

To

Executive Vice-President Henna Virkkunen

Tech Sovereignty, Security and Democracy

European Commission

per-e-mail:

henna.virkkunen@ec.europa.eu; cab-virkkunen-contact@ec.europa.eu

Commissioner Michael McGrath

Democracy, Justice, the Rule of Law and Consumer Protection

European Commission

per e-mail

michael.mcgrath@ec.europa.eu; cab-mcgrath-contact@ec.europa.eu

Dear Executive Vice-President Virkkunen,

Dear Commissioner Mc Grath,

Subject: Digital Omnibus – Deregulation instead of simplification

We are writing on behalf of EDRi, ICCL and noyb to express our serious concern about the forthcoming Digital Omnibus package. We call on you as the representatives of the European Commission responsible for the digital environment and fundamental rights respectively to ensure that the measures adopted do not weaken people's protections and rights. You have repeatedly promised to do so.

We agree that the digital acquis should be consistent and that its application should be coordinated. However, the legislative changes now contemplated go far beyond mere simplification. They would deregulate core elements of the GDPR, the e-Privacy framework and AI Act, significantly reducing established protections.

The considered changes go against the assurances given to stakeholders during the Commission's GDPR Implementation Dialogue, and have not been anticipated neither in the 2025 Overview Report on Simplification, Implementation and Enforcement, nor in the Call for Evidence for the Digital Omnibus. It is apparent that the Commission has not gathered the necessary evidence and consulted sufficiently. Nor has it conducted the necessary impact assessment to support such profound amendments, potentially in conflict with the European Charter of Fundamental Rights. Our concerns are summarized below:

Deregulation undermines both Competitiveness and Trust

Fostering innovation is essential, but deregulation is not the path to achieve it. Trust in the rule of law and predictable regulation are what enables sustainable digital growth. California, currently the leading AI economy has introduced encompassing AI regulation. Another example to demonstrate that regulation doesn't stand in the way of innovation is China where AI development is strongly regulated.

Reducing the scope of fundamental rights of people in the EU will not strengthen European competitiveness for organisations who play by the rules. In an already concentrated market, deregulation will further erode European sovereignty and increase dependence on non-EU companies.

In the past, the EU has demonstrated that innovation that serves our societies is based on rule of law and democratic values. It requires a strong enforceable legal framework that protects everyone from ever more concentrated markets, hyper-personalised disinformation or highly manipulative AI systems. Stronger not weaker legal frameworks are also necessary to protect aims like our national security all the way to well-being of our children which are focus points of your missions.

Recent data broker scandals across Europe and beyond have exposed how personal data including sensitive information such as location and behavioural profiles, continues to be traded and exploited at scale. These cases demonstrate that the problem is not excessive regulation, but the lack of consistent enforcement, guidance and harmonisation. Instead of weakening safeguards, the EU should strengthen oversight and ensure that regulators have the tools and resources to make existing rules work in practice.

Deregulation without oversight weakens EU governance

The Commission now appears to plan substantive changes to key EU laws, potentially in conflict with the Charter of Fundamental Rights, without following its own Better Regulation principles: evidence-based policy making, impact assessments and meaningful public consultation. The Call for Evidence for the Digital Omnibus closed only five weeks before the scheduled publication – clearly insufficient for genuine consideration of the received input. In addition, Omnibus procedures compress parliamentary timelines and restrict scrutiny, handing disproportionate power to the Commission. The result is a package that risks bypassing democratic oversight and undermining confidence in the EU as an evidence-based regulator.

Fundamental protections at stake

Beyond procedural concerns, the EU's digital rulebook contains foundational protections that must not be diluted. The far-reaching changes under consideration regarding the rules for personal data, special category data and to the legal basis for AI training would undermine well-established principles and basic protections in the EU's legal framework for privacy and personal data protection, with repercussions amounting to an interference with the Fundamental Right to Data Protection under Article 8 of the Charter of Fundamental Rights. To provide you with concrete examples: We are particularly worried about the consequences of re-defining what constitutes "personal data" by introducing a "subjective" approach depending on the specific controllers' capability to identify the person and by potentially excluding "pseudonymous" data from the scope of the GDPR. One consequence of this change could be that the GDPR no longer applies to so-called user IDs which are the basis for the highly problematic data processing of the online advertising and data broker industry. Commercial surveillance through tracking and profiling which most people in the EU do not want, could be legalized. Another huge limitation of protection could occur from the envisaged reduction of scope of "sensitive" data (like political opinions, sexual orientation, trade union membership, health information etc.). The GDPR would only apply to sensitive data "directly revealed" instead of "inferred" as currently defined. The drastic and absurd consequence could be that people who do not want to disclose their personal situation would lose all protections yet those who communicate about such sensitive information would be protected. Finally, the Commission envisages permitting the processing of personal (including sensitive) data for AI training as a

legitimate interests of the controller, only conditioned by undefined safeguards. This change would not only expose people fully to risks of personal data processing by opaque AI systems but importantly it would establish a huge privilege for the AI industry who by default would be GDPR compliant when exploiting personal data compared to traditional industries and their data processing activities.

Likewise, the envisaged changes to the AI Act would signal laxity to AI providers and a weak appetite for enforcement by the Commission, in particular the delay of penalties for infringements. Furthermore, a watering down of transparency requirements would make oversight and accountability for the use of AI systems even harder. And the extension of exceptions to the basic requirement for technical documentation and quality management for small mid-cap companies would create dangerous loopholes based on company size rather than the risk of the AI systems they develop.

These huge changes would not only strip people off their rights but also undermine European competitiveness for the reasons set out above. While we welcome the use of automated tools for communicating privacy choices by consumers, we are highly concerned that other changes to the e-Privacy legal framework would undermine the confidentiality of communications and open the door to even further ubiquitous commercial surveillance, unfairly tracking and profiling consumers.

Finally, the Digital Omnibus does not stand in isolation. It forms part of a broader deregulation trend that risks hollowing out hard-won protections across social, environmental and digital policy areas under the guise of simplification. Similar approaches have already weakened or delayed essential safeguards in areas such as due diligence, environmental standards and consumer protection. This erosion of the EU's rights-based model undermines the Union's credibility as a democratic and evidence-based regulator. It also fuels public mistrust at a time when adherence to the rule of law and the protection of fundamental rights should be strengthened, not weakened.

We urge the European Commission to reconsider its approach and not include any such deregulatory amendments in the Digital Omnibus. Simplification must never become an excuse for dismantling rights. Any substantial legislative reform should be discussed under the Digital Fitness Check, following the Better Regulation framework. These complex matters are simply not suitable for a fast-track Omnibus procedure.

Our organisations stand ready to engage constructively in evidence-based discussions under the Digital Fitness Check process and remain available to provide further technical and legal expertise for your current deliberations on the Digital Omnibus.

Signatories:

European Digital Rights (EDRi)
Irish Council for Civil Liberties (ICCL)
noyb, the European Center for Digital Rights