

## Data Act – getting the right framework key to digital transformation and business competitiveness

Speaking on the launch today of the Commission’s proposed Data Act, EuroCommerce Director General Christel Delberghe welcomed the objectives of the proposal but voiced a number of concerns at its detailed provisions:

*“Data is at the heart of the retail and wholesale sector, an essential resource which supports economic growth and innovation of its ecosystem. With our complex supply chains, we already share massive volumes of data based on contractual relationships and this works to the advantage of all involved. This is a model we wish to see the Act preserve.”*

We therefore support the Data Act’s objectives in encouraging more data sharing and creating legal certainty. We want the proposal to succeed in achieving these objectives; we are therefore keen to point to a number of provisions which need more thought to avoid deterring, rather than incentivising companies to gather and process data valuable to others.

While seeing much value in the objectives of the Act, EuroCommerce, in line with a number of other sectors, has pointed to a number of areas where the present provisions of the draft Act need further consideration and change:

- The proposal sets very low thresholds for access by public authorities to private data with no clear criteria covering the justification and purposes of such access and no clear safeguards. It would be disproportionate if the rules allow public authorities to sequester such commercially sensitive data beyond the normal obligations under existing rules.
- Our sector shares, on a voluntary and contractual basis, substantial volumes of data to and from other parts of the supply chain necessary for all involved to do business. The Commission concluded no gap in data sharing concerning our sector, and the Act should avoid cutting across mutually beneficial and well-functioning contractual agreements of this sort, and disrupting the sort of rich data sharing that the Act aims to encourage.
- We are therefore concerned that mandatory one-size-fits-all regulation covering all sectors of the economy might actually work against more data sharing and disincentivise companies from investing in high-quality data sets. Existing or upcoming sectoral legislation would be the best means of providing legal certainty and rules which fit businesses’ individual circumstances. Incentives for voluntary sharing of data, and initiatives such as the drafting of voluntary model contracts rather than mandatory regulation could be more effective in encouraging companies to share data responsibly and is in any case in no way helpful to our sector or the partners with whom we regularly deal.
- The inclusion in the proposal of a fairness test, with no clear definition of what is meant by fair, creates unnecessary legal uncertainty and potential for conflict, and we would ask whether such a vague concept is appropriate in a legally-binding text in such a sensitive area.

We will be actively engaging with the co-legislators to achieve a robust legal framework which will help Europe become a leader in a data-driven society and that supports greater business competitiveness.

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*EuroCommerce is the principal European organisation representing the retail and wholesale sector. It embraces national associations in 28 countries and 5 million companies, both leading global players such as Carrefour, Ikea, Metro and Tesco, and many small businesses. Retail and wholesale is the link between producers and consumers. Over a billion times a day, retailers and wholesalers distribute goods and provide an essential service to millions of business and individual customers. The sector generates 1 in 7 jobs, offering a varied career to 26 million Europeans, many of them young people. It also supports millions of further jobs throughout the supply chain, from small local suppliers to international businesses. EuroCommerce is the recognised European social partner for the retail and wholesale sector.*