

## Data Act: a strict regulatory regime will not help create a competitive EU data economy

Today, the European Commission has adopted its Proposal for a Regulation on ensuring fairness in the allocation of value across the data economy ('Data Act'). The proposal sets out rules applicable to device manufacturers, digital service providers, public authorities and users. While Ecommerce Europe overall welcomes the idea of unlocking the potential of the data economy with a view to making the EU a global leader in the market, the proposal also raises some concerns.

Luca Cassetti, Secretary General of Ecommerce Europe, commented: "*Ecommerce Europe generally applauds the endeavour of the European Commission to establish legal certainty when it comes to data sharing in the EU. However, we believe that the key to a successful data-driven society is a well-functioning incentive system built on best practices from the industry, rather than a strict regulatory framework*".

The scope of the proposed legislation seems far-reaching and could benefit from further clarifications. To ensure legal certainty, the Data Act should provide clear and unambiguous definitions and be fully aligned with existing or upcoming legislation on data sharing such as the General Data Protection Regulation, the Data Governance Act and the Digital Markets Act.

We urge policymakers to preserve economic incentives for all market operators and take into account the sector-specific characteristics of the different types of actors it applies to. Policymakers should refrain from imposing one-size-fits-all rules that may result in stifling sectorial competition and arbitrarily hit or benefit one sector over another.

While Ecommerce Europe generally encourages data sharing between businesses and public authorities for the public interest, we have some concerns regarding the mandatory nature of the data access requirements. We believe that data sharing should occur on a voluntary partnership basis and that a clear and comprehensive list of conditions under which public sector bodies can request such access should be included in the legislation.

Given the Data Act's ambitious scope, Ecommerce Europe considers it crucial that the text incentivises data sharing and data-driven innovation, while at the same time considers important principles such as feasibility, privacy, security, intellectual property and the protection of trade secrets. Ecommerce Europe is committed to constructively cooperating and supporting policymakers in their negotiations on this important file.

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### Press contact Ecommerce Europe

Luca Cassetti

Secretary General

Tel: +32 2 502 31 34

Email: [lucacassetti@ecommerce-europe.eu](mailto:lucacassetti@ecommerce-europe.eu)