March 2026

Digital Omnibus

ACEA position and amendements

RECOMMENDATIONS

I. DATA PROTECTION AND PRIVACY

1. Permit further processing of data for scientific research purposes supporting innovation, even when conducted by private companies for commercial purposes.
2. Amend rules on the processing of special categories of personal data by narrowing the prohibition to processing which directly reveals sensitive attributes about a data subject.
3. Limit the documentation requirements in Article 33(5) GDRP to breaches that are likely to result in a high risk to the rights and freedoms of natural persons.
4. Expand the Commission's empowerment under the proposed new Article 41a to other areas including codes of conduct and certification.
5. Align and amend the rules for access and storage to the data held on a users' devices by allowing the storage of and access to data on terminal equipment for processing purposes that have the potential to serve a public purpose (e.g. traffic safety, public health etc.)
6. Incorporate the EU principle of proportionality, as enshrined in Article 5(4) TEU, into Article 5 GDPR.

PROPOSED AMENDMENTS TO THE DIGITAL OMNIBUS

II. DATA PROTECTION AND PRIVACY

1. Processing of special categories of personal data

Proposal for amendments

Proposal for a regulation **Article 3, para. 3, point (c) NEW**	
Text proposed by the Commission	*Amendment*
New	***(c) paragraph 1 shall be replaced as follows:*** ***'1. Processing of personal data that directly aims to reveal in relation to an identified data subject racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, his or her health status (data***

	concerning health) or sex life or sexual orientation and the processing of genetic data or of biometric data for the purpose of uniquely identifying a natural person shall be prohibited.'

2. Commission empowerment

Proposal for amendment

Proposal for a regulation **Article 3, para. 10**	
Text proposed by the Commission	*Amendment*
10. The following article is added: 'Article 41a ***(1)*** The Commission may adopt implementing acts ***to specify means and criteria to determine whether data resulting from pseudonymisation no longer constitutes personal data for certain entities.*** ***(2)*** For the purpose of paragraph 1 the Commission shall***:*** (a) assess the state of the art of available ***techniques;*** (b) develop criteria ***and or*** categories for controllers and recipients to assess the ***risk*** of re-identification ***in relation to typical recipients of data.*** (3) The implementation ***of the means and criteria outlined in an*** implementing ***act*** may be used as an element to demonstrate ***that data cannot lead to reidentification of the*** data ***subjects.*** ***(4)*** The Commission shall closely involve the EDPB in the preparations of the implementing acts. The EPDB shall issue an opinion on the draft implementing acts within a deadline of 8 weeks as of the receipt of the draft from the Commission. ***(5)*** The Implementing Acts shall be adopted in accordance with the examination procedure referred to in Article 93(3).'	10. The following article is added: 'Article 41a **(1)** The Commission may adopt implementing acts ***providing specifications, interpretations or criteria for the application of this Regulation, including with regard to the determination of when data resulting from pseudonymisation no longer constitutes personal data for certain entities.*** ***(2)*** For the purposes of paragraph 1, the Commission shall***, where appropriate:*** (a) assess the state of the art of available ***technologies, data-protection techniques, organisational measures and relevant sectoral practices;*** (b) develop criteria***,*** categories ***or methodologies*** for controllers and recipients to assess the ***risks to the rights and freedoms of natural persons, including risks*** of re-identification ***associated with data disclosure, access or reuse;*** ***(c) identify sector-specific circumstances, use-cases or processing operations where tailored guidance, safeguards or interpretative criteria are required to ensure consistent application of this Regulation.*** (3) The implementation ***of the specifications, criteria or methodologies set out*** in implementing ***acts adopted under paragraph 1*** may be used ***by controllers and processors*** as an element to demonstrate ***compliance with this Regulation,***

	including demonstrating that data cannot reasonably be used to re-identify a data ***subject.*** (4) The Commission ***is empowered to adopt implementing acts establishing:*** ***(a) codes of conduct pursuant to Article 40 where Union-level harmonisation is necessary; and*** ***(b) certification mechanisms, seals and marks pursuant to Article 42, including detailed certification criteria and the conditions for accreditation of certification bodies.*** ***(5)*** The Commission shall closely involve the European Data Protection Board in the preparation of implementing acts adopted under this Article. The EDPB shall issue an opinion on draft implementing acts within eight weeks of receipt of the draft from the Commission. ***(6)*** The implementing Acts ***referred to in this Article*** shall be adopted in accordance with the examination procedure referred to in Article 93(3).
Justification: Limiting the Commission's ability to adopt implementing acts solely to provide specifications on pseudonymisation overlooks other areas of the GDPR where further specification would equally benefit from harmonised guidance. Codes of conduct and certification under Articles 40 and 42 GDPR are examples where additional implementing acts could meaningfully support uniform application. These mechanisms remain underused partly because stakeholders face persistent uncertainty regarding practical requirements and methodologies. Granting the Commission broader empowerment would enable it to address such gaps and promote more consistent interpretation and operationalisation of the GDPR.	

3. Terminal Equipment Data

Proposal for amendment

Proposal for a regulation **Article 3, para. (15)**	
Text proposed by the Commission	*Amendment*
15. After Article 88, the following articles are added: ***'Article 88a*** ***Processing of personal data in the terminal equipment of natural persons***	***Deleted***

(1) Storing of personal data, or gaining of access to personal data already stored, in the terminal equipment of a natural person is only allowed when that person has given his or her consent, in accordance with this Regulation. *(2) Paragraph 1 does not preclude storing of personal data, or gaining of access to personal data already stored, in the terminal equipment of a natural person, based on Union or Member State law within the meaning of, and subject to the conditions of Article 6, to safeguard the objectives referred to in Article 23(1).* *(3) Storing of personal data, or gaining of access to personal data already stored, in the terminal equipment of a natural person without consent, and subsequent processing, shall be lawful to the extent it is necessary for any of the following:* *(a) carrying out the transmission of an electronic communication over an electronic communication network;* *(b) providing a service explicitly requested by the data subject;* *(c) creating aggregated information about the usage of an online service to measure the audience of such a service, where it is carried out by the controller of that online service solely for its own use;* *(d) maintaining or restoring the security of a service provided by the controller and requested by the data subject or the terminal equipment used for the provision of such service.* *(4) Where storing of personal data, or gaining of access to personal data already stored, in the terminal equipment of a natural person is based on consent, the following shall apply:* *(a) the data subject shall be able to refuse requests for consent in an easy and intelligible manner with a single-click button or equivalent means;* *(b) if the data subject gives consent, the controller shall not make a new request for consent for the same purpose for the period during which the controller can lawfully rely on the consent of the data subject;*	

(c) if the data subject declines a request for consent, the controller shall not make a new request for consent for the same purpose for a period of at least six months. ***This paragraph also applies to the subsequent processing of personal data based on consent.*** ***(5) This Article shall apply from [OP: please insert the date = 6 months following the date of entry into force of this Regulation]***	
Justification: The consent requirement under Article 88a reprises the consent-first mechanism currently applicable under the ePrivacy Directive, and the exceptions to this requirement provided under paragraph 3 are too narrow to help solve the issues raised by the mechanism. The Commission's proposal appears too focused on cookies and does not reflect the reality of the wider Internet of Things (IoT), including connected motor vehicles.	

Proposal for a regulation **Article 4a NEW**	
Text proposed by the Commission	*Amendment*
NEW	***Article 4(a)*** ***Amendment to Directive 2002/58/EC*** ***Directive 2002/58/EC is amended as follows:*** ***1. In Article 5, the following paragraphs are added:*** ***'4. Paragraph 3 shall not apply where the storing of information, or the gaining of access to information already stored in the terminal equipment of a user or subscriber, is strictly necessary for processing operations that demonstrably create, or have the potential to create, significant societal benefits, in accordance with paragraph 5.'*** ***5. Processing under paragraph 4 shall only apply where the storing of or access to information in terminal equipment is strictly necessary to further a purpose with the potential to create societal benefit.*** ***For the purposes of this paragraph, "societal benefit" includes, inter alia:*** ***(a) road safety, transport safety, and accident prevention, including the operation, maintenance, and improvement of connected vehicles and mobility systems;***

	(b) public health, epidemiological monitoring, and health-related research; *(c) cybersecurity, detection and remediation of vulnerabilities, and resilience of critical infrastructure;* *(d) environmental protection, climate-related monitoring, and energy efficiency;* *(e) scientific research and innovation activities with broad societal relevance;* *(f) other purposes listed in implementing acts adopted under Article 5(3b).'* *'6. The Commission is empowered to adopt implementing acts establishing and regularly updating a Unionwide list of processing operations that qualify as societal benefit purposes under paragraph 5.* *7. Paragraph 3 shall not prevent the storage of information, or the gaining of access to information already stored, in the terminal equipment of a subscriber or user, insofar as such storage or access is strictly necessary for the purpose of complying with an obligation laid down in Union or Member State law* *2. After article 5, the following article is added:* *Article 5a* *Exercised of the delegation* *1. The implementing acts referred to in article 5 shall specify:* *(a) categories of processing operations considered to generate significant societal benefits;* *(b) minimum safeguards and technical standards required for such operations;* *(c) conditions for inclusion or removal of processing operations from the list.* *2. In preparing these implementing acts, the Commission shall take into account:* *(a) the expected societal benefits, including in the fields of safety, public health, environment, scientific research, innovation, and cybersecurity;* *(b) risks to fundamental rights and freedoms;* *(c) the availability of less intrusive means;*

	(d) evidence from scientific, industrial, and regulatory stakeholders. ***3. The Commission shall consult the European Data Protection Board and the European Union Agency for Cybersecurity (ENISA), which shall issue an opinion within eight weeks of receiving a draft implementing act.*** ***4. The implementing acts referred to in this Article shall be adopted in accordance with the examination procedure laid down in Article 14a(2).'*** ***3. Article 14a is replaced by the following:*** ***'Article 14a*** ***Committee procedure*** ***1. The Commission shall be assisted by a committee within the meaning of Regulation (EU) No 182/2011.*** ***2. Where reference is made to this paragraph, the examination procedure under Article 5 of Regulation (EU) No 182/2011 shall apply.'***
Justification: Strict reliance on consent for any access to or storage of information on terminal equipment has led to legal uncertainty, consent fatigue and poorly informed choices, and a structural disincentive for European companies to deploy socially valuable, privacy-respecting services. Introducing a carefully framed, purpose-based exception system in Article 5(3) of the ePrivacy Directive would improve protection for individuals because processing would occur only where objectively justified and regulated, rather than hidden behind formalistic consent flows. It would also provide legal certainty for controllers wishing to deploy privacy-respecting technologies for socially valuable services, who currently face legal risk or are forced into ineffective consent mechanisms that neither serve users nor innovation.	

4. Principle of proportionality

Proposal for amendment

Proposal for a regulation **Article 3, para. 2a NEW**	
Text proposed by the Commission	*Amendment*
New	***(2a) In Article 5, the following paragraph 3, is added:*** ***(3) The principles of this Regulation for the protection of personal data shall be interpreted in such a way that the requirements of this Regulation are***

	proportionate to the purpose pursued in each case and, in particular, take into account the varying likelihood and severity of the risk that a data processing operation poses to the rights and freedoms of natural persons (risk-based approach). Measures for the protection of personal data shall be balanced in an appropriate manner with the interests or the fundamental rights and freedoms of persons other than the data subject.

Justification:

A recurring challenge in the application of the GDPR is the increasingly strict interpretation adopted by courts and supervisory authorities, which often places disproportionate burdens on data controllers. While the Regulation aims to strike a balance between protecting individuals' rights and enabling lawful data use, its practical enforcement has at times shifted this balance, resulting in overly rigid compliance expectations that go beyond what is necessary for achieving GDPR's objectives. This trend risks creating legal uncertainty, discouraging innovation and complicating the deployment of data-driven technologies across the European Union.

To address this issue, embedding proportionality alongside the existing principles relating to the processing of personal data in the GDPR would reinforce the need for interpretation and enforcement that respects the balance between individual rights and legitimate organisational interests.

ABOUT THE EU AUTOMOBILE INDUSTRY

- 13.6 million Europeans work in the auto industry (directly and indirectly), accounting for 6.9% of all EU jobs
- 8.1% of EU manufacturing jobs – some 2.5 million – are in the automotive sector
- Motor vehicles are responsible for €414.7 billion of tax revenue for governments across key European markets
- The automobile industry generates a trade surplus of €93.9 billion for the European Union
- The turnover generated by the auto industry represents over 8% of the EU's GDP
- Investing €84.6 billion in R&D per year, automotive is Europe's largest private contributor to innovation, accounting for 34% of the EU total

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