

A European Strategy for data



Telefónica comments on EU Data Strategy &
Telefónica contribution to EU Data Strategy questionnaire

May 2020

Telefonica

TELEFÓNICA COMMENTS ON EU DATA STRATEGY

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EXECUTIVE SUMMARY

The European Strategy for Data puts forward a **vision for Europe** to become a leading role model for a society empowered by data to make better decisions, in private and public sectors, and to maximise the benefits of the data-driven-economy for our society, based on Europe's values.

Building on the assumption that **data is at the centre** of Europe's digital transformation, the Data Strategy aims at creating a **genuine single market for data**, where individuals have higher levels of control over their data and businesses have easy access to huge amounts of high-quality data, boosting growth and creating value.

Telefónica welcomes the comprehensive vision proposed by the European Commission and shares the objective of achieving **digital sovereignty** through a human-centric and value-based approach.

If the Data Strategy is successfully implemented, there will be significant **opportunities for all**, Public Administrations, private sector and, more importantly, European citizens.

With these comments, Telefónica wishes to contribute to the ongoing work towards building a true European vision on data.

- **Voluntary Data Sharing based on contractual freedom.** B2B data sharing is a nascent market that will continue to grow as companies from all sectors are steadily moving towards data driven models. The same applies for B2G data sharing as Public Administrations will understand that using privately held data could reduce public expenditure and free up budget for a sustainable data-sharing model, benefitting the public sector (less budget), citizens (less taxes) and companies providing data (fair compensation). For that, voluntary data

sharing based on contractual freedom between the parties should be preserved as guiding principle. Otherwise, innovation on big data will suffer dramatically. Any regulatory action with the aim to mandate B2G data sharing is premature as there is no market failure, since there is hardly a market, compared with the enormous opportunity ahead. When sharing anonymized and aggregated data, anonymization (in case of data originating from individuals) should be one of the pillars of the European Data Strategy, as it will ensure data sharing is done in full compliance with data protection rules. In case of sharing personal data, GDPR applies.

- **Fair compensation.** One should not misuse the notion of “public interest” to justify the access to private-held data by Public Administrations at preferential conditions or no cost. The current approach should be maintained by which compensation is the general rule.
- Telefónica shares the vision on **European Data Spaces** and asks the European Commission to count with all stakeholders to agree on the basic principles for its implementation. Without the endorsement of all parties, it will be very difficult to move ahead. The ultimate objective is to ensure that the data ecosystem works and stimulates Public Administrations, businesses and individuals to share data for further use by others. It is not only about compensation schemes, but about which is the underlying model. And this is the enormous task ahead: to turn the European Data Strategy into reality.
- Data Strategy should focus on **how to tackle the new positions of dominance** where a competitive advantage is reached through the control over data, data accumulation and the ability to integrate different sources of data to allow targeted services, creating barriers to enter and impeding contestability in digital markets.
- The **success of a European Cloud Federation** will depend on achieving scale and incentivizing Cloud users to switch from existing, non-European providers to a more European alternative. One of these incentives would be to seed a European cloud with data. In this way, the Data Strategy is very intertwined with the Cloud initiative.
- **Education and awareness.** Individuals need to understand the potential of information to transform the world and their lives in many positive ways. Citizens have proven hundred times that they will sacrifice themselves for the common good: volunteering, donating money or goods, supporting the needed. The COVID19 crisis has shown us once again that people are willing to do anything that is worth it to help others. Why donating data would be different? They just need to understand what data and why? Strong data protection rules in Europe have not solved the credibility problem that EU citizens have towards privacy

and this impacts on how EU citizens would engage to participate in Data Spaces. Individuals and societies also need to better understand the difference between personal data and anonymized data. Currently, those different concepts are oftentimes mixed up, hindering the wider uptake of data sharing. What is important is literacy, education and awareness.

SPECIFIC COMMENTS

COMPETITION LAW AND EX-ANTE REGULATION TO TACKLE DIGITAL MARKETS

It is a fact that new business models developed by non-EU based big online platforms, based on a two-sided market structure and in many cases providing free services to end users in exchange of their data, have created a high concentration of users' personal data in the hands of very few companies. Given the value of users' data in digital markets, and the creation of new data-related markets, such concentration gives an extremely valuable competitive advantage to those few players. Concentrating the global data economy in a small number of players that choose not to share data on fair, reasonable and non-discriminatory terms, will lead to untapped and missed opportunities for Europe¹.

- Telefónica believes that one of the main elements of the Data Strategy should focus on **how to tackle the new positions of dominance** where a competitive advantage is reached through the control over data, data accumulation and the ability to integrate different sources of data to allow targeted services, creating barriers to enter and impeding contestability in digital markets. Established market failure due to major digital players that use data to abuse their dominance and raise barriers to competition could demand targeted and proportionate intervention, mainly by **adapting competition law to the new features of digital markets**. In this sense, a convergent and holistic approach towards market definition and analysis would be needed, taking into account that players with different core business and business models compete along the value chain for the same users, revenues or attention (ex. video products could

¹ *“Despite the enormous growth in data and AI, both are increasingly concentrated in the hands of a small number of companies. Indeed, fewer than 100 companies now collect more than 50% of the data generated by online interactions (based on analysis of similarweb.com, appfigures.com and alexa.com) and around half of all people with technical AI skills work in the technology sector (according to figures from LinkedIn). Not surprisingly, these businesses are then able to reap the enormous benefits of data and AI while others are left at a disadvantage. This data divide poses a serious challenge for society and, if left unaddressed, could lead to huge economic power flowing to just a few countries and companies. Based on current trends, for example, PWC predicts that around 70% of the economic value generated by AI will accrue to just two countries: the USA and China”.* Closing the data divide: the need for open data, Jennifer Yokoyama - Chief IP Counsel Microsoft, available at <https://blogs.microsoft.com/on-the-issues/2020/04/21/open-data-campaign-divide/>

be competing with messaging or search engines). A dynamic analysis is needed to assess market power focusing not just on market shares and current market structure, but also considering future developments and potential competition with a forward-looking perspective.

- Further intervention could be needed, including **ex-ante regulatory obligations** where Competition Law is not enough to ensure contestability in digital markets avoiding competitors' foreclosure and ensuring that emerging bottlenecks are not perpetuated by the monopolization of future innovation. Ex-ante regulation should be addressed within a holistic approach to the market, to those major digital players creating the market failures, avoiding a sector specific approach that would only exacerbate the currently unlevelled playing field due to the existing regulatory asymmetries, for instance between telecom operators and OTTs. Eventual remedies to solve the concerns associated to major digital players could include obligations which have been usually imposed under sectorial regulation, such as access to data, non-discrimination (FRAND), interoperability, transparency, etc.

CLOUD

The Data Strategy sets the vision of achieving European technological sovereignty by reducing European dependency on other parts of the globe for the most crucial technologies, like Cloud. A true European single market for data will only see the light if European secure and sustainable infrastructures can support it.

However, building a European public cloud that offers the right protections is a big challenge. The technical complexity is high and the preparation of the continent sparse. We are far behind China and the US. The issue is not only technological but also related to the ecosystem and the investment levels. Today's public cloud has attracted thousands of software developers, distribution companies, and services. Once a company or a public administration has a large amount of data within one provider, it is very difficult and costly, both in technical and economic terms, to move that data to another provider. Likewise, it is important to note that clouds not only store data but also the backend of cloud apps (eg.: back-end programming), which is an additional difficulty to overcome.

For a new product built from scratch in isolation, it is relatively easy to adopt the latest innovative cloud solution. But migrating an existing data and business logic to a new cloud solution remains technically and financially challenging.

In addition, the investment necessary to be able to really compete in this field also acts as a huge entry barrier. Only big US companies invest an annual CAPEX that exceeds \$60Billion per year. This together with the technological and ecosystem issues

mentioned above has led this market to become an oligopoly where only Amazon, Microsoft and, to a lesser extent, Google are present.

This dependency leads to a competitive imbalance and a loss of investment potential and it creates vulnerabilities to the security and protection of European data.

So far, and given the difficulties of creating a new ecosystem from scratch, the Data Strategy proposes to focus all efforts on an interconnected Cloud federation, that will be the underlying digital infrastructure for the European Data Spaces and will reduce Europe's existing technological dependencies in service providers from third countries. Such a Cloud federation might help to achieve EU long-term data sovereignty goals.

This initiative is intended to create a European "+1 ecosystem", which would complement the hyperscale cloud players that currently dominate the market globally. Building upon existing cloud infrastructures (in France or Germany), a strong, interoperable, open and distributed European data and software ecosystem would be established. To be successful, the proposed initiative would require commitment from each industry player to develop the ecosystem, support from the public sector to invest in GAIA-X or similar candidates, harmonised legal provisions on data and ultimately scale. From a strategic point of view, Telefónica supports the European Cloud project as it fits with our principles of data sovereignty. This project is a clear example of a needed European industrial effort and may be the only way to achieve long-term data sovereignty goals, and to be able to negotiate conditions with US and Chinese Cloud giants to ensure them in the short term. For example, GAIA-X's primary goal is creating an ecosystem that complements existing global cloud platforms to suit the specific needs of data-driven models in Europe: an open software framework that runs on distributed infrastructure clouds, enabling distributed data management and software execution (for example, across different companies along the value chain) while maintaining control of data. Software vendors and developers can benefit from an open, interoperable ecosystem that enables a better way to share and manage data and Cloud providers can use the work environment to provide managed services.

Indeed, the success of a European-based cloud infrastructure depends on its scale which creates an incentive for Cloud users to switch from existing, non-European providers. One of these incentives would be to seed a European cloud with data. In this way, the Data Strategy is very intertwined. However, we must not forget that developers would not migrate to this new cloud if the initiative can only solve the same technical problems, and to do so, it will be needed to action important investments for the initiative. In other words, it is not just about gaining scale, but also about providing better functionality.

The growth of connected devices, evolving into smart connected systems, will generate an exponential increase in data management requirements that a centralised cloud will not be able to manage. A key competitive advantage will be edge networks. There is an opportunity for telcos to solve that problem by developing the vision of the network as a platform, while overcoming challenges like industry fragmentation and data sovereignty.

Cloud, as well as edge computing, will be a major element of the future connectivity architecture (5G and beyond). A new processing layer is emerging, one that will redefine not only telecoms but also the IT sector in the future. Edge computing is becoming an industry strategic point, where collective effort could be beneficial. It will be of utmost importance to enable a distributed cloud-edge infrastructure, potentially by federating/interconnecting operators' resources and homogenising APIs, catalogues and tasks.

DATA AVAILABILITY

In an era of digital transformation, data has become a key asset and a factor of production in its own right, as well as fuel for innovation and competitive differentiation. With an increasingly larger amount of people and devices connected, there is an explosion in data generation that together with the increasing ability to intensively collect, process and use such data is fuelling a range of innovative business models. Since the value of data lies not only in its use but also in its re-use, one of the main objectives of the Data Strategy is to ensure that huge amounts of data are available for innovative re-use by public and private sectors other than those that have collected such data in the first place.

As far as personal data is concerned, its use and re-use is strictly regulated by GDPR (based on the principle of "purpose limitation"), which provides all the safeguards to ensure a high level of protection of such data both related to its primary use, and its compatible further use (data re-use). As far as non-personal data is concerned, fostering its further use will contribute to boost growth and create value in the EU as explained.

In any case, the data re-use proposition should find a balance with other rights that are at stake, such as trade secrets or intellectual property rights.

For example, it is not the same the re-use of raw data as derived data or inferred data, whose generation is more costly and could even reveal the inner workings of much valued algorithms protected by intellectual property rights.

To foster intensive use and re-use of data and create a virtuous circle, it is necessary to incentivise and **facilitate data sharing on a voluntary basis** between Businesses (B2B), and between private and public sector (B2G).

So far data-sharing is voluntary, based on contractual agreements between the parties (being public or private), with the exception of some sector-specific regulations for mandatory data sharing (eg.: banking sector). It is important to enhance incentives for companies to share data. Without data sharing, there will be no way for European companies to build competitive offerings and without a competitive offering, there will not be enough financial opportunity to drive investment in data or in AI. The Strategy must address this.

Such contracts should define the conditions (duration, purpose, compensation) and other terms of use signed when data is gathered, thereby addressing the specific needs of the contractual parties and providing them with the required flexibility. It would be worth exploring which types of data ecosystems are successfully functioning at large scale.

B2B data sharing is a nascent market that will continue to grow as companies from all different sectors are steadily moving towards data-driven models, and clear business opportunities for sharing data between companies will continue to appear. Therefore, it is of utmost importance to **preserve contractual freedom as a guiding principle**, or otherwise innovation on big data will suffer dramatically.

In addition, B2B voluntary data sharing should be extremely respectful of privacy and data protection rules in case individuals are the origin of the data (as opposed to for example sensor data from machines). Telefónica provides “insights” solutions to third parties (private and public), which are extracted from mobile network data in an anonymised, aggregated and extrapolated manner. Types of insights include mobility insights, footfall insights, activity insights which can be integrated with insights from other data sources when available or necessary, but always aggregated and without putting at risk the anonymization process followed. During the past few years, Telefónica has significantly invested in building a Big Data platform for creating those insights in a privacy-preserving way.

For the case of non-personal data whose origin is customer or user data (as opposed to non-personal data generated from machine sensors), we foresee that anonymization will play a crucial role in balancing B2B data sharing and compliance with privacy and data protection rules. However, the following aspects need to be taken into account:

1. **Anonymization is a truly complex and technical field** that requires investment in developing components that can carry it out in the context of Big Data where the volumes of information and clients handled are very high. Many organizations still lack the skills, technologies and infrastructures needed to apply such measures for anonymization.
2. The technical application of anonymisation should ensure that the information is anonymised to the highest possible level from three points of view: data quality or utility, legal guarantee minimising the risk of re-identification and technical feasibility. Hence anonymization measures have a direct relationship with data usefulness. The higher the anonymization measures applied, the less useful the data becomes.
3. Anonymization is not a static one-shot exercise. The anonymisation techniques used may vary depending on the purpose, context and level of exposure of the data (internal, public), which is why anonymisation is a complex technical issue and does not generalise on the basis of data itself. For example, if B2B data sharing is based on combination of large amounts of data or making that data

available to the public, the reidentification risks will be higher and there is a chance that the anonymization measures render the data useless. As a consequence, it will not be easy to define a standard anonymization framework for B2B data sharing.

4. The current position of the European Court of Justice on Joint-Controllershship can have as consequence that data suppliers and data receptors of B2B data sharing could be considered Joint-Controllers of the anonymization process itself. As a consequence, data spaces could be the source of unprecedented Joint-Controllershship relations, triggering the Joint-Controller burdensome provisions of the GDPR.
5. Certain data types are also subject to specific rules irrespective whether they are personal data or not. For example, storing or accessing information in devices triggers ePrivacy rules regardless such data being personal or not, thus anonymization could be useless in those scenarios.
6. Anonymization is not understandable for the public. Neither the citizens nor the media trust it and have the feeling that even when anonymized they should have some sort of control over their data.

As a consequence, for data originating from persons, anonymization should be one of the pillars of the European Data Strategy, and these problems should be tackled and solved in advance. Otherwise, lack of legal certainty will be a deterrent for responsible companies to share data at large scale.

Last but not least, on B2B data sharing, Telefónica is of the view that Competition rules should be updated in order to facilitate such kind of cooperation agreements among competitors. In particular, we ask for a new safe harbor for data sharing agreements through a new block exemption regulation, providing stakeholders with enough legal certainty to ensure such kind of agreements comply with Article 101.3. TFEU under certain requirements. We also believe data sharing agreements should be considered pro-competitive in the Horizontal Guidelines.

Regarding **B2G data sharing**, the same applies. Telefónica participated in the discussions of the B2G Expert Group whose Recommendations were published in parallel with the Data Strategy. Apart from some positive exceptions, little sustainable B2G data sharing is currently taking place, nor operational systems are in place such that Governments can solve problems in advance. This is manifested again with COVID-19, which could have been controlled better if a sustainable data sharing initiative had been in place between industry and Governments, also providing the necessary legal certainty for all organisations involved. Unfortunately, very often, data sharing happens after a particular need or crisis occurs, and with a lot of time pressure to finally arrive late.

One of the main reasons is the lack of economic incentives to make B2G data sharing happen and the fact that, generally, Public Administrations do not understand that **using privately held data reduces public expenditure and can free up budget for a**

sustainable data-sharing model, benefitting the public sector (less budget), citizens (less taxes) and companies (fair compensation for collecting, anonymising, processing and analysing the data). An additional problem is that overall there is still little appetite from governments to perform evidence-based policy making, for which the recourse to data driven services would be the condition sine-qua-non. One exception has been the COVID-19 crisis where Public Administrations have needed B2G data sharing schemes in order to take evidence-based decisions. It is in these situations where the lack of legal certainty supporting B2G data sharing has generated important difficulties for all parties involved. Moreover, most of B2G data sharing for COVID-19 is happening on a philanthropical basis which works for a few months but is not sustainable for longer periods. Everything points at that data sharing for COVID-19 will need to happen for many months to come.

Here, again, **the market is underdeveloped, but it will definitively grow**. We should not conclude that there is a market failure since there is hardly a market, compared with the enormous opportunity ahead. At EU level, **it is important to set the necessary basis to facilitate voluntary B2G data sharing** such as, reducing the transaction costs and perceived risks for data suppliers, potentially, but not only, through trusted data intermediaries, fostering standardisation of contractual provisions and interoperability of data formats, and launching pilots that would allow businesses to give valuable feedback on established principles to assess their robustness in practice and consequently lead to market evidence as a basis for future considerations.

Telefónica therefore believes that **regulatory action with the aim to mandate B2G data sharing would be premature and even needless**. If the European Commission, after a throughout assessment, still considers it should intervene, it would be better to pilot a regulation first in regulatory sandboxes, given the complexity of all factors involved. This would allow to understand what works and what does not work as well as to provide legal protection for the stakeholders involved.

In this sense, Telefónica fully supports the approach regarding regulatory sandboxes put forward by the Data Strategy, which stated that “because it is difficult to fully comprehend all elements of this transformation towards a data-agile economy, the Commission deliberately abstains from overly detailed, heavy-handed ex ante regulation, and will prefer an agile approach to governance that favours experimentation (such as regulatory sandboxes), iteration, and differentiation”.

Many of the questions ahead cannot be solved by regulating and including additional legal obligations, but rather relaxing current ones. We do not need more rules, we need a shared European model that establishes homogeneous criteria focused on prescriptions that can be applied to make the data strategy feasible.

FAIR COMPENSATION

The provision of data-based insights requires not just access to the data itself, but also a whole range of other activities such as storing, pre-processing, analysis, aggregation, anonymisation and secure transmission of such data in full compliance with strict Data Protection rules such as GDPR and ePrivacy Directive. Making such data available to third parties implies important investments in time, highly remunerated personnel, providers and resources in order to respond the specific requests.

If we wish **sustainable B2G data sharing models to flourish**, data philanthropy alone is not the way forward. This can be the temporarily solution in cases of emergency, health or humanitarian crises, such as the current COVID-19 crisis. B2G data sharing agreements should seek to be mutually beneficial for all involved parties in the long term. The development of B2G data sharing is an opportunity for businesses and Public Administrations, among others, to reduce the overall administrative burden on citizens and companies through access and reuse of data, both in a cost-efficient and in an innovative manner (instead of relying in outdated types of data collection such as surveys).

Private companies should not be required to provide data services at no cost. Indeed, if a public-sector body specifically requests for a private-sector data service to be delivered, the private company is entitled to receive fair compensation for this effort. Regulatory intervention cannot be used to justify the lack of such compensation.

Using data can help Governments improve public transport, make cities greener, better address tourism policies, assess trends in population movements, tackle epidemics and many other things. **“Public interest”** broadly refers to the welfare of individuals in society, but its exact boundaries remain largely undefined, being heavily dependent on socioeconomic, cultural and historical factors. While public health purposes are generally recognised as being in the public interest, other purposes such as improved public services are less clear cut.

One should not misuse the notion of “public interest” to justify access to private-held data at no cost. The B2G Expert Group has tried to come up with a definition of “public interest”, which is not found in any EU legal instrument. The B2G Expert Group Report proposes a set of criteria to check the degree of public interest, but trying to define “public interest” seems an impossible task. Moreover, the large majority of services and products for the public interest are procured by Governments. The current approach should be maintained by which compensation is the general rule.

However, that does not prevent private companies to decide whether they want to participate as data suppliers or provide certain data services for free (data philanthropy). This can be the case, for example, for social good projects. However, we should not mix-up this voluntary participation with regulatory action requiring it. Rather, we must create the environment that incentivises and boosts this type of data sharing such that societies can work better and more efficient.

A fair compensation for the investment in the provision of a given service will speed up market development much more than free data access and/or free data-based services, because companies will have incentives to make data sharing happen. Otherwise, data sharing for free or at preferential conditions will not offer any incentives for companies, and following market principles, such initiatives will be less prioritized and left aside.

EUROPEAN DATA SPACES

Telefónica agrees with the vision on European Data Spaces put forward by the European Commission and believes that all efforts should be put in the construction of European models fostering the use and reuse of data, taking into account the considerations raised above related to data sharing.

And this is certainly the paradox. The EU has been able to design an intelligent regulatory model that should be able to generate a research and technological development environment committed to securing rights (GDPR). And yet, the tangle of policymakers, enforcement and supervisory authorities, divergent criteria and inefficient interpretations of the rules themselves, prevent progress.

Today, more than ever, we need a European Data Strategy, with models for the use of shared data for the economy and for the common good. Once the vision has been settled, we need to define the principles of its implementation.

- The first question would be if we understand the Data Spaces as a “marketplace” functioning as a market where data is sold and bought, or as a “repository” where conditions of access will need to be defined.
- Existing different models, the ultimate objective is to ensure that the data ecosystem works and stimulates Public Administrations, businesses and individuals to share data for further use by others.
- It is not only about compensation schemes, but about which is the underlying model. And this is the enormous task ahead: to turn the European Data Strategy into reality. Policymakers and interested stakeholders need to discuss and agree on the different options. Without the agreement of all parties, it will be very difficult to move ahead.

Data Spaces should act as a kind of trusted intermediaries, aiming to support B2B and B2G data sharing with a range of innovative services, offering dedicated sharing platforms, including technology on controlled access and use, as well as legal support. Without Data Spaces acting as such intermediaries, it will be a 1:1 transaction between each party and that will not scale. One option could be the model of “Data Trustees”, generating trust among all stakeholders and controlling that the Data Spaces do not use the data for their own purposes and interest, but with impartiality and transparency.

Data Spaces will then have an essential role for several reasons:

- aggregating information in a unique place, preventing data seekers from having to make a huge effort to find every data they need
- acting as an independent trusted party, that provides security to the different players
- helping newcomers to enter the so-called data economy, providing advice
- raising awareness regarding different regulations, best practices, etc.

Europe has to be able to find the right conditions to generate these ecosystems and not lose the opportunity data brings to public administration, private sectors and individuals. Living in greener cities, saving on pharmaceutical spending and preventing diseases, defining educational models focused on the capabilities of the individual, manage city transport and traffic planning... virtually any public policy will depend on research and use of data. Europe has the people, the talent and the organizations capable of doing so. We do not want to see the innovation train go by. And we must act now, with every guarantee, but also with every possibility.

An ambitious European Data Strategy, while protecting European citizens, should not limit nor restrict the ability of European companies to compete with foreign ones. Any Strategy should avoid some of the mistakes made in the past, that favoured the arrival of foreign companies that, not being subject to European rules, were able to provide services that European companies were forbidden to provide (e.g. VoIP). The European Electronic Communications Code (EECC) raised enormous expectations for a better regulatory landscape. However, EECC has not achieved the necessary level playing field among telecom operators and OTT players, impacting the profits and revenues for network operators and therefore the investments needed. The result is still missing the point of valuing the effort of connectivity investment and not permitting competition on equal footing between telecom players and over-the-top providers. It is important that a framework that aims to foster data sharing at all levels fully recognises the value of investment of companies and takes into consideration from a convergent cross sectoral perspective who are the few big global players that are accumulating vast amounts of data. It must not be forgotten that network infrastructures are needed in any new project of this nature. **Robust and reliable telecom networks are essential** as well as the return on investments. The regulatory approach should focus on tools that provide flexibility to the telecom sector and provide certain oxygen to help telecom companies subsist in the current and complicated situation which has left the pandemic. COVID-19 has impacted detrimentally and telecom needs should not be ignored, considering the huge contribution of the European telecom industry to the welfare of European citizens, more evident during the pandemic, connecting e.g. students, business, public administrations and people.

The European Commission and national Governments should aim at reaching a common, coherent and non-contradictory approach to data governance across a

framework that takes into account laws and regulations that apply to all types of data (both personal and non-personal), from all angles and perspectives (data privacy, contractual & commercial, intellectual property, trade secrets, etc.). Specifically, we believe that the Data Strategy needs more elaboration on the following points, and Telefónica would be happy to provide input based on its large experience with data businesses.

- **Which data?** The data spaces proposed in the Strategy are sector-based (with one exception regarding the green data space which is cross-sector), but should be open to receiving data from other sectors (e.g. telco data might be valuable for health, mobility or others), as data from different sectors may contribute to solving problems in a specific sector. Therefore, each data space should define what data can contribute to it. It is important to involve all relevant stakeholders in this process.
- **Which business model?**
What is the incentive for companies to put their data in a data space? What are the mechanisms to charge for the use of the data?
- **Interoperability and Standardisation.**
It will be necessary to decide how to make data interoperable. Standards will need to be set for each data space and probably also across data spaces.
- **What governance model?**
The Strategy does not provide enough detail regarding the governance models that will be necessary. Indeed, if data comes together from different organizations, what are the rules? How to guarantee the quality of the data? How to ensure that the data has no bias against or in favour of certain segments of the population which may result in decisions that discriminate against or in favour of certain collectives? How is the contribution of each data set determined with respect to the problem to be solved in a given use case? How will anonymization be approached in such large-scale datasets? Who will decide which data will be shared within a given data space? For instance, in the Health Data Space, will they be experts in Health, in data? Will there be an ad-hoc Committee? Will they be national experts or EU experts? Or just the European Commission? Or will the Data Space take the form of a public-private partnership? All these elements need to be decided and it is of utmost importance to define a governance model involving all stakeholders, including also representatives of data holder companies as they understand the specificities of the data they process.
- **Privacy considerations.**
The Strategy covers both personal and non-personal data. When companies share personal data, GDPR applies. Telefónica provides “insights” solutions to third parties (private or public), which are extracted from mobile network data in a fully anonymised and aggregated manner, so that there is no personal data

involved. However, even when it is not personal data other laws and regulations may also apply, such as is the case of ePrivacy. The idea of the data spaces is to mix data sets of different sources, and despite strong anonymisation processes, a misuse of the anonymized data might be an issue and an obstacle for the success of the data spaces. For personal data, the data spaces need to ensure that GDPR is complied with. For anonymized data, an assessment on anonymisation and re-identification risks needs to be done before additional data sets are stored, or used in combination in the data spaces. This assessment could be done by the Data Space itself.

In addition, it is also very important to educate all stakeholders and the public opinion about the difference between personal and anonymized/aggregated data, that has ceased to be personal data. This is needed to reduce the reputational risks for companies sharing anonymized data. Oftentimes, the public opinion and media mix them up and every use of data is put in a negative light. If this lack of awareness persists, it will be an important obstacle to achieve a real culture of data sharing and will lead to missed opportunities for Europe.

Likewise, data spaces will also need to provide a solution related to the current **Joint-Controllershship approach** established by the European Court of Justice, since this kind of data spaces could have as consequence the generation of unprecedented Joint-Controllershship relations between participants.

Additionally, in order to establish a clear framework for all data suppliers, it is necessary to guarantee and ensure that suppliers from third countries comply with the regulations established in the EU regardless where their headquarters are established. Nowadays, as a result of the different legislations, there are national laws from third countries, such as the Cloud Act, which imply a risk to the privacy of the interested parties by introducing provisions contrary to the GDPR. On this basis, it will be necessary to review the agreements established with the different countries, such as the Privacy Shield, different Adequacy Decisions, the forthcoming EU/US Agreement on eEvidence in order to guarantee that the European rules and safeguards are complied with.

- **Ethical use of data.** Data spaces is a very powerful concept on top of which great applications can be built to solve all kinds of problems or enable new business opportunities. However, that same data can also be used for obscure businesses, undemocratic governmental actions or even for organized crime. It is therefore very important to know at all times what usage is made of the data. This is not mentioned at all in the Strategy. There should be a mechanism to review the uses planned to be made, to make sure they serve the interest of European citizens and societies.

CONCLUDING REMARKS

Telefónica welcomes the opportunity to respond to the European Commission’s public consultation on its European Strategy for Data.

Inclusiveness in reaping the benefits of digitalisation for Public Administration, businesses and citizens should be the guiding principle for a European approach to data while, at the same, framing a smart regulatory model that creates the ecosystem and legal certainty that the Data Strategy needs to thrive, without being perceived as an insurmountable barrier that prevents progress, but, on the contrary, generating a friendly research and technological development environment committed to securing individuals’ and businesses’ rights.

We hope that our comments, which are drawn from Telefónica long experience in its data journey, will assist the European Commission in the challenges ahead. Please do not hesitate to contact us for further information or clarification.

28 May 2020

European Strategy for data

Fields marked with * are mandatory.

Introduction

Europe is undergoing a digital transition that is changing our societies and economies at an unprecedented speed. Data is at the core of this transformation. It has an impact on all economic sectors and also on the daily lives of citizens.

The aim of the European strategy for data is to create a single European data space: a genuine single market for data, where personal as well as non-personal data, including confidential data, are secure. This will make it easier for businesses and public authorities to access an almost infinite amount of high-quality data to boost growth and create value, while reducing the carbon footprint of the EU economy.

To fulfil this ambition, the EU can build its single market for data on a strong legal framework in terms of data protection, freedom to provide services and of establishment, fundamental rights, safety and cyber-security – and this will be further stimulated by a large degree of interconnection in digital public services. In addition, the EU has a strong industrial base and a recognised technological capacity to build safe and reliable complex products and services, from aeronautics to energy, automotive, medical equipment and digital.

The Commission is putting forward a European data strategy that benefits society and the entire European digital economy. It puts the citizen at the centre of the data-driven economy while ensuring that European companies and public authorities can capitalise on the data they generate and also have better access to the data generated by others.

You can consult [the European data strategy here](#). You are invited to read this document prior to completing the questionnaire.

This public consultation will help shape the future policy agenda on the EU data economy. It will feed into possible Commission initiatives on access to and re-use of data.

It is structured in two sections. The objective of Section 1 is to collect views on the data strategy as a whole. Section 2 is divided into sub-sections. It aims to collect information on three specific aspects announced in the data strategy:

- how data governance mechanisms and structures can best maximise the social and economic benefits of data usage in the EU
- the EU-wide list of high-value datasets that the Commission is to draw up under the recently adopted Open Data Directive
- the role of self-regulation to implement rules on data processing

Depending on your answers, the questionnaire may take approximately 10 minutes.

This consultation will close on 31 May 2020, end of the day.

About you

* Language of my contribution

- Bulgarian
- Croatian
- Czech
- Danish
- Dutch
- English
- Estonian
- Finnish
- French
- Gaelic
- German
- Greek
- Hungarian
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

* I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

* First name

Carlos

* Surname

Rodriguez Cocina

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brussels@telefonica.com

* Organisation name

255 character(s) maximum

Telefonica

* Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

52431421- 12

* Country of origin

Please add your country of origin, or that of your organisation.

- | | | | |
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| <input type="radio"/> Albania | <input type="radio"/> Dominican Republic | <input type="radio"/> Lithuania | <input type="radio"/> Saint Vincent and the Grenadines |
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| <input type="radio"/> Antarctica | <input type="radio"/> Estonia | <input type="radio"/> Maldives | <input type="radio"/> Serbia |

- Antigua and Barbuda
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- Bahamas
- Bahrain
- Bangladesh
- Barbados
- Belarus
- Belgium
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- Benin
- Bermuda
- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- Eswatini
- Ethiopia
- Falkland Islands
- Faroe Islands
- Fiji
- Finland
- France
- French Guiana
- French Polynesia
- French Southern and Antarctic Lands
- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Greenland
- Grenada
- Guadeloupe
- Guam
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Mali
- Malta
- Marshall Islands
- Martinique
- Mauritania
- Mauritius
- Mayotte
- Mexico
- Micronesia
- Moldova
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar /Burma
- Namibia
- Nauru
- Nepal
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
- Niger
- Nigeria
- Niue
- Norfolk Island
- Northern Mariana Islands
- North Korea
- Seychelles
- Sierra Leone
- Singapore
- Sint Maarten
- Slovakia
- Slovenia
- Solomon Islands
- Somalia
- South Africa
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland
- Syria
- Taiwan
- Tajikistan
- Tanzania
- Thailand
- The Gambia
- Timor-Leste
- Togo
- Tokelau
- Tonga
- Trinidad and Tobago

- Cameroon
- Canada
- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
- Croatia
- Cuba
- Curaçao
- Cyprus
- Czechia
- Democratic Republic of the Congo
- Denmark
- Iceland
- India
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- Lebanon
- Lesotho
- Liberia
- North Macedonia
- Norway
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia
- Rwanda
- Saint Barthélemy
- Saint Helena Ascension and Tristan da Cunha
- Saint Kitts and Nevis
- Saint Lucia
- Tunisia
- Turkey
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States
- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam
- Wallis and Futuna
- Western Sahara
- Yemen
- Zambia
- Zimbabwe

* Publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

Anonymous

Only your type of respondent, country of origin and contribution will be published. All other personal details (name, organisation name and size, transparency register number) will not be published.

Public

Your personal details (name, organisation name and size, transparency register number, country of origin) will be published with your contribution.

I agree with the [personal data protection provisions](#)

Section 1: General questions on the data strategy

Over the last few years, digital technologies have transformed our economy and society, affecting all sectors of activity and the daily lives of all Europeans. Data is at the centre of this transformation, and more is to come as the volume of data produced in the world is growing rapidly.

Do you agree that the European Union needs an overarching data strategy to enable the digital transformation of the society?

- Yes
 No

“More data should be available for the common good, for example for improving mobility, delivering personalised medicine, reducing energy consumption and making our society greener.” To what extent do you agree with this statement?

- Strongly agree
 Somewhat agree
 Neutral
 Somewhat disagree
 Strongly disagree
 I don't know / no opinion

Do you think that it should be made easier for individuals to give access to existing data held about them, e.g. by online platform providers, car manufacturers, producers of wearables, voice assistants or smart home appliances, to new services providers of their choosing, in line with the GDPR?

- Yes
 No

Which mechanism(s) do you think would help achieve this?

- A compelling offer to use the data that brings benefits to the individuals
 Practical solutions that allow individuals to exercise control, such as mobile and online dashboards or apps
 Additional rights in law
 Other
 I don't know / no opinion

If additional rights in law, please specify

200 character(s) maximum

GDPR's access & portability rights make unnecessary additional rules. Should access to non-personal data be encouraged, on top of GDPR, how these two set of rules will interact to avoid any overlap?

If other, please specify

200 character(s) maximum

Telefónica Aura Transparency Center provides an online dashboard, a one-stop-shop for customers for all issues related to their privacy, empowering their privacy choices in an informed manner.

Have you faced difficulties in recruiting data professionals (workers who collect, store, manage, analyse, interpret and visualise data as their primary or as a relevant part of their activity) during the last 2 years?

- Yes
- No

'General data literacy across the EU population is currently insufficient for everyone to benefit from data-driven innovation and to become more active agents in the data economy.' To what extent do you agree with this statement?

- Strongly agree
- Somewhat agree
- Neutral
- Somewhat disagree
- Strongly disagree
- I don't know / no opinion

One area of study are difficulties experienced in accessing and use data from other companies. With the following questions we seek to further examine the importance and the nature of data access issues in business-to-business situations.

Have you had difficulties in using data from other companies?

- Yes
- No

What was the nature of such difficulties?

- Impossibility to find companies to supply data of relevant quality
- Denied data access
- Prohibitive prices or other conditions considered unfair or prohibitive
- Technical aspects relating to both data interoperability and transfer mechanisms
- Other
- I don't know /no opinion

If other, please specify

200 character(s) maximum

Tech giants control non-rivalrous data and refuse to grant access, resulting in foreclosure & quasi-monopolisation. Encouraging reuse of data rather than hindering (ePrivacy).

A specific class of data are non-personal data generated by smart machines or devices connected to the Internet-of-Things in professional use, such as smart tractors used in farms or smart robots in use in a factory. Data generated by such machines or devices are typically 'co-generated' by several parties, such as: manufacturer of a smart device, lawful user of the smart machine or device etc.

'It is currently challenging to define solutions on the allocation of the rights to use data coming from smart machines or devices that are fair for all parties concerned.'

To what extent do you agree with this statement?

- Strongly agree
- Somewhat agree
- Neutral
- Somewhat disagree
- Strongly disagree
- I don't know / no opinion

'The EU should make major investments in technologies and infrastructures that enhance data access and use, while giving individuals as well as public and private organisations full control over the data they generate.' To what extent do you agree with this statement?

- Strongly agree
- Somewhat agree
- Neutral
- Somewhat disagree
- Strongly disagree
- I don't know / no opinion

'The development of common European data spaces should be supported by the EU in strategic industry sectors and domains of public interest (industry /manufacturing, Green Deal, mobility, health, finance, energy, agriculture, public administration, skills).' To what extent do you agree with this statement?

- Strongly agree
- Somewhat agree
- Neutral
- Somewhat disagree
- Strongly disagree
- I don't know / no opinion

Are there general comments you would like to make about the data strategy?

300 character(s) maximum

Strong European Data Spaces are necessary to avoid over-dependency on third countries' companies data spaces. A great offer of data spaces that respect and comply with European values, principles and rules.

Section 2.1 - Specific questions on future actions: Data governance

The use of data in the society and the economy raises a series of questions of legal, ethical, organisational and technical nature. Many angles need to be looked at in order to fully reap the benefits of the use of data

without harm.

With the term 'data governance' we seek to refer to the set of legal, organisational and technical rules, tools and processes that determine the use of data by the public sector, business, individuals, civil society organisations, researchers.

This may translate into establishing mechanisms for data governance at European level which may support data-driven innovation in different ways:

- At cross-sector level, it could identify the need for standards to facilitate data-sharing, including for the various actions to be taken in this regard (identification, authentication, access control). It could identify use cases in which cross-sector data re-use is supported by standardisation. It could provide technical guidance on technologies for lawful processing of data in accordance with data protection legislation, the need to protect of commercially sensitive information as well as competition law.
- At sector-specific level, data governance could be developed, building on existing structures and coordination mechanisms.

'Data governance mechanisms are needed to capture the enormous potential of data in particular for cross-sector data use.' To what extent do you agree with this statement?

- Strongly agree
- Somewhat agree
- Neutral
- Somewhat disagree
- Strongly disagree
- I don't know / no opinion

Standardisation

Significant interoperability issues impede the combination of data from different sources within sectors, and even more so between sectors. One such issue is the absence of a consistent description of the data, including information on how it has been gathered. This can impact on data discoverability and on the capacity to evaluate data quality. Another issue is the differences between data models used for similar or identical information assets. This constitutes a barrier for re-users, both commercial and from academia. Standardisation is one of the means to respond to these challenges.

'The re-use of data in the economy and society would benefit greatly from standardisation to improve interoperability.' To what extent do you agree with this statement?

- Strongly agree
- Somewhat agree
- Neutral
- Somewhat disagree
- Strongly disagree
- I don't know / no opinion

'Future standardisation activities need to better address the use of data across sectors of the economy or domains of society.' To what extent do you agree with this statement?

- Strongly agree
- Somewhat agree
- Neutral
- Somewhat disagree
- Strongly disagree
- I don't know / no opinion

Which of the following elements do you consider to be the most useful in terms of standardisation?

- Metadata schema
- Metadata variables (semantic interoperability at the metadata level), including ontologies, controlled vocabularies and agreed thesauri
- Data formats
- Common data models
- Data exchange protocols
- Application Programming Interfaces (APIs)
- Licences or licence terms
- Other
- I don't know / no opinion

If other, please specify

200 character(s) maximum

Standardization is key for SMEs, big companies (who need resources to transform data into useful datasets) and individuals (who cannot learn different data nomenclatures).

What role should EU or national government bodies take in standardisation?

- Provide necessary funding in order to ensure open standards
- Take an active role in the prioritisation and coordination of standardisation needs, creation and updates
- Be directly involved in defining standards
- Provide funding to test draft standards in practice and develop tools to implement them early-on
- Other
- Governments should not have a role in standardisation
- I don't know / no opinion

If other, please specify

200 character(s) maximum

From a competition angle, current rules on standardization agreements should be updated to boost standardization process over data due to their pro-competitive nature.

Secondary use of data

Sensitive data (e.g. health data) stored in public databases has a high potential for re-use for the public interest. However, it is normally not possible to open such data as 'open data' and specific efforts are necessary on the side of the public sector data holder. Some statistical offices have put structures in place for processing of statistical micro-data for research. In some countries, similar approaches are taken for certain social services or health information. With these questions we seek to understand whether such approaches should be broadened to other types of data and what types of services should be offered.

'Public authorities should do more to make available a broader range of sensitive data for R&I purposes for the public interest, in full respect of data protection rights.'

To what extent do you agree with this statement?

- Strongly agree
- Somewhat agree
- Neutral
- Somewhat disagree
- Strongly disagree
- I don't know / no opinion

Which of the following should public authorities do to facilitate data re-use:

- Help the re-user to identify the exact authority that is holder of a specific set of data (one-stop-shop)
- Ensure that the request for data access is processed faster, within agreed deadlines
- Assess whether the re-use of the data could potentially harm the interests of others (of the persons/companies whose data is being used) for concrete use-cases
- Be able to provide anonymisation of specific data for concrete use-cases
- Offer the possibility to process data within a secure environment it makes available, so that the user does not need to obtain a copy of the data
- Clarify from the outset the legal rules on the purposes for which the data can be used
- Provide for recourse mechanisms to challenge decisions on one or several of the above.
- Other
- I don't know / no opinion

If other, please specify

200 character(s) maximum

Need to clarify that this section refers only to public sector data. Specially as the third option refers to the interests of others of persons/"companies whose data is being used".

Data altruism

Data altruism is about making it easier for individuals to allow the use of the data they generate for the public good, if they wish to do so, in full compliance with the GDPR and namely on the basis of consent as a legal basis. This is sometimes referred to as 'data donation', a term that could be misunderstood to mean that the consent to the processing of such data in question cannot be withdrawn. Article 7 of the GDPR

provides that consent can always be withdrawn and there is no intention to change this rule for 'data altruism'.

Do you think that law and technology should enable citizens to make available their data for the public interest, without any direct reward?

- Yes
- No
- I don't know / no opinion

For which of the following purposes would you be willing to make data available:

- For health-related research
- For aspects relating to the city/municipality/region I live in, including for example improving mobility, to improve environmental challenges that can be addressed through action at local or regional level
- For other public interest purposes
- None of the above
- I don't know / no opinion

If for other public interest purposes, please specify

200 character(s) maximum

Probably all sectors related to the UN SDG. Private companies also process data for public interest, even if not related to a task executed by a public authority (R&D+i).

Do you think there are sufficient tools and mechanisms to "donate" your data?

- Yes
- No
- I don't know / no opinion

In which of the following domains do you see potential for the use of 'contributed' data:

- For health-related research
- For aspects relating to the city/municipality/region I live in, including for example improving mobility, to improve environmental challenges that can be addressed through action at local or regional level
- For other public interest purposes
- None of the above
- I don't know / no opinion

If for other public interest purposes, please specify

200 character(s) maximum

All sectors related to the UN SDG. Use of contributed data is key in every domain. In AI, in Big Data Analytics companies combine data to train a machine learning algorithm or gain enriched insights.

What would support the usefulness of 'data altruism' mechanisms as a means to build up data pools for research and innovation:

-

A standard form for obtaining consent (and, where necessary, requesting data portability) from the individual in line with the GDPR

- A European approach to obtaining consent that is compliant with the GDPR
- Public registers of persons that are willing to make available some of their data for research or innovation purposes
- The existence of intermediary infrastructures such as personal data spaces /wallets/stores controlled by each individual from which the data could be retrieved
- Additional EU legislation on data altruism relating to deceased persons
- Information campaigns sensitising individuals on the subject matter, e.g. via clinical practitioners
- Measures to mitigate inherent bias in the data collected through this means
- Other

If other, please specify

200 character(s) maximum

No more legislation is necessary, but literacy, education and awareness. Individuals need to understand the potential of information to transform the world and their lives in many positive ways.

Data intermediaries

In the data economy, novel intermediaries such as 'data marketplaces' or 'data brokers' are increasingly aiming to support business-to-business data sharing with a range of services such as match-making, offering dedicated sharing platforms, including technology on controlled access and use, as well as legal support.

'Such intermediaries are useful enablers of the data economy.' To what extent do you agree with this statement?

- Strongly agree
- Somewhat agree
- Neutral
- Somewhat disagree
- Strongly disagree
- I don't know / no opinion

Section 2.2 - Specific questions on future actions: identification of high-value datasets

The recently adopted [Directive 2019/1024/EU](#) (Open Data Directive) introduces the concept of high-value datasets (HVDs), defined as documents the re-use of which is associated with important benefits for society and the economy (e.g. job creation, new digital services, more efficient and evidence-based policy making). Under the directive, the Commission is required to adopt an implementing act setting out a list of specific high value datasets within the thematic categories listed in Annex I to the directive (geospatial; earth observation and environment; meteorological; statistics; companies and company ownership; mobility). The directive specifies that those datasets shall be made available for re-use free of charge, in machine-readable formats, provided via application programming interfaces (APIs) and, where relevant, as

bulk download.

The answers to the questions below will help the Commission draw up an EU-wide list of specific high-value datasets.

'The establishment of a list of high-value datasets, to be made available free of charge, without restrictions and via APIs, is a good way to ensure that public sector data has a positive impact on the EU's economy and society.' To what extent do you agree with this statement?

- Strongly agree
- Somewhat agree
- Neutral
- Somewhat disagree
- Strongly disagree
- I don't know / no opinion

Apart from the potential to generate socio-economic benefits, please indicate the relevance of the following additional factors to be taken into account when selecting datasets for the future list of high value datasets:

	Very relevant	Relevant	Neutral	Not relevant	Not relevant at all	I don't know / no opinion
The re-use of the dataset would increase if it was provided free of charge.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The dataset belongs to a thematic area in which there are few EU-level requirements for opening up data.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The re-use of the dataset would increase if its availability under uniform conditions was ensured across the entire EU.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The re-use of the dataset would increase if it was available via an application programming interface (API).	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If other factors: please specify

200 character(s) maximum

Need to be clear that this section refers only to public data. Private companies should not be obliged to open up their data for free, to avoid severe impact on innovation and competitiveness.

Under the Open Data Directive, specific high-value datasets will have to be available free of charge, in a machine-readable format, provided via APIs and, where relevant, provided as a bulk download. Please indicate the relevance of each of the other arrangements indicated below to improve the re-usability of specific high-value datasets.

	Very relevant	Relevant	Neutral	Not relevant	Not relevant at all	I don't know / no opinion
Licensing and other terms applicable to re-use	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Standardised formats of data and metadata	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Possibility of user feedback	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Specific technical arrangements for dissemination	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If other arrangements, please specify:

200 character(s) maximum

Please specify which specific technical arrangements for dissemination:

200 character(s) maximum

EU programmes may provide funding to enhance the availability and re-use of high-value datasets across Europe. For each of the following activities, please indicate how relevant it is to support them.

	Very relevant	Relevant	Neutral	Not relevant	Not relevant at all	I don't know / no opinion
Improving the quality (e.g. machine-readability) and interoperability of the data/metadata	<input checked="" type="radio"/>	<input type="radio"/>				
Ensuring sustainable data provision via application programming interfaces (APIs)	<input checked="" type="radio"/>	<input type="radio"/>				
Engaging with re-users (promoting the data, co-defining use-cases)	<input checked="" type="radio"/>	<input type="radio"/>				

If other activities, please specify:

200 character(s) maximum

Europe needs to invest in training, not only regarding technical skills but also creativity (discover new unknown uses) and ethics (ensure technology and data are used in the correct way).

According to your experience and the expected potential of concrete datasets, indicate up to three specific datasets that should be listed in each of the thematic categories of high-value datasets, as referred to in Article 13(1) of the Open Data Directive:

	Specific datasets
Geospatial	
Earth observation and environment	
Meteorological	
Statistics	
Companies and company ownership	
Mobility	

Section 2.3 - Specific questions on future actions: the (self-/co-) regulatory context of cloud computing

Data processing that underpins data sharing, in particular in common European data spaces will increasingly be performed in cloud and edge infrastructures. Such infrastructures can present cost-effective alternatives and, in the case of edge computing, enable real-time data processing in a connected device. Cloud and edge services are covered by European rules like the General Data Protection Regulation and the Free Flow of Non-personal Data Regulation, and implementation of these rules can happen by means of self-regulatory schemes like codes of conduct. To ensure that cloud and edge services offered in Europe are secure, user friendly and compliant with the rules, the applicable rules should be implemented by service providers in an appropriate and transparent way.

Does your organisation use and/or provide cloud or edge services?

- Yes, my organisation **uses** cloud or edge services
- Yes, my organisation **provides** cloud or edge services
- None of the two

Does your organisation use:

- Cloud
- Edge
- Both cloud and edge

Does your organisation provide:

-

- Cloud
- Edge
- Both cloud and edge

Please explain why you do not use cloud, edge or neither of the two:

200 character(s) maximum

Do you believe the cloud market currently offers the technological solutions that you need to grow and innovate your business?

- Yes
- No

Do you feel that your organisation's sensitive data is adequately protected and secured by the cloud services you use?

- Yes
- No

Have you experienced problems in the context of the current functioning and constitution of the market for cloud services in Europe?

- Yes
- No

Do these problems relate to:

- Cost of cloud services
- A limited possibility to switch providers, please specify
- Asymmetry of power of negotiation between customer and provide, please specify
- Contractual practice on the market, including unilateral change of terms and conditions, please specify
- Security risks, including leakage of data or intellectual property
- Other

Please specify

200 character(s) maximum

With large amounts of data within one provider, it is technically and economically difficult to move to another provider. General terms and conditions are rarely negotiated by the Cloud provider.

Do you perceive risks emerging from the current functioning and constitution of the market for cloud services in Europe?

- Yes
- No

Do these risks relate to:

- Cost of cloud services
- A limited possibility to switch providers, please specify

- Asymmetry of power of negotiation between customer and provide, please specify
- Contractual practice on the market, including unilateral change of terms and conditions, please specify
- Security risks, including leakage of data or intellectual property
- Other

Please specify

200 character(s) maximum

The main problem of the structure of the Cloud market in the EU is the over-dependency on providers from third countries.

Does your organisation have flexibility to procure/adopt new and innovative cloud solutions if they emerge on the market?

- Yes
- No

Is your organisation aware of self-regulatory schemes for cloud/edge services (for example, codes of conduct or certification schemes)?

- Yes
- No

Please indicate in which of the following areas you are aware of self-regulatory approaches:

- Data protection
- Data portability
- Security
- Energy efficiency
- Other

Can you please name the specific schemes that you are familiar with?

200 character(s) maximum

How do you believe market awareness of these schemes could be raised?

300 character(s) maximum

Do you believe a self-regulatory approach is appropriate to identify best practices to apply EU legislation or self-regulation?

- Yes
- No

If yes, do you believe a self-regulatory approach is appropriate to identify best practices to apply EU legislation or self-regulation relating to:

	Yes	No	I don't know / no opinion
Data protection	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Data portability	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Security	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Energy-efficiency	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

If other, please specify

200 character(s) maximum

From a contractual point of view, cloud services are barely negotiated. Self-regulation should promote best practices on established general terms that do not impose unnecessary burdens on the user.

Would it be beneficial for your organisation if applicable rules for cloud and edge would be bundled and corresponding information made available by the European Commission?

- Yes
- No
- I don't know / no opinion

Thank you for your contribution to this questionnaire. In case you want to share further ideas on these topics, you can upload a document below.

Please upload your file

The maximum file size is 1 MB

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

Final comments

Telefónica welcomes the opportunity to respond to this public consultation and encloses a position paper developing this questionnaire. We hope these comments, drawn from Telefónica experience in its data journey, will assist European Commission in the challenges ahead.

Contact

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