20 November 2019

ITI comments to the Finnish Council Presidency Consultation on Data Principles

Dear Ambassador Kivimäki,
Dear Ms Pietikäinen,
Dear Ms Pohjolainen,
Dear Mr Peltola,
Dear Mr Holm,

We thank the Finnish Council Presidency for making data governance a key priority under its tenure as Presidency of the Council of the European Union. We fully agree that data governance is one of the most timely and topical discussions in technology policy and ITI and its member are committed to working with policymakers globally to promote an innovation-friendly global policy environment.

We congratulate the Presidency on the publication of its Data Principles and would like to provide feedback below. We also welcome the Presidency's initiative to send a debate paper to the Council's Telecom Working Group and hopes to see the Council promote an innovation-friendly approach to the data economy that can help advance the European and global economy.

Yours sincerely,

Guido Lobrano, Vice President ITI Europe

About us - ITI is the global voice of the tech sector. We advocate for public policies that advance innovation, open markets, and enable the transformational opportunities that our companies are creating. Our members represent the entire spectrum of technology: from internet companies, to hardware and networking equipment manufacturers, to software developers. ITI's diverse membership and staff provide a broad perspective and insight on policy activities around the world.

Global Headquarters
700 K Street NW, Suite 600
Washington, D.C. 20001, USA
+1 202-737-8888

Europe Office
Rue de la Loi 227
Brussels - 1040, Belgium
+32 (0)2-321-10-90

info@itic.org
www.itic.org
@iti_techtweets

Access

Data access is a key tool to enable growth of companies globally. **Voluntary agreements** between companies constitute today the main tool for business-to-business data sharing, and several consultations at EU level in the past few years seem to confirm that there is **no demand to create legal obligations** in this area. We also caution against blanket sharing obligations that would threaten investment in research and could stifle innovation.

At the same time, facilitating a **robust government data access and data sharing environment** will be critical for the EU in the coming years. The EU should continue to catalyze economic growth through digital transformation by publishing open data under an open license and apply an **'open by default' principle**. The EU should also continue to remove other barriers to widespread open data use. These include lack of awareness and knowledge, poor data quality, and licensing barriers.

The EU should also continue to facilitate the **removal of other barriers to widespread open data use**. These barriers include lack of awareness, lack of knowledge; poor data quality; and licensing barriers.

Share

We strongly support the claim that requests for the **reuse of data by public bodies** should be proportionate, balanced and limited to the minimum extent necessary for the performance of their functions. Most importantly, they should be **based on a voluntary system**.

We urge the EU to create opportunities to collect and distribute data responsibly and broker more data-sharing agreements, invest in AI to monitor and improve AI as data is collected and ages, and also play a leading role in collecting data that will improve core supply chain issues such as predictive maintenance and safety.

The EU framework has broadly proven that most issues can be solved with **adequate application of existing rules**. Interoperability, transparency and non-discrimination should increasingly be the key principles for the future.

We urge the EU to continue to **encourage global partners to commit to similar efforts** to make open data more readily available via dialogue in official forums. We stand ready to support these efforts towards promoting greater innovations and digital transformation across industry sectors and public institutions.

Act

The GDPR is the reference for the efforts to update privacy regimes globally. These developments will help foster the trust that is critical to the adoption of new technologies in the EU. While there is no single approach to privacy which works everywhere, **stronger and coherent privacy principles globally** mean people have more control over their data and businesses can benefit from increasing trust.

As business models and applications change rapidly, it is important to avoid artificial boundaries, inflexible and overly prescriptive rules or excessive compliance burdens that may stifle innovation and the development of new businesses, or even run counter to the privacy interests they should serve.

Considerations related to switching, access to data and portability should take into account the specific situations, avoiding a one-size-fits-all approach. **Data portability should be enhanced**, provided this does

not affect IP and trade secrets, but imposing rigid standards to enable data portability could have unintended consequences, hardwiring the status quo, forestalling innovation and precluding future portability.

Innovate

Large amounts of data are increasingly a vital input for some of the economy's most important innovations, in healthcare, safety, transport and environmental protection just to name a few.

Many AI research fields and practical applications require **high-quality training data**. Sharing and making more data available would enable better training of AI algorithms, and the EU could maximize AIs development in Europe and the value of its digital assets by allowing free access to machine-learning friendly datasets for R&D, provided that sufficient privacy and security protections remain.

However, the **value of data** depends on its commercial use and in itself does not grant a competitive advantage by default, unless a business is also able to extract value from it, passing on to consumers through new applications.

When considering the best policy for data, **standardisation** can form a bridge between rules and their implementation. Still, no horizontal standard can reasonably cover technology as a whole. Standards need to be specific to sectors and uses. Also, as technology evolves quickly, relying too much on fixed standards will hinder innovation.

Trust

Ensuring **individuals' control over personal data** is key to foster their trust that data is used transparently, leading to increasing consumer welfare through better products and services.

As many promising uses of technology rely on personal data, responsible use and **compliance with existing privacy laws** are key. Developers, users, and regulators should incorporate Transparency, Privacy-by-Design, Risk Assessment and Mitigation, and Redress as key principles of responsible data use. Strong privacy protections combined with strengthened data governance can jumpstart innovation.

There can be **no privacy without security**. The EU should encourage critical cybersecurity activities as part of privacy protections, including by recognising security as a legitimate interest for processing personal data in the e-Privacy context.

Europe should work on **law enforcement cooperation** to establish efficient information-sharing and data access request mechanisms, cognizant that its approach to government access to data will set a precedent impacting individual rights globally, including in countries with fewer rule-of-law and fundamental rights safeguards.

Learn

Preparing the **EU's future workforce** to adapt to rapid technological change is critical. As technology evolves, we take seriously our responsibility as enablers of a connected world, including seeking solutions to address potential negative externalities and helping to train the workforce of the future.

ITI Promoting Innovation Worldwide   itic.org