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Statement on the Inception Impact Assessment of the European Commission: Legislative framework for the governance of common European data spaces (Ares(2020)3480073)

Berlin, 30.07.2020

In its Data Strategy ([COM \(2020\) 66final](#)) of 19 February 2020, the European Commission offered for the 4th quarter of 2020 the prospect of a legal framework for the governance of common European data spaces. At the beginning of July, the Commission published an Inception Impact Assessment (IIA) on this subject and, in that document, presents various approaches for its further data policy.

I. General remarks

eco – Association of the Internet Industry considers data policy to be a central factor for further economic success in Europe with regard to the use of artificial intelligence. Accordingly, eco has already commented on the Commission's data strategy. The comments in this document support, concretise and supplement these remarks by eco in the light of the explanations given in the Inception Impact Assessment.

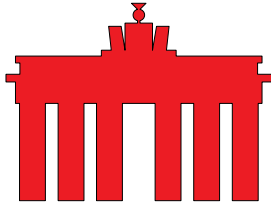
In principle, eco considers a European data policy to be sensible. It should build on existing rules and regulations and not create new complex governance mechanisms or regulation. With regard to data, the General Data Protection Regulation (GDPR) is particularly relevant, as is the ongoing discussion regarding an ePrivacy Regulation. For companies that want to use data commercially, not only must legal security be considered but also the traceability and consistency of rules.

II. About the Inception Impact Assessment in detail

▪ On "Problems the Initiative aims to tackle"

In essence, the challenges presented here are the same as those identified in the Data Strategy: the lack of access to public data, the lack of sufficient availability, and also the lack of sufficient interoperability. The minimal willingness to provide data is listed here as central.

In the summary of the problems presented, the Commission offers the prospect of central, horizontal and cross-sectoral regulation to eliminate the problems. With regard to the problems listed, eco would like to emphasise that the elimination of these does not necessarily require further regulation.



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Simplification or clarification of the existing rules may also be a solution to the identified problems. Particularly in the area of data protection, appropriate clarifications could ensure that processing is carried out in a compliant manner in accordance with the GDPR.

From eco's point of view, the path toward the donation of data holds little promise. More important would be to specify the declaration of consent in accordance with the GDPR and secondary legislation, and to focus more on the interoperability of data sets and information.

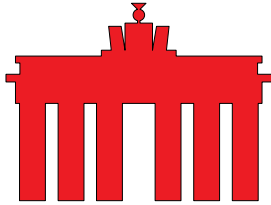
▪ On “Objectives and Policy Options”

The options identified in the Inception Impact Assessment show that the Commission takes a broad approach to the elimination of barriers to access to data and intends to use a variety of individual measures, including non-legislative ones. This approach is to be welcomed, although sight should not be lost of the aim of a coherent and comprehensible regulatory structure. eco recognises that the Commission sees the public sector in particular as central to improving access to data. As is also described in the Inception Impact Assessment, the challenge of encouraging the Member States to cooperate more in this area will become a central challenge. In addition to the ideas described here, such as one-stop shops and the handling of register data, eco believes that further harmonisation of data formats and the strengthening of interoperability is another important factor that is particularly relevant with regard to the Member States.

When promoting the provision of data by individuals, the Commission is faced with the question of whether a European regulation should be pursued here or an approach that is more in keeping with the national states and their specific requirements. eco advocates for a European approach to this issue. Essentially, this data will be predominantly subject to the GDPR, so that a regulation with a close bearing on this should be the objective.

With regard to standardisation, it should be noted as a matter of urgency that there are already various standardisation bodies and mechanisms, the work of which is legally regulated. A further standards body within this framework or a standardisation committee in this context would potentially be problematic, as this could lead to conflicting standards. As a general principle, when it comes to standardisation processes, the Commission should work to ensure that standards are as open as possible, so that the capacity for integration is ensured and programming interfaces (APIs) or similar can be developed without major hurdles. Here, too, a uniform approach throughout Europe would be welcome.

Similarly, the development of certificates and quality labels should be considered in this context. A market-driven solution based on the application of open standards is promising here.



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- **On “Likely economic impacts”**

eco shares the Commission’s assessment of the current evidence on the potential benefits of improved data access. Improved access to data is important and highlights the fact that lowering barriers to market entry in the European Economic Area, which is characterised by small and medium-sized enterprises, can be a decisive factor for the economic success of companies. In addition to this, it should be noted that, alongside access to data, the processing of data in compliance with existing regulation requires further clarification for businesses.

- **On “Likely social impacts”**

The social developments described in this section can be fuelled by improved data access. eco sees further positive effects from these developments, which can make social services cheaper, comparable to reducing market entry costs for companies.

- **On “Likely environmental impacts”**

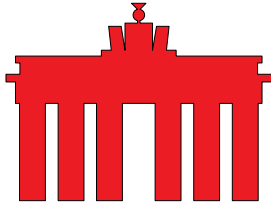
The improved ability to use data will have a positive impact on environmental protection. In this context, the creation of a “Green Deal Data Space” is seen as helpful for climate protection and the strengthening of energy-efficient solutions, from which the economy may ultimately benefit.

- **On “Likely impacts on fundamental rights”**

The provision of data is subject to the provisions of corresponding legal provisions. These must be observed. Particular attention must be paid to data protection. In line with the above-mentioned aspects for certification, it should therefore be possible to use and make available data in compliance with fundamental rights, provided that this is compatible with the GDPR and any other legal barriers. The requirements of the GDPR regarding the prohibition of coupling also apply to the provision of data.

III. Summary and conclusion

The aspects outlined in this Inception Impact Assessment provide an update on the challenges raised in the Data Strategy and provide initial approaches to their elimination. It is too early at this stage to make a final comprehensive assessment – also in view of the fact that the framework for data provision is



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unlikely to become a uniform harmonised regulation. However, the approach taken by the Commission is generally to be assessed as positive. Nonetheless, further implementation should ensure that, as well as a harmonised approach, consistent rules and approaches to governance or regulation are followed.

About eco:

With over 1,100 member companies, eco is the largest Internet industry association in Europe. Since 1995 eco has played a decisive role in shaping the Internet, fostering new technologies, forming framework conditions, and representing the interests of members in politics and international committees. eco's key topics are the reliability and strengthening of digital infrastructure, IT security, and trust, ethics, and self-regulation. That is why eco advocates for a free, technologically-neutral, and high-performance Internet.