

Contribution to European Data Governance Regulation proposal

France Industrie welcomes the proposal of the European Commission for a Regulation on European data governance (Data Governance Act – DGA). We share the Commission’s objective to foster the availability of data by increasing trust and strengthening data sharing mechanisms across the EU. France Industrie believes that having clearer rules will pave the way for the creation of ‘sectorial European data spaces’ and aid voluntary data sharing in different sectors and domains of public interest, while respecting IPR, data privacy and security requirements. In addition, we would like to stress that contracts in business-to-business (B2B) are crucial, and freedom of contract needs to remain a foundational aspect of any European data space.

France Industrie would like to point out, among other things, the following points:

1/ Scope

Regarding the scope, France Industrie recommends that Recital 22, as well as Articles 9, 10 and 11 of the DGA be reviewed to exclude private European platforms whose purpose is to collect, process and analyze data from several actors (Suppliers, partners, customers...) to offer value-added digital services, including beyond themselves to a wider ecosystem. The definitions of data intermediaries are currently too vague and could be interpreted as referring to most B2B private platforms. If these platforms were to be subject to the strict obligations of Articles 10 and 11 of the DGA it would deprive these private platforms of any industrial and commercial interest and would necessarily lead the private sector to disengage from future initiatives and innovations in this area. We believe that this is contrary to the digital policy and the objectives set by the European Commission. Certain obligations, notably the neutrality and unbundling principle, seem to us to go well beyond the legitimate objectives of the European Union's public policy.

Furthermore, there are already many data sharing models that work well in the manufacturing industry and are based on contractual agreements between companies. These mutual agreements between companies should remain outside the scope, as the necessary trust already exists in these agreements. Therefore, we would recommend an additional paragraph in Article 9, clarifying that the Chapter III is not applicable to data sharing in the context of industry arrangements or services, especially those that are already in place.

2/ The European Data Innovation Board

As the Commission stresses the importance of dialogue with experts, France Industrie welcome the proposition to establish a forum for this dialogue: a European Data Innovation Council. Regarding this Council, it is crucial that the industries are involved in this structure. Therefore, we would like to the manufacturing industries included in the specific sectors listed in both the Recital 40 and the Article 26, as manufacturing is the backbone of our economy. France Industrie proposes to formulate the Recital 40 as follows: *“In order to successfully implement the data governance framework, a European Data Innovation Board should be established, in the form of an expert group. The Board should consist of representatives of the Member States, the Commission and representatives of **the industry, e.g., relevant data spaces and specific sectors (such as health, agriculture, manufacturing, transport and statistics) (...)**”*. Article 26 should also be changed accordingly.

3/ International Access and non-personal data transfer outside the EU

The international access regime set out in Article 30 is an ambitious one. It is by some extents similar to the rational of French data filtering law but seems not limited to sensitive corporate data. The principle of protection of sensitive EU company data can be supported although modalities must be proportionally parametered, as these data transfers are necessary and must not be hindered at the risk of excessively paralyzing European industries in their functioning.

4/ Incentives for data sharing

Finally, France Industrie believes that the incentives to share data must be defined more clearly in the proposal in order to encourage industry to take part in the new ecosystem created by the DGA.