24 June 2026

Joint Business Statement: Stop the Council Compromise on Digital Omnibus!

The European Council has given the European Commission a clear mandate to simplify and streamline EU rules with the aim of strengthening Europe's competitiveness. Digital Omnibus is the Commission's response to this mandate and represents a key opportunity to reduce regulatory burdens and restore coherence to the EU's digital rulebook. The strong political ambition repeatedly expressed by Member States must now be carried through in Council negotiations.

The current Council text (dated June 18) is unacceptable and has moved significantly away from the Commission's objective of delivering genuine simplification for businesses. With the removal of the most critical simplification measures, the council proposal no longer offers a credible pathway to reducing regulatory burden for European Businesses. **Instead, it risks producing the opposite outcome: increased administrative complexity**, higher compliance costs, and greater legal uncertainty for businesses across the EU. From a business point of view, it is unclear what political ambition is with the council's text.

We therefore call on Member States not to move forward with this compromise, and to support a more ambitious approach. In particular, we urge them to reconsider several of their amendments that were originally simplification measures in the Commission's proposal. Therefore, we urge Member States to reconsider the latest compromise, in particular the provisions outlined below;

- **Exclude Trade Secrets from the scope of the Data Act**

  Trade secrets and know-how are key to European competitiveness. Although the latest Council draft improves the Commission proposal, it still requires case-by-case proof of economic harm, creating legal uncertainty and undue burdens. Only an explicit exclusion of trade secrets from the Data Act, both for third-country transfers and within the EU, would provide effective protection and legal certainty.

- **Proposal of clarifying definition of personal data and pseudonymisation (Articles 4.1.a and Art 41a (council deleted Art 29a)**

  The removal of this proposal represents a significant setback for meaningful simplification. Not least start-ups and SME:s need clarifying and foreseeable rules to follow. The revised definition of personal data and other changes in the GDPR represent

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the most meaningful simplification efforts in the entire Digital Omnibus package. In practice, the existing definition of personal data creates significant compliance challenges and lost innovation. While pseudonymised data remains personal data for the entity that holds the re-identification key, it should be treated as non-personal data by others that do not have reasonable means of re-identification. This distinction is essential to reduce unnecessary compliance burdens, provide legal certainty, and unlock the value of data-driven innovation.

- **Legal clarity on AI use GDPR Art. 88c together with Article 9. 2 (k) and (l), 9.5 and 41**

  The Council's position and deletion is unfortunate, as it represented a valuable opportunity to simplify the framework, reduce legal uncertainty, and facilitate responsible innovation while maintaining a high level of data protection. Those articles are very important not least to AI-development. Processing of special category data (SCD) for developing technology, AI systems and models is currently highly challenging. For large-scale datasets, used by start-ups, SMEs and large companies, consent and alternative legal bases are rarely available. Therefore, it is in practice nearly impossible for commercial actors to process SCD, even where data is highly de-identified.

- **Comprehensive and evidence-based review of the ePrivacy framework (Articles 88a, 88b; Article 5(3) ePrivacy Directive)**

  The latest Council draft is an improvement on the Commission's Digital Omnibus proposal, notably because Article 88b has been removed. However, the framework remains outdated. The consent-based model in Article 5(3), originally designed for cookies, still restricts access to device data needed for innovation, digital service development, and public-interest use cases, including fraud detection and prevention. The continued overlap between the ePrivacy rules and the GDPR also creates unnecessary complexity and legal uncertainty. A comprehensive, evidence-based revision is therefore still needed to allow reasonably necessary access to and use of device data without consent, within a clear, coherent, and future-proof framework.

- **Make GDPR work in modern society, Article 70**
  The Business Federations support the use of delegated acts to codify requirements of GDPR instead of soft law in EDPB guidance. EDPB soft law tends to have an overly broad focus on the rights of the data subjects, instead of a right that should be considered in relation to its function in society and balanced against other fundamental rights, in accordance with the principle of proportionality. Thus, we encourage that the

Commission play a larger role in interpreting the GDPR consistent with its intended purpose.

- **Definition of scientific research (Article 4.1, 38)**
  The Council's position seeks to define scientific research rather than strengthen European competitiveness. Its proposed definition would effectively prevent companies from relying on the exception. What should matter is the methodological and systematic approach applied, rather than the setting in which research or technological development is conducted, whether in academia, industry, or other environments, including SMEs. Such clarification would provide greater legal certainty regarding the scope of data processing for research purposes. It would also then be better aligned with AI Act (Art 2.8.) and therefore, support innovation and development.

- **Automated decision-making (Article 22.1-2)**

  Given the increasing use of AI-driven decision-making, including high-risk use cases under Annex III of the AI Act, legal ambiguity risks undermining both compliance and innovation. The Commission proposal is therefore a necessary step towards greater coherence with the AI Act, although further clarification remains warranted. Replacing the "right not to be subject to" formulation with an authorisation framework based on three explicit legal bases aligns the text with how modern services operate. The safeguards in GDPR Article 22(3) should remain unchanged (human intervention, right to express a view, right to contest).

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