

Brussels, 4 May 2023

SUBJECT: Deep concerns from European industry about the content and speed of Data Act negotiations

Dear President von der Leyen, Executive Vice-President Vestager, Commissioner Breton, Minister Slottner,

On behalf of DIGITALEUROPE, we are writing to you urgently to express our deep concerns regarding the current direction of negotiations for the Data Act, and to request a meeting with some of our member CEOs at your earliest convenience.

We fully support the aim to create a strong and competitive data economy in Europe. However, despite progress made, **the current proposal is not yet fit for purpose and could do lasting damage to the competitiveness of some of Europe's most successful companies** employing millions of people. Furthermore, we believe it could pose serious risks to cybersecurity and safety.

This is a file central to your digital transition priority and it will have deep and far-reaching effects across the whole economy and down through value chains. Together with 29 other European associations representing sectors as diverse as carmakers, retailers, medical devices and power grids, we recently issued a [joint statement](#) detailing our concerns. We called the proposal a 'leap into the unknown'. Although modest improvements have been made under the Swedish Presidency, our concerns have not been properly addressed. Furthermore, we are concerned at the break-neck speed at which the trilogue negotiations are running, leaving little room to discuss these complex details in depth.

Firstly, the Internet of Things is an area where European companies are leading. Companies have spent years investing in R&D, developing data-powered products and services. By forcing data sharing, we are breaking the backbone of future data-driven European business models, with little guarantee of what comes next.

In addition, if a company is forced to share data with its competitors, it may reveal details about its internal systems, processes, or technologies that could be exploited by malicious actors. This is a threat to the cybersecurity of the company and our overall cyber resilience.

The Data Act's intention is to strengthen the EU data economy. Instead, it risks undermining European competitiveness by mandating data sharing – including core know-how and design data – with not only the user, but also third parties.

Effectively, this could mean that EU companies will have to disclose data to third-country competitors, notably those not operating in Europe and against which the Data Act's safeguards would be ineffective. This not only undermines EU competitiveness and innovation, but also raises questions regarding EU technology leadership.

We would like to request your attention to the following three points, which we believe are essential to guarantee the future business models of companies in Europe:

1. Under the business-to-business data-sharing chapter, safeguards are needed to ensure that companies can refuse requests to share data where trade secrets, cybersecurity, health and safety are at risk. We also ask to rethink the proposed extension in scope of covered devices.
2. Regarding business-to-government data sharing, access requests must be proportionate and limited to clearly defined emergency situations, types of data and public bodies.
3. On cloud switching, the text should preserve contractual freedom by empowering customers and providers to agree on contracts that work best for each business case.

As you are well aware, Europe's digital industry is a major driver of economic growth and job creation, and is increasingly important to our resilience as a society. As it stands, this text will not strengthen it, and a balance must be found so it doesn't threaten successful business models in a range of sectors.

Thank you for your attention to this matter, and we look forward to hearing back from you.

Yours sincerely,



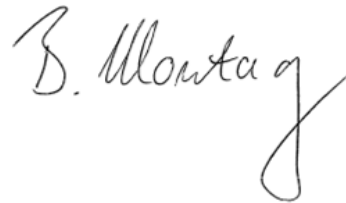
Cecilia Bonefeld-Dahl, Director General of DIGITALEUROPE



Robert Mayr, CEO of DATEV



Roland Busch, CEO of Siemens AG



Bernd Montag, CEO of Siemens Healthineers



Christian Klein, CEO and Member of the Executive Board of SAP SE



Stefan Vilsmeier, CEO of Brainlab

About DIGITALEUROPE

DIGITALEUROPE is the leading trade association representing digitally transforming industries in Europe. We stand for a regulatory environment that enables European businesses and citizens to prosper from digital technologies. We wish Europe to grow, attract, and sustain the world's best digital talents and technology companies. Together with our members, we shape the industry policy positions on all relevant legislative matters and contribute to the development and implementation of relevant EU policies, as well as international policies that have an impact on Europe's digital economy. Our membership represents over 45,000 businesses who operate and invest in Europe. It includes 102 corporations which are global leaders in their field of activity, as well as 41 national trade associations from across Europe.