The Software Alliance

BSA

2017 EU POLICY AGENDA

Software supports nearly 12 million jobs in the EU and contributes nearly €1 trillion to the EU GDP.[1]

Software is at the heart of the digital revolution, providing us with the tools that can turn data into ideas, and ideas into execution. It helps us deliver what was previously unimaginable, and enhances life in the process. From cloud computing and 3D printing to artificial intelligence, data analytics, and blockchain, software is rapidly transforming Europe's economy, delivering unprecedented opportunities and prosperity. However, this digital revolution will only bear fruit in an appropriate legal framework that fosters market conditions to encourage innovation and creative enterprise. Policies that streamline regulations and reduce barriers to digital trade will accelerate society's access to the benefits of software.

DATA ECONOMY

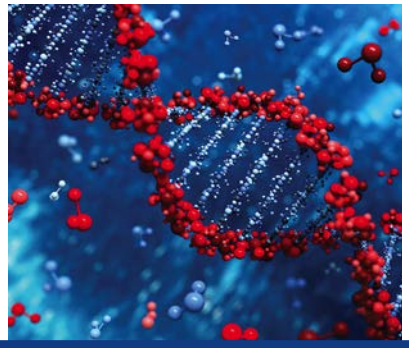
The Digital Single Market strategy can spur on the growing data economy if it facilitates innovation. As the EU continues to tap into the unprecedented potential of data innovation, laws and regulations must be modernized so they are clear and predictable.

» Data without borders

Cross-border data flows already generate more economic value than traditional flows of traded goods. More importantly, beyond the economic impact of free-moving data, cross-border data flows allow the sharing of ideas and information, the dissemination of knowledge, and the collaboration of individuals, businesses, and governments with one another.

Some EU Member States are currently pursuing data localization requirements or other restrictions on data transfers. Restrictions on the movement of data can have a significant effect on the economy as they fragment the market, drive up costs, and prevent businesses, especially SMEs, from seamlessly cooperating across borders, scaling-up and improving efficiency by accessing the increased computing power of the cloud. Data localization is therefore fundamentally incompatible with the objective of establishing a true Digital Single Market. If data localization measures are allowed to proliferate, they will disproportionately affect cloud-driven services, upon which European businesses of all sizes depend for their daily operations.

BSA calls for the adoption of an EU Regulation banning existing restrictions and prohibiting future data localization measures.


» The data market: On a steady path to growth

As digitization is revolutionizing the EU's economy, the data generated by individuals, businesses and governments drives the development of new services and data-driven insights. The data licensing market functions smoothly and is growing exponentially. Contractual freedom guarantees the market's good functioning and ensures that parties have the necessary flexibility to define their contractual relationship to closely match their needs.

As all evidence supports that the data licensing market is operating smoothly, BSA believes that the EU should avoid taking legislative initiatives that could disturb the flexibility guaranteed by contractual freedom. This could ultimately be counterproductive and lead to less data being shared.

PRIVACY

» The General Data Protection Regulation: A compass for future privacy rules

The General Data Protection Regulation (GDPR), adopted in 2016, provides a high level of protection of users' personal data. By ensuring that any subsequent legislative initiatives are in line with existing rules and by avoiding overlaps, the EU will guarantee legal consistency and increase the certainty and trust of businesses. Similarly, while recognizing that the GDPR allows a degree of flexibility to Member States, efforts should be made to ensure as much consistency as possible to foster compliance and provide certainty to businesses and individuals.

BSA supports a careful, consistent and measured implementation of the GDPR, which avoids duplication and inconsistencies.

» The e-Privacy Regulation: Avoiding an unnecessary backslide

The recently proposed e-Privacy Regulation is a complex piece of legislation that risks altering the balance struck in the GDPR between data innovation and data protection. Its scope captures, among others, machine-to-machine communications, complicating standardized processes such as automated supply chains and impeding the advent of the Internet of Things. Its provisions pertaining to consent are overly prescriptive, and would unnecessarily increase the burden on businesses. Moreover, with regard to law enforcement access to data, the e-Privacy Regulation paradoxically restricts the right to privacy by expanding the type of data that can be requested, the range of providers that have to respond, and the list of circumstances where law enforcement can disregard confidentiality requirements. This could create conflict of laws for cross-border data access requests both within and outside the EU. As businesses are gearing up and investing considerable resources to implement the GDPR, the e-Privacy Regulation is putting the cart before the horse and risks creating legal uncertainty and undermining Europe's growing digital economy.

BSA calls upon EU co-legislators to carefully consider the e-Privacy's implications and ramifications for companies, end-users, and competent authorities. To that end, BSA strongly encourages EU decision makers to carry out a thorough and comprehensive stakeholder consultation throughout the course of the legislative process to ensure consistency with the GDPR.

» Privacy Shield: A pillar for transatlantic data transfers

The Privacy Shield is gradually becoming the backbone of data transfers from the EU to the US, which underpin the growing data economy on both sides of the Atlantic.



It allows for EU citizens' personal data to be transferred to the US while enjoying an improved level of protection similar to the one in the EU and provides the ability for EU citizens to lodge complaints and obtain remedies. Its built-in annual review mechanism also provides greater flexibility to accommodate potential new needs and emerging new trends in EU-US data transfers.

BSA strongly supports the continuation of the Privacy Shield as a strong and adaptive framework for the transfer of data between the EU and the US.

CYBERSECURITY

» Securing information, promoting trust

As technology becomes deeply integrated into our lives, we become more and more dependent on it. But this dependence makes us vulnerable if technology fails. Protecting our digital information and technology systems has become a priority in our increasingly connected world. Moreover, without strong protections against cyberthreats, businesses and individuals will not trust digital services and products, delaying the uptake of innovative solutions and the digital economy.

In its recent midterm review of the Digital Single Market Strategy, the European Commission stated its intention to develop EU cybersecurity standards, certification and labelling before the end of 2017. These policy objectives are misguided and ultimately counterproductive. They aim at creating a rigid framework, discouraging flexible cybersecurity solutions and fast-developing technology to tackle ever- changing cyber threats.

BSA supports efforts to improve the EU's capabilities and readiness to address cybersecurity threats. These efforts should not result in prescriptive policies that would stifle innovation and deprive businesses, individuals, and governments of the most effective cybersecurity solutions.

» Encryption: Only effective at its strongest

Encryption is the tool that allows us to protect our most sensitive and valuable data. However, in recent years, terrorists have in some instances also used encrypted communications services to plan and carry out attacks across Europe. To deal with rising security concerns, law enforcers need access to digital information. Admittedly, in a few cases, encryption stands in the way. Weakening encryption, however, is a measure that is disproportionate and therefore counterproductive. Weaker encryption will greatly reduce our societies' resilience to an ever-increasing number of cyberattacks.

BSA advocates technology integrity and strong encryption as our societies' best defense against increasingly sophisticated and disruptive cyberattacks.

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» Text and Data Mining: Harnessing information, unlocking insights

Text and Data Mining (TDM), a form of software-enabled analytics, is used in every sector of the economy to analyze enormous volumes of data, in line with EU data protection rules. It allows organizations of all sizes to sift through enormous data sets to unlock correlations and discover patterns, learning from the ever-increasing amount of information that is produced every day.

Today, doctors use TDM analysis to identify new cures for diseases. Librarians and teachers use TDM to identify better ways to educate students. Businesses use TDM to better understand the needs of consumers while and startups use TDM to build new tools that create new jobs and

The software industry contributes 7.3 percent of all EU R&D.[1]

create new opportunities. And governments all over the world turn to TDM to improve the environment, transportation systems, public services, and safety.

BSA calls on the EU to ensure TDM can be performed by all users, for both commercial and non-commercial purposes, to ensure continued leadership in technology and research.

EMERGING TECHNOLOGIES

» Embracing the future

From Artificial Intelligence, to the Internet of Things and blockchain, software innovation is fostering the development of cutting-edge technologies, which will revolutionize our world in ways we haven't even imagined yet, promising to improve lives and help solve intractable problems. Cutting edge technology often develops on multiple trajectories of solutions to a similar problem. Dictating specific formats or solutions too early will retard development. In fact, it may stop some great solutions from ever evolving.

EU decision makers should aim at reaping the benefits of innovation and should therefore ensure that all legislative initiatives leave ample room for technology to evolve.

WORKFORCE DEVELOPMENT

» New technologies require new skills

The software industry is a key job creator in the EU, supporting more than 11 million jobs. The need for a workforce equipped with the knowledge and skills needed in the digital economy is increasing exponentially. To meet this growing demand, BSA calls for investments in computer science education to help prepare the next generation of tech workers.

BSA advocates policies to produce and retain workers with computer science skills by strengthening enrollment in advanced science, technology, engineering, and math programs and by providing incentives for teacher training in these areas.

SUPPLY OF DIGITAL CONTENT

» No need to reinvent the wheel

The software industry relies on best practices to continuously respond to customers' feedback. As EU lawmakers review the proposed Digital Content Directive, BSA calls for efforts to bolster consumer protection, while protecting freedom for providers and customers to enter contracts that meet their respective needs.

BSA advocates for rules to protect and provide guarantees for consumers without hindering digital innovation.

[1] "Software: A €910 billion Catalyst for the EU Economy" with data from The Economist Intelligence Unit, 2016, www.bsa.org/EUSoftwareImpact