



Accelerating Innovation in  
Technology, Data & Media

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*Submitted electronically*

Re: Consultation: Communication: A European strategy for data

The Software & Information Industry Association (SIIA) appreciates the opportunity to comment on the European Commission's *Communication: A European strategy for data* ('The Communication'). Announced alongside the White Paper on Artificial Intelligence, this Communication signifies a critical consideration of the value of data, data-driven business models and how collaborative uses of data can have a profound impact on both business and societies across Europe. SIIA is supportive of a European strategy for data that is built upon the principles of the Digital Single Market (DSM), avoids fragmentation, and is focused on how Europe can play a leading role in the context of a global, interconnected and interdependent digital economy. Our comments will focus on a few priorities and issues of critical importance for our membership, and we respectfully request that the Commission work in close cooperation with industry and other stakeholders throughout the process to define the necessary rules and parameters for an effective data strategy.

By way of introduction, SIIA is the principal trade association for the software and digital information industries worldwide. SIIA's membership (nearly 800 companies and growing) includes the global industry leaders for the digital age, including software, data analytics, and information service companies. SIIA's member companies reflect the

broad and diverse landscape of digital content, including both B2B and B2C services, small specialized providers, and large multinational industry leaders.

### **A European Data Strategy should be based on the principles of the Digital Single Market**

When the European Commission announced the Digital Single Market strategy in May 2015, SIIA welcomed the intention to remove digital barriers across Europe and create a single market where individuals and businesses could seamlessly access and engage in online activities under conditions of fair competition and personal protections. We noted then that such a praiseworthy strategy for an integrated digital Europe stood to benefit individuals and businesses on both sides of the Atlantic. We cautioned, however, that the realization of that intention would depend upon the definitions and details contained in the DSM proposals, and that transparency and industry cooperation would be essential in the strategy development<sup>1</sup>.

Likewise, while SIIA welcomes the intention of a European data strategy to optimize the utilization and value derived from data, we would like to emphasize the importance of the Commission working transparently and collaboratively with industry stakeholders to develop robust parameters and definitions to enable all players in the ecosystem to reap the benefits of data driven insights. Particular attention ought to be given, for example, to building data relevant skills and knowledge within the SME community.

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<sup>1</sup> SIIA Blog: European Digital Single Market: SIIA's Take (May 2015)  
<https://www.sii.net/blog/index/Post/62760>

## **International cooperation essential to protect data flows and ensure interoperability**

SIIA's member companies reflect the broad and diverse landscape of digital content, including both B2B and B2C services, small specialized providers, and large multinational industry leaders. Many of SIIA's member companies operate internationally and routinely engage in transborder data flows to fulfill their service and product commitments. Our members further understand the critical importance of data protection and data security standards, and are committed to safeguarding personal data through every operational stage. This is why we are pleased to see that the Communication put forward 'an open, but proactive international approach' and a commitment to continuing to work within international fora (including the World Trade Organization) to address unjustified obstacles to data flows. Such cooperation should be extended to ensure that policies and regulations developed by the European Commission are interoperable with comparable international measures.

## **Fundamental questions need to be answered to enable safe and secure data portability**

Within the Communication, the Commission considers exploring the need for a Data Act by 2021 that would allow for a number of clarifications on usage rights, including the right to data portability.

SIIA believes there is inherent value in exploring how companies and individuals can reliably and predictably control their personal data, enabling them to take it out of one service and bring it to another. However, we believe there are fundamental questions

that need to be answered for portability to be implemented successfully; including a clear definition of data portability, what type of data should be portable, how to ensure privacy protections throughout portability, and who is liable if the data is misused. Only after these questions are answered will companies be able to build privacy-protective, easy-to-use products for users to execute on data portability.

SIIA also urges the Commission to look to industry driven initiatives for best practices regarding data portability. For example, the Data Transfer Project<sup>2</sup> is a collaboration of organizations that is committed to building common ways for individuals to transfer data into and out of online services whilst balancing privacy and security. The contributors to the Data Transfer Project believe portability and interoperability are central to innovation and that making it easier for individuals to choose among services facilitates competition, and empowers and enables individuals to choose the offering that best suits their needs. As such, the partners of the Data Transfer Project have now developed tools enabling users to initiate and transfer their personal data.

### **New data access rights are unnecessary and may serve to hinder innovation**

Within a potential new Data Act, the Communication also raises the possibility of a new data access right “if a market failure in this sector is identified/can be foreseen, which competition law cannot solve.” SIIA disagrees on the need of creating such a new right as we feel that data ownership and access issues are adequately addressed by existing legislation.

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<sup>2</sup> <https://datatransferproject.dev/>

We further raise caution that such a proposal may threaten the very innovation that it intended to incentivize. Requiring a company to share their data is akin to asking them to reveal the fruits of their labor, and is likely to deter investment and economic growth. Forced access rights potentially represents a conflict with data protection obligations. Given the broad definition of personal data under GDPR, it will be difficult to separate “personal data” and other types of data protected by various IP rights from the data set intended to be covered by the Commission’s proposal.


**Concluding Assessment: Industry collaboration essential throughout policymaking and implementation process**

As the Commission moves forward in the consideration of a European Data Strategy, continued cooperation between policymakers and industry can enable different policies and projects to be tested through pilots to ensure they achieve their desired goals before being rolled out more widely. SIIA suggests the formation of partnership mechanisms like sandboxes and accelerators, and collaboration through co-creation methods, as a way to rapidly advance future-facing policy and product research.

In closing, we reiterate our general support of a European strategy for data that is built upon the principles of the Digital Single Market (DSM), avoids fragmentation, and is focused on how Europe can play a leading role in the context of a global, interconnected and interdependent digital economy. SIIA and our member companies look forward to working with the Commission moving forward. Please contact Jesse Spector, Director

of Technology Policy, at (202) 789-4473 or [jspector@siaa.net](mailto:jspector@siaa.net) for any questions or requests for further information.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jesse Spector', with a long horizontal flourish extending to the right.

Jesse Spector  
Director, Technology Policy  
Software & Information Industry Association