could you agree to an obligation to license the use of (non-personal) data you hold for any of the following purposes (subject to conditions)?

☐ For the establishment of statistics by public statistical offices

☐ For government agencies for the prevention of public health or other specified risks

☐ For government agencies in order to address other societal challenges (e.g. improving urban planning, manage supply of energy)

☐ For scientific research that is funded from public resources

☐ Other

☐ I would not agree to such an obligation for any purpose

Please specify

1000 character(s) maximum

If moving to a data economy requires obligations then this means that there are no economic incentives for this move to happen by itself then, possibly *because* of existing obsolete obligations. The inability of the market to express these incentives should be studied first

Could such access be given at no cost or only the cost related to making the data available?

○ Yes
○ No

Do you consider there should be action at EU level to address access to such data for the entities mentioned in the previous question (the establishment of statistics by public statistical offices, government agencies for the prevention of public health or other specified risks, government agencies in order to address other societal challenges (e.g. improving urban planning, manage supply of energy), scientific research that is funded from public resources)?

○ The EU should not address the issue

○ Yes, but only voluntary measures (e.g. industry self-regulation)

○ Yes, through legislative measures (for a scope to be defined) ○ I don't know

2.3.3. Access for other commercial entities

The following questions ask for an assessment of a number of potential measures that might help to make more data held by one commercial entity available for re-use by another commercial entity.

Would you agree with the following statement: More data would become available for re-use if the Commission would issue guidance on how access, use and re-use of data should be addressed in contracts (data usage licences) – based on existing legislation (in particular the Trade Secrets Protection Directive, copyright legislation and the Database Directive)?

○ Yes

○ Sometimes

○ <mark>No</mark>

○ I don't know

Please explain.

1000 character(s) maximum

<mark>Business secrets and commercial freedom need to be protected as the Trade Secret Directive (Directive EU 2016/943 of 8 June 2016) foresees. This does not prevent from having ambitious and open innovation policies. On the contrary, it protects companies which do business in a competitive market.</mark>

What impacts (if any, including economic) on competition and innovation would you expect from the solution described in the previous question?

1000 character(s) maximum

<mark>Neutral at best, probably negative if the "solution" consisted in addressing means and terms on accessing data while different existing restrictions and regulations on business models stayed in place for one sector while other sectors remain exempt.</mark>

Would you agree with the following statement: The optimal solution for making data collected by sensors embedded in machines, tools and/or devices available for re-use is to leave it entirely to the parties to decide (by contract) who should have the right to license the usage of these data, how and to whom.

○ <mark>Yes</mark>

○ Sometimes

○ No

○ I don't know

Please explain.

1000 character(s) maximum

What impacts (if any, including economic) on competition and innovation would you expect from the solution described in the previous question?

1000 character(s) maximum

<mark>Investment and innovation effort would be directed according to market signals</mark>

Would you agree with the following statement: More data would become available for re-use if more data holders used Application Programming Interfaces (APIs) to facilitate access to the data they hold, and these APIs were designed and documented in a way easy to use by third party application developers.

- ⦿ Yes
- ⦿ Sometimes
- ⦿ No
- ⦿ I don't know

Please explain.

1000 character(s) maximum

This would occur because APIs provide an *abstraction* of systems and data allowing loose coupling of systems according to a shared *semantics*. The reason is technical, and has nothing to do with "access" rights and obligations.

API model for sharing data is welcome as it is already used by some railways. It is a very successful way to share data with SMEs and startups. It enables communication between software and provides a platform of dynamic data and services, which generates innovation. As an example, at SNCF, real-time data API are available since 2015 for third-parties applications; more than 5200 startups have subscribed to the API and there are 25 Million queries per month.

What would be the best way to achieve this?

- ☐ Promoting knowledge about the benefits of using APIs
- ☐ Providing technical guidance on how to design developer-friendly APIs
- ☐ Introducing API labelling systems (to measure e.g. documentation, developer availability, access licence costs, etc. of existing APIs)

- ☐ Other

What impacts (if any, including economic) on competition and innovation would you expect from the solution described in the previous question?

1000 character(s) maximum

More data would be available if non-technical barriers, such as obsolete regulation, e.g. "restrictions on data localisation", and economic and legal barriers, which can reduce or even kill incentives to investment are eliminated. However, there should not be a regulatory obligation to use APIs.

Please specify

1000 character(s) maximum

Would you agree with the following statement: More data would become available for re-use if legislation would define a set of (cross-sector or sector-specific) non-mandatory contract rules for B2B contracts, possibly coupled with an unfairness control in B2B contractual relationships) for allocating rights to access, use and re-use data collected by sensors embedded in machines, tools and/or devices were defined.

- ○ Yes
- ○ Sometimes
- ○ **No**
- ○ I don't know

What impacts (if any, including economic) on competition and innovation would you expect from the solution described in the previous question?

1000 character(s) maximum

No impact

Would you agree with the following statement: More data would become available for re-use if a set of recommended standard contract terms were to be drafted in close collaboration with stakeholders.

- ○ Yes
- ○ Sometimes
- ○ **No**
- ○ I don't know

Please explain.

1000 character(s) maximum

This relates to business law and commercial and contractual freedoms.

What impacts (if any, including economic) on competition and innovation would you expect from the solution described in the previous question?

1000 character(s) maximum

Would you agree with the following statement: More data would become available for re-use if a company holding data which it protects through technical means against illicit misappropriation had civil law remedies against such misappropriation (e.g. the right to seek injunctions, market exclusion, or to claim damages).

- ○ **Yes**

○ Sometimes

○ No

○ I don't know

What impacts (if any, including economic) on competition and innovation would you expect from the solution described in the previous question?

1000 character(s) maximum

==This would be part of addressing issues associated with a data ECONOMY. The measure would mitigate one of the risks associated with operating in a data economy, i.e. uncertainty on the rights to claim fair reward on the investment==
==Licenses are a good way to prevent any misuse of data. But the choice to use them or not shall remain open.==

Would you agree with the following statement: More data collected by sensors embedded in machines, tools and/or devices would become available for re-use if both the owner or user of the machine, tool or device and the manufacturer share the right to license the use of such data.

○ Yes

○ Sometimes

○ ==No==

○ I don't know

Please explain.

1000 character(s) maximum

==The choice to use licenses or not shall remain open.==

What impacts (if any, including economic) on competition and innovation would you expect from the solution described in the previous question?

1000 character(s) maximum

Would you agree with the following statement: More data would become available for re-use if the companies active in the production and market commercialisation of sensor-equipped machines, tools or devices were awarded an exclusive right to license the use of the data collected by the sensors embedded in such machines, tools and/or devices (a sort of sui generis intellectual property right).

○ Yes

○ Sometimes

○ ==No==

○ I don't know

What impacts (if any, including economic) on competition and innovation would you expect from the solution described in the previous question?

1000 character(s) maximum

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Would you agree with the following statement: More data would become available for re-use if the persons or entities that operate sensor-equipped machines, tools or devices at their own economic risk ("data producer") were awarded an exclusive right to license the use of the data collected by these machines, tools or devices (a sort of sui generis intellectual property right), as a result of the data producer's operation, to any party it wishes (subject to legitimate data usage exceptions for e.g. manufacturers of the machines, tools or devices).

- ○ Yes
- ○ Sometimes
- ○ <mark>No</mark>
- ○ I don't know

Please explain.

1000 character(s) maximum

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What impacts (if any, including economic) on competition and innovation would you expect from the solution described in the previous question?

1000 character(s) maximum

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To what extent would you agree to an obligation to license for the re-use of data generated by machines, tools or devices that you have commercialised under fair, reasonable and nondiscriminatory (FRAND) terms?

- ○ To a large extent
- ○ To some extent
- ○ To a minor extent
- ○ <mark>Not at all</mark>

<mark>We are in favour of reasonable and fair but non-discriminatory terms prevent us from having a freemium model.</mark>

To what extent would you agree to an obligation to license for the re-use of data generated in the context of your online platform through its users under fair, reasonable and non-discriminatory (FRAND) terms?

- ○ To a large extent
- ○ To some extent
- ○ To a minor extent
- ○ <mark>Not at all</mark>

3. Liability

This part of the questionnaire aims to understand the level of awareness, as well as the respondents' experiences and issues related to liability for products and services coming out of Internet of Things (IoT) technologies and autonomous systems. The questions are also meant to gather evidence for a proper assessment of the adequacy of the [Product Liability Directive (85/374/CEE)](#) to respond to IoT and robotics liability challenges. The Commission seeks the views of producers and users of IoT technologies and autonomous systems in this section.

3.1. Extra-contractual liabilities: IoT and robotics products and services

Questions for producers/suppliers/manufacturers

As a producer/supplier: please indicate which new IoT and/or robotics technological developments you deal with.

- ⃝ Non-embedded software/mobile apps
- ⃝ Advanced and new sensor equipment
- ⃝ Smart medical devices
- ⃝ Robots, e.g. for care, surgery, industrial robots, other
- ⃝ Automated cars
- ⃝ Smart objects, i.e. thermostats, fridges, watches, cars
- ⃝ Drones
- ⃝ Other

Please specify

500 character(s) maximum

As producer of IoT/robotics devices, did you ever experience problems in not knowing in which category (product/service) to classify the device in order to comply with a specific liability regime on provision of services or manufacturing of products?

- ⃝ Yes, to a significant extent
- ⃝ Yes, to a moderate extent
- ⃝ No, I never experienced this problem ⃝
- I don't know

How did you solve this issue?

1000 character(s) maximum

Do you, as a producer, take into account the possibility of being held liable for potential damages when pricing IoT/robotics devices?

○ Yes

○ No

Have you ever been held liable for damage caused by your IoT/robotics defective device?

○ Yes

○ No

○ I don't know

Please give detail on the type of product, the defect and the physical or financial damage caused and the country in which the liability has been recognised.

1000 character(s) maximum

Under which framework has your liability been established?

○ Extra-contractual liability

○ Specific contractual provisions ○

Other

Please specify

1000 character(s) maximum

As a producer, do you have a specific insurance for IoT/robotics products to cover your liability in case of compensation?

○ Yes

○ No

○ I don't know

Questions for consumers/end-users

As a consumer, have you suffered damage due to a defective IoT/robotics device?

○ Yes ○

No

What type of damage did you suffer?

☐ Physical damage

☐ Damage to property (other than the product itself)

☐ Pure economic loss (e.g.: financial loss, e.g. money loss) not linked to any property or personal injury

☐ Other economic losses due to missed opportunities (e.g. impossibility to work) ☐ Other

Please specify

1000 character(s) maximum

Please indicate the amount of the loss.

1000 character(s) maximum

Did you make a claim?

◉ Yes

◉ No

What was the most difficult aspect of this process?

☐ Identifying and/or proving the defect of the IoT/robotics device (e.g. Discovering where exactly the defect occurred)

☐ Proving the damage

☐ Proving the casual relationship between damage and defect

☐ Classifying your IoT/robotics device into a clear category (that of a service/product)

☐ Other

Please specify

1000 character(s) maximum

What was the reason for this?

☐ I was not aware I have the right to claim damage

☐ The procedural costs were too costly in relation to the damage suffered

☐ There was not right allowing to claim for my damage

As a consumer/user have you ever experienced a software security problem (e.g. failure of the software, cyber-attack) when using your IoT/robotics product?

◉ Yes

○ Yes, but I do not know the exactly problem or cause.

○ No

Please specify if possible the issue at stake (i.e. cyber-attack, security vulnerability, improper use of encryption, problem with authentication, etc.)

1000 character(s) maximum

As a consumer/user of an IoT/robotics device, how easy it is to update the software of your device?

○ Easy

○ I can manage

○ It is too inconvenient, complex, difficult

○ My device is automatically updated/patched by the manufacturer or developer

○ I do not have to update it

○ Other

Please specify

500 character(s) maximum

As a consumer, what (if anything) makes you reluctant to buy IoT/robotics products or services?

☐ They are technologically too complicated to use

☐ Price

☐ I am not interested

☐ Privacy risks

☐ Software security problems, Cyber security risks

☐ Legal uncertainty: I didn't know whether I would receive a compensation in case of damage

☐ In case of damage, it is difficult to understand where the cause of damage lies

☐ No reluctance at all

☐ Other

Please specify

500 character(s) maximum

Do you think IoT/robotics products and services should be equipped with an event data recorder to track what the device was doing when the damage occurred?

○ Yes

○ No

◉ I don't know

In the EU country where you live, are there specific rules on liability for damage caused by the new technological developments, such as IoT/robotics products? If you are aware of such rules, please indicate them.

1500 character(s) maximum

In your opinion, who should bear the liability in case of damages caused by defects or malfunctioning of a smart device which combines tangible goods (a car), digital goods (an app) and services (e.g data services)?

☐ The producer of the physical device

☐ The provider of the digital good (software and/or app)

☐ The producer of the physical device jointly with the provider of the digital good (software and/or app)

☐ The attribution of liability is better dealt through contracts on a case-by-case basis

☐ To be established on a case-by-case basis based on the best positioned to avoid risks

☐ To be established on a case-by-case basis based on the entity generating the highest risks ☐ Other

Please motivate your answer.

1000 character(s) maximum

As end-user (consumer/company) active in the data economy, have you directly experienced/entered into agreements, or are you aware of contracts that reduce substantially the liability of providers of IoT products/services/robots?

1000 character(s) maximum

type of contractual liability limitations have you faced (e.g. on errors, accuracy and reliability of data, defects, functionality and availability of service, risk of interception of information, cyber-attacks)?

1000 character(s) maximum

Which exclusions (damage to property, financial loss) or limitations of damages (e.g. caps) connected in any way with the use of IoT products/services/robots have you experienced or are you aware of?

1000 character(s) maximum

___

Do you think the attribution of liability in the context of IoT/Autonomous systems products and services can adequately be dealt with through contracts?

○ Yes

○ Partially

○ No

Please explain.

1000 character(s) maximum

___

3.2. Possible options and a way forward (both for consumers/end users and producers of IoT/Robotics devices)

Do you think a risk management approach in which the party that is best placed to minimise or avoid the realisation of the risk (e.g. the manufacturer of the IoT device, or the software designer) could be a way forward?

○ Yes

○ No

○ I don't have information about what a risk management approach would entail and would thus prefer not to answer

○ I don't know

In your opinion, who should bear the liability in case of damages caused by defects or malfunctioning of a smart device which combines tangible products, digital products and services?

1000 character(s) maximum

___

What type of liability, contractual or extra-contractual, is, in your opinion, the most consumer-friendly way to deal with damages caused by defects or malfunctioning in smart devices, which combine tangible products, digital products and services?

○ Contractual

○ Extra-contractual

○ None of them

○ I do not know

Please explain.

1000 character(s) maximum

___

Do you think that the liability in relation to smart devices combining products and services require an ad hoc approach at EU level?

1000 character(s) maximum

Independently of who is considered liable, should there be a liability cap, i.e. an upper bound to the compensation of damages?

- ○ Yes, for all IoT products
- ○ Yes, but only for specific products in the experimentation/testing phase
- ○ Yes, but only for specific products abiding by strict safety standards
- ○ No
- ○ I do not know

What is your opinion on the idea of best practices guidelines and/or expected care and safety standards that, if fulfilled, would automatically exclude/limit liability?

- ○ I agree, for all IoT products
- ○ I agree, but only for specific products in the experimentation/testing phase
- ○ I agree, but only for product performing automated actions or taking independent decisions
- ○ I do not agree
- ○ I do not know

Is there a need for mandatory cyber insurance?

- ○ Yes, for all IoT products
- ○ Yes, but only for specific products in the experimentation/testing phase
- ○ Yes, but only for product performing automated actions or taking independent decisions
- ○ No
- ○ I do not know

Who should subscribe such insurance contracts?

- ☐ The producer of the physical device
- ☐ The provider of the digital content (software and/or data)
- ☐ The producer of the physical device jointly with the provider of the digital content (software and/or data)
- ☐ To be established on a case-by-case basis based on the best position to avoid risks
- ☐ To be established on a case-by-case basis based on the entity generating the highest risks ☐ Other

Please specify.

Do you feel protected by the current legal framework (both Business-to-Business and Business-toConsumer) for algorithms, e.g. in case it can be proven that an accident has been caused by a bug in the algorithm?

○ Yes

○ No

○ I don't know

Please explain.

Should some sorts of standard certification or testbedding be envisaged for algorithm based services?

○ Yes

○ No

○ I don't know

Please explain.

Who should be liable for defects or accidents caused by products embedding open algorithms, i.e. algorithms developed through cooperative platforms?

☐ The producer

☐ The user

☐ The participants to the cooperative platform jointly

☐ Nobody ☐

Other

Please specify.

4. Portability of non-personal data, interoperability and standards

4.1. Portability of non-personal data

This section is directed towards all respondents, including consumers, organisations and businesses. The objective of this section is to explore business situations where portability of non-personal data can unlock opportunities and/or eliminate blockages in the data economy, as well as the effects of such conditions on all the concerned actors.

Are you using or have you used services which allow you to port or retrieve non-personal data that you had previously provided?

- ⊙ Yes
- ⊙ No
- ⊙ I don't know

Please specify the context.

- ☐ Cloud computing
- ☐ Online platform ☐
- Other

Please specify.

500 character(s) maximum

It depends on the relations e.g. B2B or B2C.
A common level playing field needs to be put in place; in case of changing an IT provider or hosting services, companies need to be able to transfer their data to other provider.
Nevertheless, this does not prevent from keeping business interests and secrets and commercial interests.

How satisfied are you with the conditions under which you can port data?

- ⊙ Very dissatisfied
- ⊙ Dissatisfied
- ⊙ Neutral
- ⊙ Satisfied
- ⊙ Very satisfied
- ⊙ I don't know

Please briefly list your reasons of dissatisfaction

1000 character(s) maximum

What advantages does/would portability of non-personal data bring to you/your business?

☐ Build value deriving from these data

☐ Trade data on data trading platforms

☐ Give access to third parties to the data

☐ Switch easily service provider without losing these data ☐ Other

Please specify.

1000 character(s) maximum

Is your business offering portability of non-personal data to its business or individual clients?

◉ Yes

◉ No

Please describe the conditions under which data portability is granted to your clients and how this influences your business model.

1000 character(s) maximum

<mark>This varies between rail companies.</mark>

Are you aware of other good examples of services offering data portability? Please specify.

1000 character(s) maximum

If you are a business user of cloud services or online platforms: Have you experienced difficulties in switching providers?

◉ Yes

◉ No

◉ I was not interested in switching providers

What issues have you faced?

1000 character(s) maximum

◉ Yes

◉ No

What types of data would you have needed to port?

1000 character(s) maximum

What costs have you incurred to resolve these issues?

1000 character(s) maximum

Do you see a specific need for businesses to receive non-personal data in a machine-readable format, as well as the right to licence the use of such data to any third party (i.e. the right of data portability under article 20 GDPR extended to any user and to non-personal data)?

○ Yes

○ No

○ I don't know

What types of data should be covered by a portability right, in your view?

○ Non-personal data submitted to cloud service providers

○ Non-personal data submitted to online platforms

○ Data generated by sensor-equipped machines, tools and/or devices ○ Other

Please specify.

500 character(s) maximum

What types of entities should be the beneficiaries of such a portability right?

○ All businesses

○ Only SMEs

○ Other

Please specify.

1000 character(s) maximum

If you have further comments on portability rights, please insert them below.

1000 character(s) maximum

What are the possible effects of introducing a portability right for non-personal data regarding cloud services? Please consider positive and possible adverse effects, and consequences for your business and, more generally, for the user of the cloud service as well as the service provider and other concerned actors.

1500 character(s) maximum

What are the possible effects of introducing a portability right regarding non-personal data generated by sensor-equipped machines, tools and/or devices? Please consider positive and possible adverse effects, and consequences for your business and, more generally, for the user of the services as well as manufactures, service providers and other concerned actors.

1500 character(s) maximum

What are the possible effects of introducing a portability right for non-personal data regarding online platforms? Please consider positive and possible adverse effects, and consequences for your business and, more generally, for the business user of the platform, consumers, intermediary (data) services, the online platform and other concerned actors.

1500 character(s) maximum

4.2. Interoperability and standards

This section is primarily directed towards businesses and organisations. The objective of this section is to get the stakeholders' opinions on the best approaches to technically support data portability and access to data.

As a provider of cloud services, do you provide "standard-compliant" solutions?

○ Yes

○ No

If yes, based on which standards?

1000 character(s) maximum

As a user of cloud services, do you give preference to "standard-compliant" solutions?

○ Yes ○

No

If yes, based on which standards?

1000 character(s) maximum

For which reasons would/do you use a "standard-compliant" cloud solution

☐ Data portability of non-personal data

☐ Service interoperability

☐ Privacy, data protection compliance & Security

☐ Cloud management

☐ Service Level Agreement ☐

Other

Please specify.

1000 character(s) maximum

What do you consider as a priority for facilitating access to data and to improve its technical and semantic discoverability and interoperability?

☐ Common metadata schemes (including differentiated access, data provenance, quality)

☐ Data catalogues

☐ Use of controlled (multilingual) vocabularies

☐ Common identifiers

☐ Other

Please specify.

1000 character(s) maximum

What technical instruments should be used for promoting/implementing your priorities suggested in the previous question?

☐ Definition of new standards

☐ Improvement of existing standards

☐ Recommendations

What legal instruments should be used for promoting/implementing your priorities suggested in the same question?

☐ EU regulation

☐ Guidelines

☐ Support actions ☐

Other

Please specify.

1000 character(s) maximum

Do you see the need for the definition of a reference architecture recommending a standardised highlevel framework identifying interoperability interfaces and specific technical standards for facilitating seamless exchanges across data platforms?

○ Yes

○ No

Please explain.

1000 character(s) maximum

Additional contribution

Please feel free to upload a concise document, such as a position paper. The maximal file size is 1MB.

Please note that the uploaded document will be published alongside your response to the questionnaire which is the essential input to this open public consultation. The document is an optional complement and serves as additional background reading to better understand your position.

If you wish to add further information - within the scope of this questionnaire - please feel free to do so here.

2000 character(s) maximum