Regulatory environment for platforms, online intermediaries, data and cloud computing and the collaborative economy

Fields marked with * are mandatory.

Objectives and General Information

The views expressed in this public consultation document may not be interpreted as stating an official position of the European Commission. All definitions provided in this document are strictly for the purposes of this public consultation and are without prejudice to differing definitions the Commission may use under current or future EU law, including any revision of the definitions by the Commission concerning the same subject matters.

You are invited to read the privacy statement attached to this consultation for information on how your personal data and contribution will be dealt with.

This public consultation will close on 30 December 2015 (12 weeks from the day when all language versions have been made available).

The Commission invites all interested parties to express their views on the questions targeting relations between platform providers and holders of rights in digital content (Question starting with "[A1]"), taking account of the Commission Communication "Towards a modern, more European copyright framework" of 9 December 2015. Technical features of the questionnaire have been adapted accordingly.

Please complete this section of the public consultation before moving to other sections.
• Respondents living with disabilities can request the questionnaire in .docx format and send their replies in email to the following address: CNECT-PLATFORMS-CONSULTATION@ec.europa.eu.

• If you are an association representing several other organisations and intend to gather the views of your members by circulating the questionnaire to them, please send us a request in email and we will send you the questionnaire in .docx format. However, we ask you to introduce the aggregated answers into EU Survey. In such cases we will not consider answers submitted in other channels than EU Survey.

• If you want to submit position papers or other information in addition to the information you share with the Commission in EU Survey, please send them to CNECT-PLATFORMS-CONSULTATION@ec.europa.eu and make reference to the "Case Id" displayed after you have concluded the online questionnaire. This helps the Commission to properly identify your contribution.

• Given the volume of this consultation, you may wish to download a PDF version before responding to the survey online. The PDF version includes all possible questions. When you fill the survey in online, you will not see all of the questions; only those applicable to your chosen respondent category and to other choices made when you answer previous questions.

★ Please indicate your role for the purpose of this consultation
   - An individual citizen
   - An association or trade organization representing consumers
   - An association or trade organization representing businesses
   - An association or trade organization representing civil society
   - An online platform
   - A business, including suppliers using an online platform to provide services
   - A public authority
   - A research institution or Think tank
   - Other

★ Please briefly explain the nature of your activities, the main services you provide and your relation to the online platform(s) which you use to provide services

3000 character(s) maximum

Telefonica is mainly but not only a telecom networks operator and a telecom service provider.

★ Are you a SME or micro enterprise?
   - Yes
   - No

★ Please specify

100 character(s) maximum

Telecom network and service operator
Please indicate your country of residence
Spain

Please provide your contact information (name, address and e-mail address)
Telefonica, S.A. - Gran Vía 28 - 28030 Madrid - E: brussels@telefonica.com

Is your organisation registered in the Transparency Register of the European Commission and the European Parliament?
Note: If you are not answering this questionnaire as an individual, please register in the Transparency Register. If your organisation/institution responds without being registered, the Commission will consider its input as that of an individual and will publish it as such.

Yes
No
Non-applicable

Please indicate your organisation's registration number in the Transparency Register
52431421-12

If you are an economic operator, please enter the NACE code, which best describes the economic activity you conduct. You can find here the NACE classification.

Text of 3 to 5 characters will be accepted
The Statistical classification of economic activities in the European Community, abbreviated as NACE, is the classification of economic activities in the European Union (EU).

61.1

I object the publication of my personal data
Yes
No

Online platforms

SOCIAL AND ECONOMIC ROLE OF ONLINE PLATFORMS
Do you agree with the definition of "Online platform" as provided below?

"Online platform" refers to an undertaking operating in two (or multi)-sided markets, which uses the Internet to enable interactions between two or more distinct but interdependent groups of users so as to generate value for at least one of the groups. Certain platforms also qualify as Intermediary service providers.

Typical examples include general internet search engines (e.g. Google, Bing), specialised search tools (e.g. Google Shopping, Kelkoo, Twenga, Google Local, TripAdvisor, Yelp), location-based business directories or some maps (e.g. Google or Bing Maps), news aggregators (e.g. Google News), online market places (e.g. Amazon, eBay, Allegro, Booking.com), audio-visual and music platforms (e.g. Deezer, Spotify, Netflix, Canal play, Apple TV), video sharing platforms (e.g. YouTube, Dailymotion), payment systems (e.g. PayPal, Apple Pay), social networks (e.g. Facebook, Linkedin, Twitter, Tuenti), app stores (e.g. Apple App Store, Google Play) or collaborative economy platforms (e.g. AirBnB, Uber, Taskrabbit, Bla-bla car). Internet access providers fall outside the scope of this definition.

Please explain how you would change the definition

1000 character(s) maximum

Users Internet experience results from interaction of services & platforms, some provided on top of others. All layers of the Internet Value Chain (devices, OS, appstores, apps, services) are needed to deliver this experience. Restrictions in any layer, Operating Systems included, can create digital bottlenecks foreclosing access to end users and harm consumer’ choice. Such bottlenecks should be the focus. Any definition might not keep up with business evolution: is more relevant to properly address digital bottlenecks: to identify and analyse them, determine principles to treat them, find solutions, and implement them in due time to avoid permanent damage to fair competition and consumer choice. Authorities should apply, preferably ex-post, regulatory and competition principles from other industries: Fair access, Non-discrimination, mainly regarding own services, No unreasonable bundling or tying, Transparency, Technological Neutrality, Interoperability, Portability, Foster Innovation.
What do you consider to be the key advantages of using online platforms?

Online platforms...

- make information more accessible
- make communication and interaction easier
- increase choice of products and services
- create more transparent prices and the possibility to compare offers
- increase trust between peers by providing trust mechanisms (i.e. ratings, reviews, etc.)
- lower prices for products and services
- lower the cost of reaching customers for suppliers
- help with matching supply and demand
- create new markets or business opportunities
- help in complying with obligations in cross-border sales
- help to share resources and improve resource-allocation
- others:

★ Please specify:
100 character(s) maximum

Help to reach massmarket & new targets probably more reluctant to consume traditional format media

Have you encountered, or are you aware of problems faced by consumers or suppliers when dealing with online platforms?

“Consumer” is any natural person using an online platform for purposes outside the person's trade, business, craft or profession.

“Supplier” is any trader or non-professional individual that uses online platforms to provide services to third parties both under their own brand (name) and under the platform’s brand.

- Yes
- No
- I don’t know

Please list the problems you encountered, or you are aware of, in the order of importance and provide additional explanation where possible.
3000 character(s) maximum
- Refusal to supply services or access to marketplace (i.e. developers request to include app denied by app stores)
- Refusal to develop “must have” apps for a particular OS, thus hampering the development of new OSs competing with current duopoly
- Imposition of abusive conditions [a] Some App developers encountered problems to include its App in a leading application store as all payment within the App could only be done through the payment system of the platform (which charges 30% on any transaction), while forbidding to reference any other payment mechanism (web based, retail stores)); otherwise, App would not be included in the app store. [b] When buying a product or service from a platform, the imposition to purchase particularly high quantity (close to 60-80% of total own purchases); otherwise the product would have not been sold
- Discriminatory practices: an online TV platform suffered a lengthy and burdensome process to include content delivery service in two application stores; at the same time, other developers had included apps which illegally provided access to content whose rights were owned by the online TV platform. Complaints went unheard and application stores did not act upon aforementioned illegal apps
- Difficulties in switching among platforms due to closed nature and network effects making individual switch not feasible
- Lack of transparency on collection and usage of users data
- Confusion when using services provided by platforms that did not counted with same rights as when using same services provided offline or online by European providers (i.e. data protection, emergency services)
- Favoring of downstream (own) services, even if to the detriment of platform users and suppliers, when there were other more relevant/convenient services provided by third parties
- Price discrimination by platforms offering different prices for same product based on users profile (location, type of handset used, browsing history)
- Unreasonable interference by search engine: by artificially rising bids in advertising platform urging agents to rise bids to secure them when bids already stable; by arbitrarily placing the results of the search process
- Dominant platforms oblige to implement proprietary solutions while standardized ones would be a more efficient solution and would ease the interoperability with all platforms and the market entry

An independent third party dispute resolution mechanism would provide guarantees on due process and redress mechanisms, fostering a faster solution to many of these issues. Most importantly, a strong focus should be place on enforcement of the already existing rules and of future ones. Framework has to be enforced on all agents operating in the EU market, no matter whether their headquarters geographically based in or out EU, neither if transactions are paid with money or other mean such as delivery of advertisement, consent to use personal data, or if product is free for consumer
How could these problems be best addressed?

- market dynamics
- regulatory measures
- self-regulatory measures
- a combination of the above

TRANSPARENCY OF ONLINE PLATFORMS

Do you think that online platforms should ensure, as regards their own activities and those of the traders that use them, more transparency in relation to:

a) information required by consumer law (e.g. the contact details of the supplier, the main characteristics of products, the total price including delivery charges, and consumers’ rights, such as the right of withdrawal)?

“Trader” is any natural or legal person using an online platform for business or professional purposes. Traders are in particular subject to EU consumer law in their relations with consumers.

- Yes
- No
- I don’t know

b) information in response to a search query by the user, in particular if the displayed results are sponsored or not?

- Yes
- No
- I don’t know

c) information on who the actual supplier is, offering products or services on the platform

- Yes
- No
- I don’t know

d) information to discourage misleading marketing by professional suppliers (traders), including fake reviews?

- Yes
- No
- I don’t know
e) is there any additional information that, in your opinion, online platforms should be obliged to display?

(*500 character(s) maximum*)

This information should be clearly provided by all online platforms: whether info on consumers is shared with traders; accurate information on price prior to acquisition; what happens (storage, usage,...) with consumer data; how to exercise their ARCO (Access Rectification Cancellation Objection) rights -not all platforms allow exercise of this right; information on which search results are sponsored or steered by providers, and on which is most relevant for the users (organic search results)

Have you experienced that information displayed by the platform (e.g. advertising) has been adapted to the interest or recognisable characteristics of the user?

- Yes
- No
- I don't know

Do you find the information provided by online platforms on their terms of use sufficient and easy-to-understand?

- Yes
- No
What type of additional information and in what format would you find useful? Please briefly explain your response and share any best practice you are aware of.

1500 character(s) maximum

Providing additional information, in terms of quantity, would not be fit for purpose, and can be counter-productive, the more detailed and longer the information is the least it will be read. Given the consumers' priority is to use the app or service provided by platform, it is common that the user accepts the terms use and conditions not because they have really read and agreed, but because it is the only way to use it. Users have just two options: accept all the conditions to use the service, or not accept them and give the service up.

There is plenty room for improvement regarding quality and format of information provided: a remarkable best practice is to display important information as easy to read and simple to access as possible, e.g. by using icons, pictograms and different layers of information in privacy policies, terms and conditions. This provides a visual and structured input for users, raising level of awareness and perception of the information. For further insight refer to Mozilla Privacy Icons or the Icon’s proposal of the General Data Protection Regulation.

Privacy related information should include brief and simple details on information sharing policies, including within a few opt-in possibilities "don't share externally" (unless business model is seriously compromised such as for advertising-based services).

Information on how to exercise ARCO rights should be provided, as well as customer care information to be able to file complaints, queries ...

Do you find reputation systems (e.g. ratings, reviews, certifications, trustmarks) and other trust mechanisms operated by online platforms are generally reliable?

- Yes
- No
- I don't know
Please explain how the transparency of reputation systems and other trust mechanisms could be improved?

Some issues could be source of concern regarding quality of reputation systems: the inclusion of fake opinions by interested parties or the fact that unsatisfied consumers tend to be more active in using rating systems. But given reputation systems are an additional tool for consumers to make an informed choice based on other users’ opinions and market dynamics, and online platforms just ease this feedback process, they should not be regulated. Market forces will drive its evolution to improve transparency and other trust mechanisms such as to (i) provide more information about the identity of the user of reputation system including ratings (ii) allow the user to decide whether they want to communicate a problem or rate the service; and (iii) enable a private channel of communication between the supplier and the user in order to solve the problems reported.

What are the main benefits and drawbacks of reputation systems and other trust mechanisms operated by online platforms? Please describe their main benefits and drawbacks.

FOR SUPPLIERS
Benefits: Reputation systems are a valuable source of information, allowing the discovery of service problems that otherwise would be undetected.
Drawbacks: Suppliers' impossibility to interact with their users when they are having a problem and decide to use the reputation system to express it. Having reputation systems as a 2-way communication channel could help to solve customers' problems based on false perceptions which might be negatively affecting the reputation of the provider.

FOR USERS / CONSUMERS
Benefits: provides access to customers’ opinion on the service for a better informed choice.
Drawbacks: could change users’ intention to get a product or service based on biased negative ratings such as those from "troll" users undermining company's reputation and businesses. Such troll users, due to commercial objectives or based on bad experiences, can deliberately ruin a company reputation through different social networks and fora without necessarily reflecting the reality of the company's service
In your view, do online platforms provide sufficient and accessible information with regard to:

a) the personal and non-personal data they collect?
   - Yes
   - No
   - I don’t know

b) what use is made of the personal and non-personal data collected, including trading of the data to other platforms and actors in the Internet economy?
   - Yes
   - No
   - I don’t know

c) adapting prices, for instance dynamic pricing and conditions in function of data gathered on the buyer (both consumer and trader)?
   - Yes
   - No
   - I don’t know

Please explain your choice and share any best practices that you are aware of.

1500 character(s) maximum

Some online platforms are not fully transparent regarding their use of personal data for purposes other than providing the best service to consumers. It is quite common users not being aware of data collected by platforms, what is done with this data, and how data is shared. This may have an effect on consumer confidence towards uses of some platforms. Telefónica I+D is one of the founding partners of the Data Transparency Lab (www.datatransparencylab.org), a project by the digital community aimed at revealing the flow and use of personal data online, as well as exploring new ways to promote transparency and accountability in the treatment of this information in the future to make the Web more open. Through this initiative, we also seek to promote the sustainability of the web economy through responsible and transparent use of advertising, e-commerce and online analytics. For DTL, transparency is the ability for users and other actors to manage trustworthily and in all fairness, all the personal data online. DTL has identified transparency tools as the main lever to achieve this for individuals, to be aware of the risks associated to the management of their personal data and for Authorities, to support their policymaking and enforcement activities.
The use of information by online platforms is highly relevant, but not just for the purpose of data protection; it has significant implications with regards competition law, which should address the use of data as a currency and its implications. In fact, the economic nature of data is complex: it works as the new currency in free services and as a production factor, thus having a prominent role in the competitive process. Thus, data should be considered a competitive parameter, as well as its diverse consequences with regards market definition (SSNIP test should be refreshed), the assessment of market power (data control and data accumulation as source of dominance), the possible existence of new forms of abuse (as for example information overcharge) and the different treatment of data protection rules as a competitive advantage/disadvantage.

In the case of long lasting bottlenecks by dominant platforms acting as gatekeepers, in order to increase competition in the market and avoid lock-in effects, data portability should be enabled, so that consumers and suppliers could extract all relevant and valuable data from the platform and introduce it again in other online platform of their choice.

There is also a clear imbalance in the use of data between different layers of the digital value chain, where platform providers have the possibility to take advantage of the large amounts of data they collect, together with other factors (such as the power on processing technologies, the access to different kinds of data and with diverse origins, etc), whereas suppliers cannot. Information used by online platforms are key to their competitors to manage and improve services, and some practices by platforms such as the bundling of intermediary proxies with full encryption, are restricting the access to these relevant data.

The law of supply and demand works much faster on these platforms thanks to this information, so it is good that all sides of the market access to it. Nevertheless, it should be considered that selling such information to third parties might be more critical.
Please provide the list of online platforms with which you are in regular business relations and indicate to what extent your business depends on them (on a scale of 0 to 3). Please describe the position of your business or the business you represent and provide recent examples from your business experience.

<table>
<thead>
<tr>
<th>Name of online platform</th>
<th>Dependency (0:not dependent, 1: dependent, 2: highly dependent)</th>
<th>Examples from your business experience</th>
</tr>
</thead>
<tbody>
<tr>
<td>Google Play</td>
<td>2</td>
<td>App distribution among Android users</td>
</tr>
<tr>
<td>Apple App Store (iTunes)</td>
<td>2</td>
<td>App distribution among iOS users</td>
</tr>
<tr>
<td>Android</td>
<td>2</td>
<td>Operating system for terminals to use/ access our network and services</td>
</tr>
<tr>
<td>iOS</td>
<td>2</td>
<td>Operating system for terminals to use/ Access our network and services</td>
</tr>
<tr>
<td>Google search engine</td>
<td>1</td>
<td>Advertising (banners, search results, adwords, SEO, etc.)</td>
</tr>
</tbody>
</table>
How often do you experience the following business practices in your business relations with platforms?

The online platform …

* A parity clause is a provision in the terms of use of an online platform or in an individual contract between the online platform and a supplier under which the price, availability and other conditions of a product or service offered by the supplier on the online platform have to maintain parity with the best offer of the supplier on other sales channels.

<table>
<thead>
<tr>
<th>Practice</th>
<th>Never</th>
<th>Sometimes</th>
<th>Often</th>
<th>Always</th>
</tr>
</thead>
<tbody>
<tr>
<td>requests me to use exclusively its services</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>applies “parity clauses” *</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>applies non-transparent fees</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>applies fees without corresponding counter-performance</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>applies terms and conditions, which I find unbalanced and do not have the possibility to negotiate</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>unilaterally modifies the contractual terms without giving you proper notification or allowing you to terminate the contract</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>limits access to data or provides it in a non-usable format</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>puts significant constraints to presenting your offer</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>presents suppliers/services in a biased way</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>refuses access to its services unless specific restrictions are accepted</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>promotes its own services to the disadvantage of services provided by suppliers</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>
If you do experience them, what is their impact on your business activity (on a scale from 0 to 3).

Impact on my business:
The online platform …

* A parity clause is a provision in the terms of use of an online platform or in an individual contract between the online platform and a supplier under which the price, availability and other conditions of a product or service offered by the supplier on the online platform have to maintain parity with the best offer of the supplier on other sales channels.

<table>
<thead>
<tr>
<th>Impact on my business</th>
<th>0 – no impact</th>
<th>1 – minor impact</th>
<th>2 – considerable impact</th>
<th>3 – heavy impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>requests me to use exclusively its services</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>applies “parity clauses” *</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>applies non-transparent fees</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>applies fees without corresponding counter-performance</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>applies terms and conditions, which I find unbalanced and do not have the possibility to negotiate</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>unilaterally modifies the contractual terms without giving you proper notification or allowing you to terminate the contract</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>limits access to data or provides it in a non-usable format</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>puts significant constraints to presenting your offer</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>presents suppliers/services in a biased way</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>refuses access to its services unless specific restrictions are accepted</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>promotes its own services to the disadvantage of services provided by suppliers</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
If you are aware of other contractual clauses or experience other potentially problematic practices, please mention them here

1000 character(s) maximum

Telefonica is aware of problems with App Review Guidelines of one app store. Such guidelines sometimes may impose abusive conditions App developers (suppliers) have to comply with in order to have their apps published, while conditions strongly benefit the platform owner (economically or its own apps when acting as a supplier of its own platform): if App developers are to include In-App Purchase (IAP) mechanisms in their apps they are obliged to implement the proprietary IAP system owned by the platform. Such IAP entails a 70/30 revenue split of the value of the transaction between developers and the platform, that doesn’t represent the value the online platform provides to the supplier (moreover if supplier has other payment mechanisms such as retail stores, web payment) and thus results in an extremely harmful practice. Non-compliance with these Guidelines means that developers' App would not be published in the App store and users would not be able to access new releases of the App
The consequence of the situation described nowadays widely affects App developer community. The result are either App developers have to assume the arbitrary cost and conditions imposed by the platform provider or App developers unable to accepted such conditions are banned in the platforms and users are deprived from innovative services and solutions. This is the case of video services, such as movie renting, which are charged hefty 30% if transaction done through apps hosted in the same application store. This practice basically excludes many agents from providing this kind of end-user capabilities as the service operates under much lower commercial margins. Similar cases are that of e-books, which Amazon does not set in a specific application store marketplace, or similar content related transactions lacking presence in the mentioned platform.

This situation is due to the following factors: (i) dominant position of the App Store platform provider (an App developer can not afford to stop distributing its App through that channel) that acts like a gateway/bottleneck; (ii) Guidelines that impose abusive and unbearable conditions requiring an ex-ante review of the App by the platform provider every time a new release of the App is submitted to its store, and (iii) arbitrary interpretation of those Guidelines in order to obtain either economic profit or a strategic advantage for its own Apps and associate business areas: as the mechanism enabled by the platform provider to solve disputes related to its Guidelines is managed by the platform itself and arbitrary, the result of using this mechanism ended up with a biased decision of the platform provider favouring its own interests.

The level of arbitrary interpretation of the guidelines leave App developers unprotected, subject to uncertainty and to unjustified and biased platform owner’s decisions. Today, it is not clear where conflicts arising out of unduly restriction of access to App Stores or their usage could be dealt with in a fast and transparent manner. Telefonica believes that consideration should be put into how to create such a dispute resolution mechanism, on a pan-European basis (e.g. by an independent body), to deal with these conflicts thus preventing platform providers from such unfair actions.

[A1] Are you a holder of rights in digital content protected by copyright, which is used on an online platform?

- Yes
- No
As a holder of rights in digital content protected by copyright have you faced any of the following circumstances:

An online platform such as a video sharing website or an online content aggregator uses my protected works online without having asked for my authorisation.

- Yes
- No

An online platform such as a video sharing website or a content aggregator refuses to enter into or negotiate licensing agreements with me.

- Yes
- No

An online platform such as a video sharing website or a content aggregator is willing to enter into a licensing agreement on terms that I consider unfair.

- Yes
- No

An online platform uses my protected works but claims it is a hosting provider under Article 14 of the E-Commerce Directive in order to refuse to negotiate a licence or to do so under their own terms.

- Yes
- No

As you answered YES to some of the above questions, please explain your situation in more detail.

3000 character(s) maximum

Some online services/apps distribute or provide access to content without permission, thus resulting in piracy practices: Telefonica owns a video platform in Spain that acquires some exclusive audio-visual rights for Spain; thus, these content cannot be available in other platforms. However, it is frequent that certain online platforms include these exclusive audio-visual contents (for example, as regards sports contents and in particular football games) without authorisation. This type of illegal use of content has a very strong impact on business and makes it very hard to build reliable and fair commercial trade.

Is there a room for improvement in the relation between platforms and suppliers using the services of platforms?

- No, the present situation is satisfactory.
- Yes, through market dynamics.
- Yes, through self-regulatory measures (codes of conducts / promotion of best practices).
- Yes, through regulatory measures.
- Yes, through the combination of the above.
Are you aware of any dispute resolution mechanisms operated by online platforms, or independent third parties on the business-to-business level mediating between platforms and their suppliers?

- Yes
- No

Please share your experiences on the key elements of a well-functioning dispute resolution mechanism on platforms

*1500 character(s) maximum*

There are no independent party dispute resolution mechanisms with App Store platforms.

We have used a dispute resolution mechanism (internally managed by the own platform) of a well-know App Store where the platform provider acted both as a part and as the decision maker. This mechanism proved to be completely unfair for the supplier leading to arbitrary and biased decisions by the platform provider in favour of its own interests.

A well-functioning dispute resolution mechanism on platforms shall always involve a third independent party that has the power to make a fast binding decision both for the platform provider and the supplier.

Some supervision / enforcement mechanism should be implemented for these binding decisions. It is extremely relevant dispute resolution mechanisms to be very fast and dynamic, providing short resolution times.

The general policy should be to increase the value of the suppliers' offer by allowing for unrestricted ways of consumption (provided general copyright guarantees are met).

**CONSTRAINTS ON THE ABILITY OF CONSUMERS AND TRADERS TO MOVE FROM ONE PLATFORM TO ANOTHER**

Do you see a need to strengthen the technical capacity of online platforms and address possible other constraints on switching freely and easily from one platform to another and move user data (e.g. emails, messages, search and order history, or customer reviews)?

- Yes
- No
If you can, please provide the description of some best practices (max. 5)

<table>
<thead>
<tr>
<th>Name of the online platform</th>
<th>Description of the best practice (max. 1500 characters)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td></td>
</tr>
</tbody>
</table>
Should there be a mandatory requirement allowing non-personal data to be easily extracted and moved between comparable online services?

- Yes
- No

Please explain your choice and share any best practices that you are aware of.

*1500 character(s) maximum*

These measures can result in competition enhancement, easing new entrants to compete with established platforms, and increasing quality of the service provided by reducing barriers to switch among platforms. Both suppliers and consumers would be able to choose between different online platforms and switch between them seamlessly.

But at the same time it can result in a heavy and disproportionate burden for the platforms given that: (i) there is a lack portability formats; (ii) the information can be very platform-dependent; (iii) It is relatively easy to devise external applications that scrape the service and do this export without any particular collaboration from the platform; (iv) it is not easy to define what constitutes non-personal data generated by the consumer.

As such, and considering the effect this high burden could have on innovation, portability should not be enforced on wide basis. It is rather a solution to reverse specific situations of lock-in effects and where switching barriers have resulted in enduring bottlenecks and lack of competition.

It should be applied only to the Relevant Asset (data, content, identifier or any other feature) managed by the platform without which customers would be unwilling to switch. In the case of mobile network platforms, this asset would be the phone number assigned to the customer, and not the data on service usage (number of calls, their time-start, time-finish, duration, cost ...
Please share your general comments or ideas regarding the ability of consumers and traders to move from one platform to another

3000 character(s) maximum

In the digital world new closed ecosystems in the form of online platforms are emerging. In some cases, this results in competition concerns that should be addressed: big players enjoying dominant positions in several (usually vertically integrated) markets, becoming gatekeepers (by concentrating extraordinarily big amounts of users data in one operator or by vertically integrating and/or bundling search engines, browser, apps, OS, etc) and being able to develop abusive practices. It is on these platforms, not all, where data portability would be a desired solution.

Switching among online platforms is generally speaking difficult. But difficulties more than based on time, cost or convenience of the process for the use, are related to relevant barriers as a result of network effects exacerbated by massive adoption of services and lack of scale. The more users a platform attracts the more attractive it becomes for existing users and new ones. Based on this, for example, if all users’ contacts are using the same platform and there is no sufficient number of contacts who are using an alternative platform there is no incentive for users to switch. Equally, if users have all their conversation history, pictures and files on one platform, switching to another platform would result in them losing all this data.

This is further intensified by the lack of interconnectivity with other platforms. In the absence of any interconnection agreements, users cannot contact users of other platforms. Consequently, it would be very difficult for groups to move between services and platforms if measures like interconnection, interoperability and data portability between online platforms are not implemented.

Portability should affect only to the Relevant Asset (data, content, identifier or any other feature) managed by the platform without which customers would be unwilling to switch to other platform, and only as a solution to reverse specific cases of lock-in effects and where switching barriers have resulted in enduring bottlenecks and lack of competition.

In order to advance on the portability front, the Relevant Asset concept should differentiate between data that is generated as a result of normal platform usage from data that is original content, being explicitly introduced by the user into the platform (blog articles, possibly emails), and thus which the user can claim copyright of. It is the latter that needs proper protection and export provisions. As a general principle, the former data category, that generated as a result of normal platform usage, is not to be considered a Relevant Asset, and thus not subject to portability requirements, remaining within the online platform which has collected it. For content subject to copyright, it should be differently addressed cases where content has been acquired from those where just a usage/view right is granted.
ACCESS TO DATA

As a trader or a consumer using the services of online platforms did you experience any of the following problems related to the access of data?

a) unexpectedly changing conditions of accessing the services of the platforms
   - Yes
   - No

b) unexpectedly changing conditions of accessing the Application Programming Interface of the platform
   - Yes
   - No

c) unexpectedly changing conditions of accessing the data you shared with or stored on the platform
   - Yes
   - No

d) discriminatory treatment in accessing data on the platform
   - Yes
   - No

Would a rating scheme, issued by an independent agency on certain aspects of the platforms' activities, improve the situation?
   - Yes
   - No
Though an independent agency could provide in some circumstances an appropriate balance and impartiality on certain aspects, thus improving the situation, it can not be considered as a complete solution but rather an additional tool:

- We are aware of companies whose business model, or part of it, is based on offering fake reviews and ratings as a service, even though it is a prohibited practice by almost every platform provider.

- An official agency does not equate to a guarantee of issuing more relevant information than regular commentators on the Internet would do.

- Rating systems mostly work only in competitive markets, whereas some online platforms enjoy dominant positions while becoming gatekeepers and thus resulting in competition concerns.

Adapting to new requirements of the online platforms (App stores) for Application Programming Interface (APIs) due to the modifications that each platform makes to its functioning has sometimes resulted in a great challenge for those including Apps in the online platforms.
As we have previously mentioned, we believe it is very difficult for groups to move between dominant platforms if there are not interconnection agreements and/or data portability systems between platforms. Barriers related to massive adoption and network effects on dominant platforms can only be overcome through indirect or direct access to the service provider's network/data which if not ported would represent a significant barrier for the consumer to be willing to switch among platforms. Instead of seeing it as an opposite measure against innovation, we believe that these actions would foster and help smaller online platforms to compete with well established and dominant ones. This would also be in favour of suppliers and consumers, since they will be able to select between a wide range of platform providers.

In the cases where deemed appropriate, a sufficiently capable API should be mandated for programmatic access (and eventually export) or this data that can be allegedly belong to the consumer under copyright considerations and thus been considered a Relevant Asses for portability grounds.

Open platforms, defined as those allowing external actors to interact via open public interfaces (APIs), are a great approach to this issue. Europe has the opportunity to promote open platforms, thereby generating the necessary scale, encouraging the creation of open ecosystems and fostering local innovation. An example could be the FIWARE platform developed as part of the Future Internet initiative FI-PPP (Future Internet Private Partnership Programme) launched by the European Commission in collaboration with the industry. FIWARE is applicable in several domains where development of Smart Applications and solutions is relevant: Smart Cities, Smart Industry, Smart Agrifood, Smart Logistics, Smart Retail, etc.

In this regard, related to Smart Cities, there is an opportunity to promote a shared vision from Europe and ensure the leadership of our cities by Integrating cities initiatives, stimulating scale, developing communities of stakeholders around an Open platform, supporting the networking and interaction between them, the sharing of good practices, the development of skills and training activities. An example is Open Agile Smart Cities (OASC) initiative that has gathered in less than a year 75 cities from 15 countries in Europe (mostly), Latin America and Asia-Pacific, using FIWARE platform.

Tackling illegal content online and the liability of online intermediaries
Please indicate your role in the context of this set of questions

Terms used for the purposes of this consultation:

“Illegal content”

Corresponds to the term “illegal activity or information” used in Article 14 of the E-commerce Directive. The directive does not further specify this term. It may be understood in a wide sense so as to include any infringement of applicable EU or national laws and regulations. This could for instance include defamation, terrorism related content, IPR infringements, child abuse content, consumer rights infringements, or incitement to hatred or violence on the basis of race, origin, religion, gender, sexual orientation, malware, illegal online gambling, selling illegal medicines, selling unsafe products.

“Hosting”

According to Article 14 of the E-commerce Directive, hosting is the “storage of (content) that has been provided by the user of an online service”. It may for instance be storage of websites on servers. It may also include the services offered by online market places, referencing services and social networks.

“Notice”

Any communication to a hosting service provider that gives the latter knowledge of a particular item of illegal content that it transmits or stores and therefore creates an obligation for it to act expeditiously by removing the illegal content or disabling/blocking access to it. Such an obligation only arises if the notice provides the internet hosting service provider with actual awareness or knowledge of illegal content.

“Notice provider”

Anyone (a natural or legal person) that informs a hosting service provider about illegal content on the internet. It may for instance be an individual citizen, a hotline or a holder of intellectual property rights. In certain cases it may also include public authorities.

“Provider of content”

In the context of a hosting service the content is initially provided by the user of that service. A provider of content is for instance someone who posts a comment on a social network site or uploads a video on a video sharing site.

- individual user
- content provider
- notice provider
- intermediary
- none of the above

Have you encountered situations suggesting that the liability regime introduced in Section IV of the E-commerce Directive (art. 12-15) has proven not fit for purpose or has negatively affected market level playing field?

- Yes
- No
Do you think that the concept of a "mere technical, automatic and passive nature" of information transmission by information society service providers provided under recital 42 of the ECD is sufficiently clear to be interpreted and applied in a homogeneous way, having in mind the growing involvement in content distribution by some online intermediaries, e.g.: video sharing websites?

- Yes
- No
- I don’t know

Please explain your answer.

We believe that the above mentioned concept has been clearly interpreted to define the boundaries of the obligations put on intermediaries. The exemptions from liability cover only those cases where the activity of the ISS provider is limited to the technical process of operating and giving access to a communication network over which information made available by third parties is transmitted or temporarily stored, for the sole purpose of making the transmission more efficient. The key issue is the lack of control over the content transmitted over its networks. The case is different when the intermediary becomes active in e.g. optimizing the presentation of the uploaded content. Certain services such as online and e-commerce platforms, search engines, social networks, apps stores and price comparators websites, which are having effective control on how, when and what content is accessed by the user should be clearly excluded from the liability exemption principle. Advertisers and payment providers should also be involved in any kind of cooperation process because of its interest in bringing specific contents to the user’s attention. In these cases, the nature of interaction for the service provider goes beyond what is addressed explicitly by recital 42 and what is underlying the substantive provisions in Arts 12 to 14. So, those intermediaries should not be qualified for an exemption under the Directive and its liability should be determined by some European guidelines.

Mere conduit/caching/hosting describe the activities that are undertaken by a service provider. However, new business models and services have appeared since the adopting of the E-commerce Directive. For instance, some cloud service providers might also be covered under hosting services e.g. pure data storage. Other cloud-based services, as processing, might fall under a different category or not fit correctly into any of the existing ones. The same can apply to linking services and search engines, where there has been some diverging case-law at national level. Do you think that further categories of intermediary services should be established, besides mere conduit/caching/hosting and/or should the existing categories be clarified?

- Yes
- No
We firmly believe that EU broadband operators & in particular new emerging cloud-based services which activity mainly consist on the storage of information provided by a third party and with no control or management activity are pure hosting service providers falling under the exemption liability regime. However, as we explained in the previous answer new business models and services have appeared and some new online hosting service providers might not be covered by the traditional liability exceptions. This is the case of “false intermediaries” which are hosting illegal contents under a “mere technical, automatic, passive and neutral hosting” appearance. However, these agents are promoting via different actions the access to illegal contents creating a lucrative business via advertisement. Some examples are: cyberlockers host sites, cyberlockers links, streaming servers and search engines. The EC might provide guidance over the interpretation and application of Arts 12 to 15 in order to avoid the applications of the so-called "safe harbors" arts to those who don’t actually perform a genuine neutral intermediation activity. And therefore, Telefónica recommends the Commission to elaborate some guidelines, defining those new categories of intermediaries which clearly fall outside of the scope of the liability exceptions covered under the E-Commerce Directive and to design some kind cooperation enforcement regime exclusively for these new categories of online platforms

**On the "notice"**

Do you consider that different categories of illegal content require different policy approaches as regards notice-and-action procedures, and in particular different requirements as regards the content of the notice?
- [ ] Yes
- [ ] No
Do you think that any of the following categories of illegal content requires a specific approach:

- Illegal offer of goods and services (e.g. illegal arms, fake medicines, dangerous products, unauthorised gambling services etc.)
- Illegal promotion of goods and services
- Content facilitating phishing, pharming or hacking
- Infringements of intellectual property rights (e.g. copyright and related rights, trademarks)
- Infringement of consumer protection rules, such as fraudulent or misleading offers
- Infringement of safety and security requirements
- Racist and xenophobic speech
- Homophobic and other kinds of hate speech
- **Child abuse content**
- Terrorism-related content (e.g. content inciting the commitment of terrorist offences and training material)
- Defamation
- **Other:**

★ Please specify.

500 character(s) maximum

We believe that the e-Com Directive is still valid and should not be reopened. Any intention to adopt a horizontal approach when proposing a measure on N&A raises serious concerns as one has to consider the differences between the various illegal activities and behaviour types online. And thus, each category of illegal content requires a specific approach as there are specific considerations that should be taken into account. Therefore, there cannot be a ‘one size fits all solution.’

Please explain what approach you would see fit for the relevant category.

1000 character(s) maximum

In those cases related with infringements of intellectual property rights, the problem has arisen due to the emergence of new agents which operate through internet and basically their business models are based on facilitating access to illegal content (i.e. sport events) and therefore, they have some kind of "control" over the information. In those cases the Commission should focus its efforts on that new category of intermediaries fostering the adoption and implementation of N&A mechanisms. Guidelines may be issued on the interpretation and application of Arts 12 to 15 in view of these new agents whose role goes beyond what is explicitly addressed by recital 42 and what is underlying the substantive provisions in art 12 to 14. The nature and handling of this category is clearly different. In relation with child protection infringements, Telefónica’s Strategy is totally aligned with self-regulatory industry initiatives that are in place.
On the "action"

Should the content providers be given the opportunity to give their views to the hosting service provider on the alleged illegality of the content?

☐ Yes
☐ No

* Please explain your answer

1500 character(s) maximum

Telefónica as a network operator, providing the technical facilities for the transmission of information as well as an access provider, providing user access to the internet cannot assume the role of a Judge, when Fundamental Rights are at stake (i.e. Secrecy of communication). It must be a Judge’s, competent authority or Law Enforcement Agency decision which determine if an illegal content or activities exist.

In this regard, Telefónica believes that it is essential to reconcile mechanisms to notify online infringements with Fundamental Rights, in such a way that the established legal instruments are able to offer the essential legal guarantees to customer in a rule of law. Right holders or any other user (natural or legal person) should go to the competent Courts to request these measures through the correspondent judicial proceeding and content providers should be given the opportunity to give their views on the alleged illegality of the content before the Courts.

The exchange of arguments on the legality of the contested content should take place in front of the competent authority, and not of the hosting or access service provider. A judicial order should mandate the hosting provider to take the corresponding action.

In particular, in the case of child sexual abuse or terrorism-related content, it is not feasible to contact the owner of the content as this could potentially hamper any ongoing criminal investigations by law enforcement authorities.
If you consider that this should only apply for some kinds of illegal content, please indicate which one(s)

1500 character(s) maximum

However and in line with our previous explanations there are new online platforms which may have control over the illegal content and therefore, those platforms should act expeditiously to remove or to disable access to the information (such as live broadcast of live contents sports events) according to article 14. Thus, if an online intermediary does not qualify for an exemption under the Directive; its liability will be determined by the national laws of the respective Member State according to some European Guidelines. Certain specific guidelines should be outlined for this specific category of online intermediaries (“false intermediaries”) and for this particular category of illegal content (IPR’s). In those cases quick actions are required from hosting providers.

Should action taken by hosting service providers remain effective over time ("take down and stay down" principle)?

- Yes
- No

Please explain

An important thing to have in mind is that what we all pursue is an efficient removal of the illegal content from internet and therefore it should be done in the origin (i.e the source) to avoid its dissemination. However this is not always possible, and thus law enforcement actions and judicial support are becoming essential to permanently remove illegal content.

On duties of care for online intermediaries:

Recital 48 of the Ecommerce Directive establishes that "[t]his Directive does not affect the possibility for Member States of requiring service providers, who host information provided by recipients of their service, to apply duties of care, which can reasonably be expected from them and which are specified by national law, in order to detect and prevent certain types of illegal activities". Moreover, Article 16 of the same Directive calls on Member States and the Commission to encourage the "drawing up of codes of conduct at Community level by trade, professional and consumer associations or organisations designed to contribute to the proper implementation of Articles 5 to 15". At the same time, however, Article 15 sets out a prohibition to impose "a general obligation to monitor".

(For online intermediaries): Have you put in place voluntary or proactive measures to remove certain categories of illegal content from your system?

- Yes
- No
Could you outline the considerations that have prevented you from putting in place voluntary measures?

*1500 character(s) maximum*

Any law considering the obligation to apply by default an industry-run internet filter - where ISPs will be required to block some sites of alleged illegal downloading will create very high costs for traditional Telco companies due to the high volumes of traffic which are exponentially increasing. Given that ISPs are neither the rights holder nor the infringer, we believe that this is the wrong approach. There are also technical reasons which prevent to put in place blocking measures. Due to the increase of these encryption and proxy arrangements the judicial order addressed to NOs to intervene or block data traffic will not be effective in some cases, when the traffic is encrypted, and routed through browser proxies that hide IP addresses and content. The use of encrypted VPN can also prevent monitoring or blocking orders. Filtering technologies need to be implemented with care as issues surrounding filtering can be complex, leading to over or under blocking. For instance, web sites are hosted on web servers that typically have a single IP address. So sites which are hosted on the same server as one which is on a black list will also be blocked. So these techniques which filters solely on the basis of IP address collide sharply with other fundamental rights such as the right of freely access to information. It should be taken into account the negative impact of filtering techniques on the efficiency and performance indicators that the network operator is obliged to comply.

Do you see a need to impose specific duties of care for certain categories of illegal content?

- ☐ Yes
- ☐ No
- ☐ I don’t know

Please specify for which categories of content you would establish such an obligation.

*1500 character(s) maximum*

In copyright-related cases, the EC should provide guidance on the interpretation and application of Arts 12 to 15 in view of those new online platforms which may have control over the illegal content. When these new agents, use business models that could allow accessing illegal content; it may be scope for some kind of voluntary agreements between all the agents involved in the value chain and ratified by the Competent Authorities. It is essential that any action taken under these voluntary agreements is proportionate and necessary to achieve the objectives pursued and maintain a balance between all the fundamental rights involved fully respecting open internet provisions under TSM Regulation.
Please specify for which categories of intermediary you would establish such an obligation

1500 character(s) maximum

As a general statement Telefonica strongly believes that it would be profoundly misguided to impose a new “duty of care” on certain types of intermediaries. In particular we are referring to network operators which provide the technical facilities for the transmission of information and which provide user access to the internet. Also some hosting cloud service providers should be excluded from such specific duty of care. Any step taken in the way of ignoring, eroding or weakening the principle of liability protection for those kind of intermediaries would seriously compromise citizens’ confidence when communicating online.

However, as we have explained in the previous answer new business models and services have appeared and some new online hosting service providers might not be covered by the traditional liability exceptions.

Please specify what types of actions could be covered by such an obligation

1500 character(s) maximum

In line with our previous explanations there are new online platforms which may have control over the illegal content and therefore, those platforms should act expeditiously to remove or to disable access to the information (such as live broadcast of live contents sports events) according to article 14. Thus, if an online intermediary does not qualify for an exemption under the e-Commerce Directive (which remains fit for purpose); its liability will be determined by the national laws of the respective Member State according to some “European Guidelines”. Certain specific guidelines should be outlined for this specific category of online intermediaries (“false intermediaries”) and for this particular category of illegal content (IPR’s). In those cases quick actions are required from hosting providers.

Do you see a need for more transparency on the intermediaries’ content restriction policies and practices (including the number of notices received as well as their main content and the results of the actions taken following the notices)?

☑ Yes
☐ No

Do you think that online intermediaries should have a specific service to facilitate contact with national authorities for the fastest possible notice and removal of illegal contents that constitute a threat for e.g. public security or fight against terrorism?

☑ Yes
☐ No
Do you think a minimum size threshold would be appropriate if there was such an obligation?

- Yes
- No

Please share your general comments or ideas regarding the liability of online intermediaries and the topics addressed in this section of the questionnaire.

*5000 character(s) maximum*
Telefónica firmly believes that the current regime established under the e-Commerce Directive regarding those categories (mere conduit/caching/hosting) are still valid. And therefore it is not necessary to re-open the Directive. Under the no monitoring principle, users were assured that their private communications were protected, thus generating confidence in using electronic communications. In this context, EU broadband operators and in particular new emerging cloud-based services which activity mainly consist on the storage of information provided by a third party and with no control or management activity are pure hosting service providers falling under the exemption liability regime.

We would also like to point out that Telefónica as a European Broadband Network operator and as a Cloud Service Provider (which hosts content in its cloud servers) continues to invests heavily in the development of a legal and safe digital market for the wider spread of culture and information and, at the same time, is facing strong competition from other non-European big players that have entered in the market providing the same services but without the regulatory restrictions that other European Telcos like Telefonica are facing. In this context, EU broadband operators and Cloud providers cannot reasonably be asked to carry additional, disproportionate burdens such as a widening of their role in addressing copyright infringement or by introducing any other type of compensation scheme.

Given all the above, Telefónica firmly believes that the current regime established under the e-Commerce Directive regarding those categories (mere conduit/caching/hosting) are still valid. And therefore it is not necessary to re-open the Directive.

However, the case is different where the intermediary becomes active in e.g. optimizing the presentation of the uploaded content. In this sense, there are certain services that have been developed after the adoption of the e-commerce Directive such as online and e-commerce platforms, search engines, apps stores websites, social network, social shopping sites or price comparators websites, which are having effective control on how, when and what content is transmitted and accessible to the user and therefore should be excluded from the liability exemption principle. For example certain websites are putting certain content online without the authorization of the right holder. Moreover, other intermediaries such as advertisers and payment service providers should also be involved in any kind of cooperation process because they have an interest in bringing specific contents to the internet user’s attention.

In all these cases, the nature of interaction for the service provider goes beyond what is addressed explicitly by recital 42 and what is underlying the substantive provisions in Arts 12 to 14 And thus, those kind of intermediaries should not be qualified for an exemption under the Directive and its liability should be determined through some European guidelines to be implemented by national laws in each Member State.
Data and cloud in digital ecosystems

**FREE FLOW OF DATA**

**ON DATA LOCATION RESTRICTIONS**

In the context of the free flow of data in the Union, do you in practice take measures to make a clear distinction between personal and non-personal data?

- ☐ Yes
- ☐ No
- ☐ Not applicable

★ Please explain why not

Based on the current directive 95/46/EC, personal data can move freely across the European Union. This will be enhanced with the new GDPR.

Have restrictions on the location of data affected your strategy in doing business (e.g. limiting your choice regarding the use of certain digital technologies and services?)

- ☐ Yes
- ☐ No

Do you think that there are particular reasons in relation to which data location restrictions are or should be justifiable?

- ☐ Yes
- ☐ No

★ What kind(s) of ground(s) do you think are justifiable?

- [ ] National security
- [ ] Public security
- ☐ Other reasons:

**ON DATA ACCESS AND TRANSFER**

Do you think that the existing contract law framework and current contractual practices are fit for purpose to facilitate a free flow of data including sufficient and fair access to and use of data in the EU, while safeguarding fundamental interests of parties involved?

- ☐ Yes
- ☐ No
Please explain your position

3000 character(s) maximum

Current contract law and practices allow to adapt to the different needs of the contracting parties. Private sector is free to share its data based on contractual terms. It is of utmost importance that contractual freedom is maintained, otherwise innovation on big data will suffer dramatically.

In order to ensure the free flow of data within the European Union, in your opinion, regulating access to, transfer and the use of non-personal data at European level is:

- Necessary
- Not necessary

When non-personal data is generated by a device in an automated manner, do you think that it should be subject to specific measures (binding or non-binding) at EU level?

- Yes
- No

Please share your general comments or ideas regarding data access, ownership and use

5000 character(s) maximum

A harmonized, technology-neutral, level playing field-based in a global world, risk-based and innovative approach to data protection will be essential for take-up and success of services based on Data in Europe.

ON DATA MARKETS
What regulatory constraints hold back the development of data markets in Europe and how could the EU encourage the development of such markets?

3000 character(s) maximum

Now is the moment for Europe to embrace the new digital technologies which would transform social relationships, business and the public sector, creating jobs and growth. These opportunities are all underpinned by data, with exciting developments in big data analytics, cloud computing and Internet of Things. Data is the great untapped resource of our time. European companies shall be encouraged to invest in data-driven innovations, jobs and competitiveness.

With the necessary improvements (definition of personal data, legitimate purpose and further processing, profiling), the future GDPR will help Europe to develop its Digital Single Market Strategy. Europe and European citizens need this Regulation and need a real Digital Single Market with innovation, jobs, growth and investment. On the contrary, a misunderstood one-sided tunnel vision of threats to privacy will jeopardize development of strong data markets in Europe.

Pseudonymization processes should be encouraged by the future Regulation. Most of the societal benefits from Big Data do not require processing and repurposing data in an identifiable manner.

ON ACCESS TO OPEN DATA

Do you think more could be done to open up public sector data for re-use in addition to the recently revised EU legislation (Directive 2013/37/EU)?

Open by default means: Establish an expectation that all government data be published and made openly re-usable by default, while recognising that there are legitimate reasons why some data cannot be released.

- Introducing the principle of ‘open by default’[1]
- Licensing of ‘Open Data’: help persons/ organisations wishing to re-use public sector information (e.g., Standard European License)
- Further expanding the scope of the Directive (e.g. to include public service broadcasters, public undertakings);
- Improving interoperability (e.g., common data formats);
- Further limiting the possibility to charge for re-use of public sector information
- Remedies available to potential re-users against unfavourable decisions
- Other aspects?
The provision of open data by public sector opens up new models, still emerging, more participatory-based economy and entrepreneurship. This is the case, for example, for the provision of aggregate information about the city (i.e., Smart Cities). The EU should foster the adoption of open APIs for accessing open data in real-time, not just access to historic and static databases or data files. As an example, real-time open data about context information describing what is happening in the city at this moment (e.g., current location of buses, or environmental measurements like temperature, humidity, pollution and noise levels, etc). Actually, access to real-time data is crucial in the development of smart applications. Fast-track adoption of FIWARE NGSI specifications, as well as the definition of required public open data platform DCAT Application Profiles and standard data models, by ETSI is key. The integration of some FIWARE technologies as Building Blocks within the Common European Facility (CEF) programme could be also instrumental.

Do you think that there is a case for the opening up of data held by private entities to promote its re-use by public and/or private sector, while respecting the existing provisions on data protection?

- Yes
- No

ON ACCESS AND REUSE OF (NON-PERSONAL) SCIENTIFIC DATA

Do you think that data generated by research is sufficiently, findable, accessible identifiable, and re-usable enough?

- Yes
- No

Do you agree with a default policy which would make data generated by publicly funded research available through open access?

- Yes
- No

ON LIABILITY IN RELATION TO THE FREE FLOW OF DATA AND THE INTERNET OF THINGS
As a provider/user of Internet of Things (IoT) and/or data driven services and connected tangible devices, have you ever encountered or do you anticipate problems stemming from either an unclear liability regime/non—existence of a clear-cut liability regime?

The "Internet of Things" is an ecosystem of physical objects that contain embedded technology to sense their internal statuses and communicate or interact with the external environment. Basically, Internet of things is the rapidly growing network of everyday objects—eyeglasses, cars, thermostats—made smart with sensors and internet addresses that create a network of everyday objects that communicate with one another, with the eventual capability to take actions on behalf of users.

- Yes
- No
- I don’t know

If you did not find the legal framework satisfactory, does this affect in any way your use of these services and tangible goods or your trust in them?

- Yes
- No
- I don’t know

Do you think that the existing legal framework (laws, or guidelines or contractual practices) is fit for purpose in addressing liability issues of IoT or / and Data driven services and connected tangible goods?

- Yes
- No
- I don’t know

Is the legal framework future proof? Please explain, using examples.  

3000 character(s) maximum

Some barriers may prevent the take-up of the IoT in the context of the Digital Single Market, as well as from an Internal Market perspective, in particular trust, security, liability and privacy. Privacy and security by Design should be promoted. On liability, at present we believe that these issues can be managed within the existing legal and regulatory framework. Emphasis should, in the main, be on the development of policy solutions to some challenges: product compliance, product liability and insurance-related.

Please explain what, in your view, should be the liability regime for these services and connected tangible goods to increase your trust and confidence in them?  

3000 character(s) maximum

The general rules on contracts, liability, data protection are sufficient to tackle IoT. No specific legislation is required, but self-regulatory initiatives can help to create a virtuous circle in which all parties in the ecosystem are trustable.
As a user of IoT and/or data driven services and connected tangible devices, does the present legal framework for liability of providers impact your confidence and trust in those services and connected tangible goods?

- Yes
- No
- I don't know

In order to ensure the roll-out of IoT and the free flow of data, should liability issues of these services and connected tangible goods be addressed at EU level?

- Yes
- No
- I don't know

ON OPEN SERVICE PLATFORMS
What are in your opinion the socio-economic and innovation advantages of open versus closed service platforms and what regulatory or other policy initiatives do you propose to accelerate the emergence and take-up of open service platforms?

An open platform is defined as one that allows external agents to interact with it, via public interfaces (non-proprietary APIs), and that ideally have been defined following a driven by implementation approach (i.e., based on actual experience as opposed to "designed by committee") and endorsed by a reputed standardization body (e.g., ETSI). A key aspect is that API specifications are backed by an open source reference implementation since this means that there will not be ambiguities in the specifications and alternative platform providers can emerge faster in the market.

Ecosystems are generated around a platform and applications that rely on it. Open platform specifications would enable to setup federated (e.g., pan-european and cross-border) open digital service platform infrastructures that can support all kind of applications, fostering their interoperability and portability across platform infrastructures, avoiding vendor lock-in and fostering the creation of a more sustainable Digital Single Market.

In this respect, Europe has a great opportunity at the moment if it decidesly promotes the use of open platform specifications for Smart Digital Service infrastructures (i.e., open digital service platform infrastructures for Smart Applications) based on FIWARE. Their adoption would be instrumental for Europe to take a leading position and capture the opportunities in domains like Smart Cities, Smart Industry, Smart Agrifood, Smart Logistics, etc.

Open platform specifications foster a competition between alternative platform providers focused on quality of service and local support rather than on aspects (e.g., supported APIs) where lack of consensus lead to portability costs and create barriers for reaching the necessary economies of scale, ultimately becoming an obstacle for open innovation and entrepreneurship. This lack of consensus would lead to closed platforms having dominant positions due to their ability to become gatekeepers and close or control access to different market sides.

PERSONAL DATA MANAGEMENT SYSTEMS

The following questions address the issue whether technical innovations should be promoted and further developed in order to improve transparency and implement efficiently the requirements for lawful processing of personal data, in compliance with the current and future EU data protection legal framework. Such innovations can take the form of 'personal data cloud spaces' or trusted frameworks and are often referred to as 'personal data banks/stores/vaults'.
Do you think that technical innovations, such as personal data spaces, should be promoted to improve transparency in compliance with the current and future EU data protection legal framework? Such innovations can take the form of ‘personal data cloud spaces’ or trusted frameworks and are often referred to as ‘personal data banks/stores/vaults’?

- Yes
- No
- I don’t know

Would you be in favour of supporting an initiative considering and promoting the development of personal data management systems at EU Level?

- Yes
- No

EUROPEAN CLOUD INITIATIVE

What are the key elements for ensuring trust in the use of cloud computing services by European businesses and citizens?

“Cloud computing” is a paradigm for enabling network access to a scalable and elastic pool of shareable physical or virtual resources with self-service provisioning and administration on-demand. Examples of such resources include: servers, operating systems, networks, software, applications, and storage equipment.

- Reducing regulatory differences between Member States
- Standards, certification schemes, quality labels or seals
- Use of the cloud by public institutions
- Investment by the European private sector in secure, reliable and high-quality cloud infrastructures

As a (potential) user of cloud computing services, do you think cloud service providers are sufficiently transparent on the security and protection of users’ data regarding the services they provide?

- Yes
- No
- Not applicable

As a (potential) user of cloud computing services, do you think cloud service providers are sufficiently transparent on the security and protection of users’ data regarding the services they provide?

- Yes
- No
- Not applicable
As a (potential) user of cloud computing services, do you agree that existing contractual practices ensure a fair and balanced allocation of legal and technical risks between cloud users and cloud service providers?

- Yes
- No

What would be the benefit of cloud computing services interacting with each other (ensuring interoperability)

- [x] Economic benefits
- [x] Improved trust
- [ ] Others:

What would be the benefit of guaranteeing the portability of data, including at European level, between different providers of cloud services

- [ ] Economic benefits
- [ ] Improved trust
- [x] Others:

* Please specify

3000 character(s) maximum

Increasing customer choice by enabling switching mechanisms is important in order to avoid lock-in effects
Have you encountered any of the following contractual practices in relation to cloud based services? In your view, to what extent could those practices hamper the uptake of cloud based services? Please explain your reasoning.

<table>
<thead>
<tr>
<th>difícil</th>
<th>some times</th>
<th>often</th>
<th>always</th>
<th>why</th>
</tr>
</thead>
<tbody>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
</tbody>
</table>
What are the main benefits of a specific European Open Science Cloud which would facilitate access and make publicly funded research data re-useable?

- Making Science more reliable by better quality assurance of the data
- Making Science more efficient by better sharing of resources at national and international level
- Making Science more efficient by leading faster to scientific discoveries and insights
- Creating economic benefits through better access to data by economic operators
- Making Science more responsive to quickly tackle societal challenges
- Others

Would model contracts for cloud service providers be a useful tool for building trust in cloud services?

- Yes
- No

Would your answer differ for consumer and commercial (i.e. business to business) cloud contracts?

- Yes
- No

Please share your general comments or ideas regarding data, cloud computing and the topics addressed in this section of the questionnaire

5000 character(s) maximum

Cloud for B2B consists of a wide range of services and usually with customizations for functionalities, professional services, prices... Model contracts will be complex and a straitjacket to the development of the business. Model contracts should therefore be limited to B2C environment.

The collaborative economy

The following questions focus on certain issues raised by the collaborative economy and seek to improve the Commission’s understanding by collecting the views of stakeholders on the regulatory environment, the effects of collaborative economy platforms on existing suppliers, innovation, and consumer choice. More broadly, they aim also at assessing the impact of the development of the collaborative economy on the rest of the economy and of the opportunities as well as the challenges it raises. They should help devising a European agenda for the collaborative economy to be considered in the context of the forthcoming Internal Market Strategy. The main question is whether EU law is fit to support this new phenomenon and whether existing policy is sufficient to let it develop and grow further, while addressing potential issues that may arise, including public policy objectives that may have already been identified.

Terms used for the purposes of this consultation:

"Collaborative economy"
For the purposes of this consultation the collaborative economy links individuals and/or legal persons through online platforms (collaborative economy platforms) allowing them to provide services and/or exchange assets, resources, time, skills, or capital, sometimes for a temporary period and without transferring ownership rights. Typical examples are transport services including the use of domestic vehicles for passenger transport and ride-sharing, accommodation or professional services.

"Traditional provider"

Individuals or legal persons who provide their services mainly through other channels, without an extensive involvement of online platforms.

"Provider in the collaborative economy"

Individuals or legal persons who provide the service by offering assets, resources, time, skills or capital through an online platform.

"User in the collaborative economy"

Individuals or legal persons who access and use the transacted assets, resources, time, skills and capital.

Please indicate your role in the collaborative economy

- Provider or association representing providers
- Traditional provider or association representing traditional providers
- Platform or association representing platforms
- Public authority
- User or consumer association

Which are the main risks and challenges associated with the growth of the collaborative economy and what are the obstacles which could hamper its growth and accessibility? Please rate from 1 to 5 according to their importance (1 – not important; 5 – very important).

- Not sufficiently adapted regulatory framework
  - 1
  - 2
  - 3
  - 4
  - 5

- Uncertainty for providers on their rights and obligations
  - 1
  - 2
  - 3
  - 4
  - 5
- Uncertainty for users about their rights and obligations
  ○ 1
  ○ 2
  ○ 3
  ○ 4
  ○ 5

- Weakening of employment and social rights for employees/workers
  ○ 1
  ○ 2
  ○ 3
  ○ 4
  ○ 5

- Non-compliance with health and safety standards and regulations
  ○ 1
  ○ 2
  ○ 3
  ○ 4
  ○ 5

- Rise in undeclared work and the black economy
  ○ 1
  ○ 2
  ○ 3
  ○ 4
  ○ 5

- Opposition from traditional providers
  ○ 1
  ○ 2
  ○ 3
  ○ 4
  ○ 5

- Uncertainty related to the protection of personal data
  ○ 1
  ○ 2
  ○ 3
  ○ 4
  ○ 5
- Insufficient funding for start-ups
  □ 1
  □ 2
  □ 3
  □ 4
  □ 5

- Other, please explain

Collaborative economy platforms face natural risks associated to every new activity.
Most risk and challenges included in the questionnaire are not specific for the collaborative economy agents and thus do not require a special treatment.
As collaborative economy platforms can be considered new entrants, main risk would be opposition from existing (traditional) agents, though this is not a specific risk per se. In this case, what is specific is the existing normative framework defined by local and regional authorities upon traditional agents. This framework sets rights and obligations on traditional agents, which in some cases can result in an entry barrier for new agents or even in a competitive advantages in others, thus artificially distorting competition by means of an asymmetric and thus discriminatory normative framework. This situation unduly hinders the development of collaborative economy activities, harming in the process the citizens, especially those in the more disfavoured social strata, which could profit from cheaper access to lots of services.
In summary, we think EC should have an important role to play in identifying these asymmetries and promoting its elimination.

How do you consider the surge of the collaborative economy will impact on the different forms of employment (self-employment, free lancers, shared workers, economically dependent workers, tele-workers etc) and the creation of jobs?
  □ Positively across sectors
  □ Varies depending on the sector
  □ Varies depending on each case
  □ Varies according to the national employment laws
  □ Negatively across sectors
  □ Other
The collaborative economy will introduce new ways in which labour can be incorporated to the final product and services, most of them cannot be imagined yet. As collaborative economy is based on the entry in the market of assets that otherwise would not be used by third parties, and the exploitation of these assets requires necessarily of labour, it can be expected that it will highly contribute to the creation of employment, although it is possible that it will be a new kind of employment, more flexible and autonomous. Thus, we expect that global effect on labour would be positive, but most directly related agents may be subject to adjustments likely causing them to oppose changes; this would require a sensitive approach to lower potential barriers and thus maximize global welfare.

Do you see any obstacle to the development and scaling-up of collaborative economy across borders in Europe and/or to the emergence of European market leaders?

- Yes
- No

The existence of asymmetries and legal entry barriers in the form of normative / regulatory framework for certain activities at the local and regional level. It should also be taken into account that regulation of too severe requirements of quality may also result in denial of entry for new agents in the market.

Do you see a need for action at European Union level specifically to promote the collaborative economy, and to foster innovation and entrepreneurship in its context?

- Yes
- No

EU should focus on identifying and eliminating asymmetries and legal barriers at local/regional level that could make impossible the provision of collaborative economy services for providers. If that is accomplished, no specific action will be required to foster innovation and entrepreneurship in the context of collaborative economy.
What action is necessary regarding the current regulatory environment at the level of the EU, including the Services Directive, the E-commerce Directive and the EU legislation on consumer protection law?

- No change is required
- New rules for the collaborative economy are required
- More guidance and better information on the application of the existing rules is required
- I don’t know what is the current regulatory environment

Submission of questionnaire

End of public consultation

Background Documents

BG_Въведение (/eusurvey/files/17798068-07b6-4cfb-8c80-a8e6a4f75e29)
BG_Декларация за поверителност (/eusurvey/files/0b5a7e6a-5c26-47ca-b263-9ece4aa566ca)
CS_Prohlášení o ochraně osobních údajů (/eusurvey/files/a93fa8dd-757e-421e-81f9-e1c9bca745af)
CS_Úvod (/eusurvey/files/af54c429-c5bf-482f-8525-c156be285051)
DA_Databeskyttelseserklæring (/eusurvey/files/5dd2c272-17fa-4714-b0c7-2c207a86235f)
DA_Introduktion (/eusurvey/files/05c0d888-2d35-4e19-a314-65e8092597d6)
DE_Datenschutzerklärung (/eusurvey/files/b5e037cf-0350-40c3-b803-04f6357f9603)
DE_Einleitung (/eusurvey/files/300a2e87-e030-422a-b678-33fe2c7520a6)
EL_Δήλωση περί απορρήτου (/eusurvey/files/b408fd27-c292-4fc0-9c2d-fd70c74062c4)
EL_Εισαγωγή (/eusurvey/files/0be38358-a600-4568-bfd0-fd9697b1810f)
EN_Background Information (/eusurvey/files/0873ffeb-56b2-40d7-bf56-5aadbd176c3c)
EN_Privacy Statement (/eusurvey/files/8861750d-baa1-4113-a832-f8a5454501b5)
ES_Declaración de confidencialidad (/eusurvey/files/edd31f1e-fe9d-493a-af5e-7a7c793295a9)
ES_Introducción (/eusurvey/files/600be540-eeff-4bde-bd3a-436360015845)
ET_Privaatsusteave (/eusurvey/files/294d2e58-3a3d-4e32-905f-74e8b376c5e6)
ET_Sissejuhatus (/eusurvey/files/4bc0f8b9-fecb-478a-b028-b1032dd0117f)
FI_Johdanto (/eusurvey/files/a971b6fb-94d1-442c-8ad7-41a8e973f2d5)
FI_Tietosuojaseloste (/eusurvey/files/28a1f27e-3a8e-41f3-ae27-201e29134555)
FR_Déclaration relative à la protection de la vie privée (/eusurvey/files/1341b7cb-38e5-4b81-b3bc-bd0d5893d298)
FR_Introduction (/eusurvey/files/308a1cf7-5e78-469c-996a-372b33a1992b)
HR_Izjava o zaštiti osobnih podataka (/eusurvey/files/618120e1-286a-45d4-bbbd-2493d71617fb)
HR_Uvod (/eusurvey/files/6bfc9d48-cd5c-4603-9c68-5c459899ce864)
HU_Adatvédelmi nyilatkozat (/eusurvey/files/76f442e6-3e2d-4af3-acce-5efe8f74932b)
HU_Bevezetés (/eusurvey/files/3ea8491d-429d-4c8f-be30-82db40fa59c5)
IT_Informativa sulla privacy (/eusurvey/files/e2eb5a94-9e5e-4391-a8e3-35f9e151310b)
Contact

✉️ CNECT-PLATFORMS-CONSULTATION@ec.europa.eu