

Booking.com's views on the Digital Omnibus proposals

Booking.com welcomes the Commission's simplification agenda. As a global travel platform, founded and headquartered in the Netherlands, we share the European Commission's objective to boost European competitiveness, including by addressing regulatory complexity. In this spirit, we broadly welcome the two Digital Omnibus proposals as a step in the right direction. At the same time, we note that certain proposals may require rethinking in order to truly enable the potential of European innovation and a level playing field between businesses. Below, we offer our preliminary views on some key points of the two proposals:

AI Omnibus

- **AI Act timeline adjustment** (AI Act Art. 113(d)): Tying the entry into force of high-risk AI rules to the readiness of technical standards and support tools and introducing a "grace period" for labelling AI-generated content are reasonable proposals, not only to ensure a consistent application of rules but also to encourage compliance from the get-go, providing legal certainty. At the same time, the uncertainty of the timeline for adoption of the AI Omnibus risks taking that time benefit away. Swift adoption processes are therefore necessary to avoid that rules start applying when the discussion on their updated timeline for application are still under discussion. We also support a potential proposal by the European Commission, which would allow a delay of the high-risk rules in case the negotiations are stalled in the legislative process.
- **Centralised enforcement by the AI Office** (AI Act Art. 75): Centralised enforcement in the European Commission's AI Office for general-purpose AI systems (GPAIs) and those integrated into VLOPs (as defined in the DSA) is a positive development that will help streamline enforcement efforts and result in more efficient processes between companies and enforcement authorities. This ensures consistency with the DSA risk management frameworks we have already built, and have proven to be beneficial. A "One Stop Shop" mechanism prevents fragmentation and will therefore strengthen the EU Single Market.
- **AI literacy shift** (AI Act Art. 4): At Booking.com we believe AI literacy is a societal responsibility, which means that actions also come from companies. [Booking.com has already invested heavily in internal training](#). Retaining this obligation allows us to preserve a flexible, company-led approach rather than risking overly prescriptive curriculums. Instead of shifting the burden to regulators, Member State support should be targeted specifically at assisting SMEs who lack internal resources.

Digital Omnibus

- **Definition of personal data and list of processing activities** (GDPR Art.4 and 35): The update to the definition of personal data to codify relevant ECJ rulings regarding pseudonymised data is a welcome clarification. Similarly, we welcome the

harmonisation at EU level of the list of processing activities that do, or do not, require a data protection impact assessment, thereby contributing to the harmonisation of the notion of high risk. A harmonized standard, and particularly clarity when it comes to the use of data in emerging technologies, supports legal certainty during the development and launch of new technologies.

- **Legitimate interest as the legal basis for processing** (GDPR Art. 88c (new) and Art.9): Making it easier to process data for AI training purposes (using legitimate interest) is a positive step - as well as the exemption to the processing of special categories of data for the development and operation of AI systems and models. This could support the development within Europe of new and robust AI models. At the same time, the conditions attached to these changes should not undermine the objective of the article to facilitate AI deployment. Thus, the unconditional right to object under Article 88c should be reconsidered in our view, as it could mean that -if applied retroactively- AI systems or AI models would need to be retrained or substantially modified. In any case, practical guidance on meeting the legitimate interest opt-out requirement is necessary in order to utilize this legal basis update. Similarly, a more balanced approach to Article 9(5) would be to introduce a duty to mitigate risks through technical and organisational measures and other safeguards instead of a rigid but operationally challenging requirement to “avoid” the incidental collection of sensitive data.
- **Addressing “cookie fatigue”** (GDPR Art.88b (new)): Introducing user choice management at browser level is a change we believe should be treated carefully and with caution not to lead to false promises while depriving consumers from improved, tailored experiences. At the moment, it is unclear whether obtaining consent via this means would be considered “explicit” and “specific” enough, thus putting into question whether this proposal would move the status quo at all. Beyond uncertainty around the user experience, addressing user (privacy) choices in bulk, at browser level, could undermine the trust that companies have worked to build with their customers over the years. It would treat all businesses -with varying levels of commitment to privacy- as one and the same, thereby putting trusted sites/companies at a disadvantage.
- **Single-entry point** (Art.3(8) - GDPR Art.33(1)): The creation of a single-entry reporting point for cybersecurity and data breaches as well as limiting data breach reporting obligations to only high-risk incidents and extending the reporting window from 72 to 96 hours is a welcome change, supporting a more proportionate yet still effective approach to incident reporting.
- **Data Act gatekeeper prohibitions** (Art.1 adding new DA Art. 32c,q,r,y): We are concerned about the intention to maintain and in fact expand restrictions to “gatekeepers” in the Data Act. As a matter of principle, it is concerning to see an artificial expansion of the DMA scope outside of the DMA context. This “gatekeeper creep”, also discussed in the Financial Data Access Regulation (FIDA) can disincentivise European tech champions from innovating. Any considerations on gatekeepers should be based on a solid factual basis to assess the impact as well as the possible negative

consequences for European consumers who may not have access to innovative products.

- **Repeal of the P2B (platform to business) regulation** (Art.10): The repeal of the P2B Regulation will bring greater regulatory clarity, particularly in relation to the overlaps between the P2B and the DSA. At the same time, it is important to note that the repeal of the P2B will not lead to any change to the regulatory burden for platforms, which is sometimes disproportionate to their risk profile. As a VLOP, Booking.com is subject to an extensive set of compliance requirements under the DSA due only to its size. A more proportionate approach would be that the most stringent requirements be triggered not only based on users' reachability, but by combining numbers together with qualitative considerations about the risk profile of each impacted platform.

Booking.com takes pride in offering a trusted and secure platform to travelers that respects their privacy, increases transparency in travel offers and enables a smooth travel planning and booking experience. As a globally successful travel tech platform, we have been consistently investing in technology that helps take the friction out of travel, including innovating in the AI space, responsibly and in line with legislation.

We look forward to contributing to the discussions on the proposals in the coming months and remain focused on providing inputs to support regulation that is balanced and proportionate.

About Booking.com



Booking.com is one of Europe's tech success stories, founded in 1996 in the Netherlands, where it continues to be based today.



Booking.com operates on a commission business model. Booking.com only generates income when a reservation is made through the platform and the overnight stay is completed. This is particularly helpful for SME and independent accommodations who can attract travelers from around the world and grow their business without any upfront costs, in a risk-free and cost-effective way.



Our mission is to make it easier for everyone to experience the world. We invest in technology to ensure that we keep offering a trusted, safe and seamless experience for travelers built in compliance with the diverse legal frameworks.



We believe we have a responsibility to help conserve the natural world, strengthen local communities and preserve destinations for future generations to experience.