

Regulatory environment for platforms, online intermediaries, data and cloud computing and the collaborative economy

Fields marked with * are mandatory.

Objectives and General Information

The views expressed in this public consultation document may not be interpreted as stating an official position of the European Commission. All definitions provided in this document are strictly for the purposes of this public consultation and are without prejudice to differing definitions the Commission may use under current or future EU law, including any revision of the definitions by the Commission concerning the same subject matters.

You are invited to read the privacy statement attached to this consultation for information on how your personal data and contribution will be dealt with.

Please complete this section of the public consultation before moving to other sections.

- Respondents living with disabilities can request the questionnaire in .docx format and send their replies in email to the following address: CNECT-PLATFORMS-CONSULTATION@ec.europa.eu.
- If you are an association representing several other organisations and intend to gather the views of your members by circulating the questionnaire to them, please send us a request in email and we will send you the questionnaire in .docx format. However, we ask you to introduce the aggregated answers into EU Survey. In such cases we will not consider answers submitted in other channels than EU Survey.
- If you want to submit position papers or other information in addition to the information you share with the Commission in EU Survey, please send them to CNECT-PLATFORMS-CONSULTATION@ec.europa.eu and make reference to the "Case Id" displayed after you have concluded the online questionnaire. This helps the Commission to properly identify your contribution.

* Please indicate your role for the purpose of this consultation

- An individual citizen
- An association or trade organization representing consumers
- An association or trade organization representing businesses
- An association or trade organization representing civil society
- An online platform
- A business, including suppliers using an online platform to provide services
- A public authority
- A research institution or Think tank
- Other

* Please describe the type of online platforms that you represent, a brief description of the online platform and indicate its name and web address

1500 character(s) maximum

* Please briefly explain the nature of your activities, the main services you provide and your relation to the online platform(s) which you use to provide services

3000 character(s) maximum

* Are you a SME or micro enterprise?

- Yes
- No

* Please specify

100 character(s) maximum

* Please indicate your country of residence

- Austria
- Belgium
- Bulgaria
- Czech Republic
- Croatia
- Cyprus
- Germany
- Denmark
- Estonia
- Greece
- Spain
- Finland
- France
- Hungary
- Ireland
- Italy
- Lithuania
- Luxembourg
- Latvia
- Malta
- The Netherlands
- Poland
- Portugal
- Romania
- Slovakia
- Slovenia
- Sweden
- United Kingdom
- Non-EU country

* Please specify the Non-EU country

* Please provide your contact information (name, address and e-mail address)

* Is your organisation registered in the Transparency Register of the European Commission and the European Parliament?

Note: If you are not answering this questionnaire as an individual, please register in the Transparency Register. If your organisation/institution responds without being registered, the Commission will consider its input as that of an individual and will publish it as such.

- Yes
- No
- Non-applicable

* Please indicate your organisation's registration number in the Transparency Register

If you are an economic operator, please enter the NACE code, which best describes the economic activity you conduct. [You can find here the NACE classification.](#)

Text of 3 to 5 characters will be accepted

The Statistical classification of economic activities in the European Community, abbreviated as NACE, is the classification of economic activities in the European Union (EU).

* I object the publication of my personal data

- Yes
- No

Please provide a brief justification.

1000 character(s) maximum

Online platforms

SOCIAL AND ECONOMIC ROLE OF ONLINE PLATFORMS

Do you agree with the definition of "**Online platform**" as provided below?

"Online platform" refers to an undertaking operating in two (or multi)-sided markets, which uses the Internet to enable interactions between two or more distinct but interdependent groups of users so as to generate value for at least one of the groups. Certain platforms also qualify as Intermediary service providers.

Typical examples include general internet search engines (e.g. Google, Bing), specialised search tools (e.g. Google Shopping, Kelkoo, Twenga, Google Local, TripAdvisor, Yelp,), location-based business directories or some maps (e.g. Google or Bing Maps), news aggregators (e.g. Google News), online market places (e.g. Amazon, eBay, Allegro, Booking.com), audio-visual and music platforms (e.g. Deezer, Spotify, Netflix, Canal play, Apple TV), video sharing platforms (e.g. YouTube, Dailymotion), payment systems (e.g. PayPal, Apple Pay), social networks (e.g. Facebook, LinkedIn, Twitter, Tuenti), app stores (e.g. Apple App Store, Google Play) or collaborative economy platforms (e.g. AirBnB, Uber, Taskrabbit, Bla-bla car). Internet access providers fall outside the scope of this definition.

- Yes
- No

* Please explain how you would change the definition

1000 character(s) maximum

What do you consider to be the key advantages of using online platforms?

Online platforms...

- make information more accessible
- make communication and interaction easier
- increase choice of products and services
- create more transparent prices and the possibility to compare offers
- increase trust between peers by providing trust mechanisms (i.e. ratings, reviews, etc.)
- lower prices for products and services
- lower the cost of reaching customers for suppliers
- help with matching supply and demand
- create new markets or business opportunities
- help in complying with obligations in cross-border sales
- help to share resources and improve resource-allocation
- others:

* Please specify:

100 character(s) maximum

Have you encountered, or are you aware of problems faced by **consumers** or **suppliers** when dealing with online platforms?

"Consumer" is any natural person using an online platform for purposes outside the person's trade, business, craft or profession.

"Supplier" is any trader or non-professional individual that uses online platforms to provide services to third parties both under their own brand (name) and under the platform's brand.

- Yes
- No
- I don't know

Please list the problems you encountered, or you are aware of, in the order of importance and provide additional explanation where possible.

3000 character(s) maximum

How could these problems be best addressed?

- market dynamics
- regulatory measures
- self-regulatory measures
- a combination of the above

TRANSPARENCY OF ONLINE PLATFORMS

Do you think that online platforms should ensure, as regards their own activities and those of the **traders** that use them, more transparency in relation to:

a) information required by consumer law (e.g. the contact details of the supplier, the main characteristics of products, the total price including delivery charges, and consumers' rights, such as the right of withdrawal)?

"Trader" is any natural or legal person using an online platform for business or professional purposes. Traders are in particular subject to EU consumer law in their relations with consumers.

- Yes
- No
- I don't know

b) information in response to a search query by the user, in particular if the displayed results are sponsored or not?

- Yes
- No
- I don't know

c) information on who the actual supplier is, offering products or services on the platform

- Yes
- No
- I don't know

d) information to discourage misleading marketing by professional suppliers (traders), including fake reviews?

- Yes
- No
- I don't know

e) is there any additional information that, in your opinion, online platforms should be obliged to display?

500 character(s) maximum

Have you experienced that information displayed by the platform (e.g. advertising) has been adapted to the interest or recognisable characteristics of the user?

- Yes
- No
- I don't know

Do you find the information provided by online platforms on their terms of use sufficient and easy-to-understand?

- Yes
- No

* What type of additional information and in what format would you find useful? Please briefly explain your response and share any best practice you are aware of.

1500 character(s) maximum

Do you find reputation systems (e.g. ratings, reviews, certifications, trustmarks) and other trust mechanisms operated by online platforms are generally reliable?

- Yes
- No
- I don't know

* Please explain how the transparency of reputation systems and other trust mechanisms could be improved?

1500 character(s) maximum

What are the main benefits and drawbacks of reputation systems and other trust mechanisms operated by online platforms? Please describe their main benefits and drawbacks.

1500 character(s) maximum

USE OF INFORMATION BY ONLINE PLATFORMS

In your view, do online platforms provide sufficient and accessible information with regard to:

a) the personal and non-personal data they collect?

- Yes
- No
- I don't know

b) what use is made of the personal and non-personal data collected, including trading of the data to other platforms and actors in the Internet economy?

- Yes
- No
- I don't know

c) adapting prices, for instance dynamic pricing and conditions in function of data gathered on the buyer (both consumer and trader)?

- Yes
- No
- I don't know

Please explain your choice and share any best practices that you are aware of.

1500 character(s) maximum

Please share your general comments or ideas regarding the use of information by online platforms

3000 character(s) maximum

RELATIONS BETWEEN PLATFORMS AND SUPPLIERS/TRADERS/APPLICATION DEVELOPERS OR HOLDERS OF RIGHTS IN DIGITAL CONTENT

Please provide the list of online platforms with which you are in regular business relations and indicate to what extent your business depends on them (on a scale of 0 to 3). Please describe the position of your business or the business you represent and provide recent examples from your business experience.

	Name of online platform	Dependency (0: not dependent, 1: dependent, 2: highly dependent)	Examples from your business experience
1			
2			
3			
4			
5			

How often do you experience the following business practices in your business relations with platforms?

The online platform ...

* A parity clause is a provision in the terms of use of an online platform or in an individual contract between the online platform and a supplier under which the price, availability and other conditions of a product or service offered by the supplier on the online platform have to maintain parity with the best offer of the supplier on other sales channels.

	Never	Sometimes	Often	Always
requests me to use exclusively its services	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
applies "parity clauses" *	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
applies non-transparent fees	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
applies fees without corresponding counter-performance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
applies terms and conditions, which I find unbalanced and do not have the possibility to negotiate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
unilaterally modifies the contractual terms without giving you proper notification or allowing you to terminate the contract	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
limits access to data or provides it in a non-usable format	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
puts significant constraints to presenting your offer	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
presents suppliers/services in a biased way	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
refuses access to its services unless specific restrictions are accepted	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
promotes its own services to the disadvantage of services provided by suppliers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If you do experience them, what is their impact on your business activity (on a scale from 0 to 3).

Impact on my business:

The online platform ...

* A parity clause is a provision in the terms of use of an online platform or in an individual contract between the online platform and a supplier under which the price, availability and other conditions of a product or service offered by the supplier on the online platform have to maintain parity with the best offer of the supplier on other sales channels.

	0 – no impact	1 – minor impact	2 – considerable impact	3 – heavy impact
requests me to use exclusively its services	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
applies "parity clauses" *	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
applies non-transparent fees	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
applies fees without corresponding counter-performance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
applies terms and conditions, which I find unbalanced and do not have the possibility to negotiate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
unilaterally modifies the contractual terms without giving you proper notification or allowing you to terminate the contract	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
limits access to data or provides it in a non-usable format	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
puts significant constraints to presenting your offer	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
presents suppliers/services in a biased way	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
refuses access to its services unless specific restrictions are accepted	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
promotes its own services to the disadvantage of services provided by suppliers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If you are aware of other contractual clauses or experience other potentially problematic practices, please mention them here

1000 character(s) maximum

* Please briefly describe the situation

3000 character(s) maximum

Are you a holder of rights in digital content protected by copyright, which is used on an online platform?

- Yes
- No

As a holder of rights in digital content protected by copyright have you faced any of the following circumstances:

An online platform such as a video sharing website or an online content aggregator uses my protected works online without having asked for my authorisation.

- Yes
- No

An online platform such as a video sharing website or a content aggregator refuses to enter into or negotiate licensing agreements with me.

- Yes
- No

An online platform such as a video sharing website or a content aggregator is willing to enter into a licensing agreement on terms that I consider unfair.

- Yes
- No

An online platform uses my protected works but claims it is a hosting provider under Article 14 of the E-Commerce Directive in order to refuse to negotiate a licence or to do so under their own terms.

- Yes
- No

As you answered YES to some of the above questions, please explain your situation in more detail.

3000 character(s) maximum

If you own/develop an online platform, what are the main constrains that negatively affect the development of your online platform and prevent you from extending your activities to new markets in the EU?

3000 character(s) maximum

How do you ensure that suppliers of your platform are treated fairly?

1500 character(s) maximum

Can a supplier personalize its offer of products / services on the platform you represent?

- Yes
- No

* How?

1500 character(s) maximum

Is there a room for improvement in the relation between platforms and suppliers using the services of platforms?

- No, the present situation is satisfactory.
- Yes, through market dynamics.
- Yes, through self-regulatory measures (codes of conducts / promotion of best practices).
- Yes, through regulatory measures.
- Yes, through the combination of the above.

Are you aware of any dispute resolution mechanisms operated by online platforms, or independent third parties on the business-to-business level mediating between platforms and their suppliers?

- Yes
- No

Please share your experiences on the key elements of a well-functioning dispute resolution mechanism on platforms

1500 character(s) maximum

CONSTRAINTS ON THE ABILITY OF CONSUMERS AND TRADERS TO MOVE FROM ONE PLATFORM TO ANOTHER

Do you see a need to strengthen the technical capacity of online platforms and address possible other constraints on switching freely and easily from one platform to another and move user data (e.g. emails, messages, search and order history, or customer reviews)?

- Yes
- No

If you can, please provide the description of some best practices (max. 5)

	Name of the online platform	Description of the best practice (max. 1500 characters)
1.		
2.		
3.		
4.		
5.		

Should there be a mandatory requirement allowing non-personal data to be easily extracted and moved between comparable online services?

- Yes
- No

Please explain your choice and share any best practices that you are aware of.

1500 character(s) maximum

Please share your general comments or ideas regarding the ability of consumers and traders to move from one platform to another

3000 character(s) maximum

ACCESS TO DATA

As a trader or a consumer using the services of online platforms did you experience any of the following problems related to the access of data?

a) unexpectedly changing conditions of accessing the services of the platforms

- Yes
- No

b) unexpectedly changing conditions of accessing the Application Programming Interface of the platform

- Yes
- No

c) unexpectedly changing conditions of accessing the data you shared with or stored on the platform

- Yes
- No

d) discriminatory treatment in accessing data on the platform

- Yes
- No

Would a rating scheme, issued by an independent agency on certain aspects of the platforms' activities, improve the situation?

- Yes
- No

* Please explain your answer

1500 character(s) maximum

Please share your general comments or ideas regarding access to data on online platforms

3000 character(s) maximum

Tackling illegal content online and the liability of online intermediaries

Please indicate your role in the context of this set of questions

Terms used for the purposes of this consultation:

"Illegal content"

Corresponds to the term "illegal activity or information" used in Article 14 of the E-commerce Directive. The directive does not further specify this term. It may be understood in a wide sense so as to include any infringement of applicable EU or national laws and regulations. This could for instance include defamation, terrorism related content, IPR infringements, child abuse content, consumer rights infringements, or incitement to hatred or violence on the basis of race, origin, religion, gender, sexual orientation, malware, illegal online gambling, selling illegal medicines, selling unsafe products.

"Hosting"

According to Article 14 of the E-commerce Directive, hosting is the "storage of (content) that has been provided by the user of an online service". It may for instance be storage of websites on servers. It may also include the services offered by online market places, referencing services and social networks.

"Notice"

Any communication to a hosting service provider that gives the latter knowledge of a particular item of illegal content that it transmits or stores and therefore creates an obligation for it to act expeditiously by removing the illegal content or disabling/blocking access to it.. Such an obligation only arises if the notice provides the internet hosting service provider with actual awareness or knowledge of illegal content.

"Notice provider"

Anyone (a natural or legal person) that informs a hosting service provider about illegal content on the internet. It may for instance be an individual citizen, a hotline or a holder of intellectual property rights. In certain cases it may also include public authorities.

"Provider of content"

In the context of a hosting service the content is initially provided by the user of that service. A provider of content is for instance someone who posts a comment on a social network site or uploads a video on a video sharing site.

- individual user
- content provider
- notice provider
- intermediary
- none of the above

* Please explain

Have you encountered situations suggesting that the liability regime introduced in Section IV of the E-commerce Directive (art. 12-15) has proven not fit for purpose or has negatively affected market level playing field?

- Yes
- No

* Please describe the situation.

3000 character(s) maximum

Do you think that the concept of a "mere technical, automatic and passive nature" of information transmission by information society service providers provided under recital 42 of the ECD is sufficiently clear to be interpreted and applied in a homogeneous way, having in mind the growing involvement in content distribution by some online intermediaries, e.g.: video sharing websites?

- Yes
- No
- I don't know

Please explain your answer.

1500 character(s) maximum

Mere conduit/caching/hosting describe the activities that are undertaken by a service provider. However, new business models and services have appeared since the adopting of the E-commerce Directive. For instance, some cloud service providers might also be covered under hosting services e.g. pure data storage. Other cloud-based services, as processing, might fall under a different category or not fit correctly into any of the existing ones. The same can apply to linking services and search engines, where there has been some diverging case-law at national level. Do you think that further categories of intermediary services should be established, besides mere conduit/caching/hosting and/or should the existing categories be clarified?

- Yes
- No

Please provide examples

1500 character(s) maximum

On the "notice"

Do you consider that different categories of illegal content require different policy approaches as regards notice-and-action procedures, and in particular different requirements as regards the content of the notice?

- Yes
- No

Do you think that any of the following categories of illegal content requires a specific approach:

- Illegal offer of goods and services (e.g. illegal arms, fake medicines, dangerous products, unauthorised gambling services etc.)
- Illegal promotion of goods and services
- Content facilitating phishing, pharming or hacking
- Infringements of intellectual property rights (e.g. copyright and related rights, trademarks)
- Infringement of consumer protection rules, such as fraudulent or misleading offers
- Infringement of safety and security requirements
- Racist and xenophobic speech
- Homophobic and other kinds of hate speech
- Child abuse content
- Terrorism-related content (e.g. content inciting the commitment of terrorist offences and training material)
- Defamation
- Other:

* Please specify.

500 character(s) maximum

Please explain what approach you would see fit for the relevant category.

1000 character(s) maximum

On the "action"

Should the content providers be given the opportunity to give their views to the hosting service provider on the alleged illegality of the content?

- Yes
- No

* Please explain your answer

1500 character(s) maximum

If you consider that this should only apply for some kinds of illegal content, please indicate which one(s)

1500 character(s) maximum

Should action taken by hosting service providers remain effective over time ("take down and stay down" principle)?

- Yes
- No

Please explain

On duties of care for online intermediaries:

Recital 48 of the Ecommerce Directive establishes that "[t]his Directive does not affect the possibility for Member States of requiring service providers, who host information provided by recipients of their service, to apply duties of care, which can reasonably be expected from them and which are specified by national law, in order to detect and prevent certain types of illegal activities". Moreover, Article 16 of the same Directive calls on Member States and the Commission to encourage the "drawing up of codes of conduct at Community level by trade, professional and consumer associations or organisations designed to contribute to the proper implementation of Articles 5 to 15". At the same time, however, Article 15 sets out a prohibition to impose "a general obligation to monitor".

(For online intermediaries): Have you put in place voluntary or proactive measures to remove certain categories of illegal content from your system?

- Yes
- No

* Please describe them.

1500 character(s) maximum

* Could you estimate the financial costs to your undertaking of putting in place and running this system?

1500 character(s) maximum

Could you outline the considerations that have prevented you from putting in place voluntary measures?

1500 character(s) maximum

Do you see a need to impose specific duties of care for certain categories of illegal content?

- Yes
- No
- I don't know

Please specify for which categories of content you would establish such an obligation.

1500 character(s) maximum

Please specify for which categories of intermediary you would establish such an obligation

1500 character(s) maximum

Please specify what types of actions could be covered by such an obligation

1500 character(s) maximum

Do you see a need for more transparency on the intermediaries' content restriction policies and practices (including the number of notices received as well as their main content and the results of the actions taken following the notices)?

- Yes
- No

Should this obligation be limited to those hosting service providers, which receive a sizeable amount of notices per year (e.g. more than 1000)?

- Yes
- No

Do you think that online intermediaries should have a specific service to facilitate contact with national authorities for the fastest possible notice and removal of illegal contents that constitute a threat for e.g. public security or fight against terrorism?

- Yes
- No

Do you think a minimum size threshold would be appropriate if there was such an obligation?

- Yes
- No

Please share your general comments or ideas regarding the liability of online intermediaries and the topics addressed in this section of the questionnaire.

5000 character(s) maximum

Data and cloud in digital ecosystems

FREE FLOW OF DATA

ON DATA LOCATION RESTRICTIONS

In the context of the free flow of data in the Union, do you in practice take measures to make a clear distinction between personal and non-personal data?

- Yes
- No
- Not applicable

* Please explain why not

Have restrictions on the location of data affected your strategy in doing business (e.g. limiting your choice regarding the use of certain digital technologies and services?)

- Yes
- No

Do you think that there are particular reasons in relation to which data location restrictions are or should be justifiable?

- Yes
- No

* What kind(s) of ground(s) do you think are justifiable?

- National security
- Public security
- Other reasons:

* Please explain

ON DATA ACCESS AND TRANSFER

Do you think that the existing contract law framework and current contractual practices are fit for purpose to facilitate a free flow of data including sufficient and fair access to and use of data in the EU, while safeguarding fundamental interests of parties involved?

- Yes
 No

* Please explain your position

3000 character(s) maximum

In order to ensure the free flow of data within the European Union, in your opinion, regulating access to, transfer and the use of non-personal data at European level is:

- Necessary
 Not necessary

When non-personal data is generated by a device in an automated manner, do you think that it should be subject to specific measures (binding or non-binding) at EU level?

- Yes
 No

* Which of the following aspects would merit measures?

between 1 and 4 choices

- Obligation to inform the user or operator of the device that generates the data
- Attribution of the exploitation rights of the generated data to an entity (for example the person / organisation that is owner of that device)
- In case the device is embedded in a larger system or product, the obligation to share the generated data with providers of other parts of that system or with the owner / user / holder of the entire system
- Other aspects:

* Please specify

Please share your general comments or ideas regarding data access, ownership and use

5000 character(s) maximum

ON DATA MARKETS

What regulatory constraints hold back the development of data markets in Europe and how could the EU encourage the development of such markets?

3000 character(s) maximum

ON ACCESS TO OPEN DATA

Do you think more could be done to open up public sector data for re-use in addition to the recently revised EU legislation (Directive 2013/37/EU)?

Open by default means: Establish an expectation that all government data be published and made openly re-usable by default, while recognising that there are legitimate reasons why some data cannot be released.

- Introducing the principle of 'open by default'[1]
- Licensing of 'Open Data': help persons/ organisations wishing to re-use public sector information (e.g., Standard European License)
- Further expanding the scope of the Directive (e.g. to include public service broadcasters, public undertakings);
- Improving interoperability (e.g., common data formats);
- Further limiting the possibility to charge for re-use of public sector information
- Remedies available to potential re-users against unfavourable decisions
- Other aspects?

* Please specify

Do you think that there is a case for the opening up of data held by private entities to promote its re-use by public and/or private sector, while respecting the existing provisions on data protection?

- Yes
- No

* Under what conditions?

- in case it is in the public interest
- for non-commercial purposes (e.g. research)
- other conditions

* Please explain

3000 character(s) maximum

ON ACCESS AND REUSE OF (NON-PERSONAL) SCIENTIFIC DATA

Do you think that data generated by research is sufficiently, findable, accessible identifiable, and re-usable enough?

- Yes
- No

* Why not? What do you think could be done to make data generated by research more effectively re-usable?

3000 character(s) maximum

Do you agree with a default policy which would make data generated by publicly funded research available through open access?

- Yes
- No

* Why not?

3000 character(s) maximum

ON LIABILITY IN RELATION TO THE FREE FLOW OF DATA AND THE INTERNET OF THINGS

As a provider/user of Internet of Things (IoT) and/or data driven services and connected tangible devices, have you ever encountered or do you anticipate problems stemming from either an unclear liability regime/non –existence of a clear-cut liability regime?

The "Internet of Things" is an ecosystem of physical objects that contain embedded technology to sense their internal statuses and communicate or interact with the external environment. Basically, Internet of things is the rapidly growing network of everyday objects—eyeglasses, cars, thermostats—made smart with sensors and internet addresses that create a network of everyday objects that communicate with one another, with the eventual capability to take actions on behalf of users.

- Yes
- No
- I don't know

If you did not find the legal framework satisfactory, does this affect in any way your use of these services and tangible goods or your trust in them?

- Yes
- No
- I don't know

Do you think that the existing legal framework (laws, or guidelines or contractual practices) is fit for purpose in addressing liability issues of IoT or / and Data driven services and connected tangible goods?

- Yes
- No
- I don't know

Is the legal framework future proof? Please explain, using examples.

3000 character(s) maximum

Please explain what, in your view, should be the liability regime for these services and connected tangible goods to increase your trust and confidence in them?

3000 character(s) maximum

As a user of IoT and/or data driven services and connected tangible devices, does the present legal framework for liability of providers impact your confidence and trust in those services and connected tangible goods?

- Yes
- No
- I don't know

In order to ensure the roll-out of IoT and the free flow of data, should liability issues of these services and connected tangible goods be addressed at EU level?

- Yes
- No
- I don't know

ON OPEN SERVICE PLATFORMS

What are in your opinion the socio-economic and innovation advantages of open versus closed service platforms and what regulatory or other policy initiatives do you propose to accelerate the emergence and take-up of open service platforms?

3000 character(s) maximum

PERSONAL DATA MANAGEMENT SYSTEMS

The following questions address the issue whether technical innovations should be promoted and further developed in order to improve transparency and implement efficiently the requirements for lawful processing of personal data, in compliance with the current and future EU data protection legal framework. Such innovations can take the form of 'personal data cloud spaces' or trusted frameworks and are often referred to as 'personal data banks/stores/vaults'.

Do you think that technical innovations, such as personal data spaces, should be promoted to improve transparency in compliance with the current and future EU data protection legal framework? Such innovations can take the form of 'personal data cloud spaces' or trusted frameworks and are often referred to as 'personal data banks/stores/vaults'?

- Yes
- No
- I don't know

Would you be in favour of supporting an initiative considering and promoting the development of personal data management systems at EU Level?

- Yes
- No

EUROPEAN CLOUD INITIATIVE

What are the key elements for ensuring trust in the use of cloud computing services by European businesses and citizens

"Cloud computing" is a paradigm for enabling network access to a scalable and elastic pool of shareable physical or virtual resources with self-service provisioning and administration on-demand. Examples of such resources include: servers, operating systems, networks, software, applications, and storage equipment.

- Reducing regulatory differences between Member States
- Standards, certification schemes, quality labels or seals
- Use of the cloud by public institutions
- Investment by the European private sector in secure, reliable and high-quality cloud infrastructures

As a (potential) user of cloud computing services, do you think cloud service providers are sufficiently transparent on the security and protection of users' data regarding the services they provide?

- Yes
- No
- Not applicable

* What information relevant to the security and protection of users' data do you think cloud service providers should provide?

As a (potential) user of cloud computing services, do you think cloud service providers are sufficiently transparent on the security and protection of users' data regarding the services they provide?

- Yes
- No
- Not applicable

As a (potential) user of cloud computing services, do you agree that existing contractual practices ensure a fair and balanced allocation of legal and technical risks between cloud users and cloud service providers?

- Yes
- No

* Please explain

What would be the benefit of cloud computing services interacting with each other (ensuring interoperability)

- Economic benefits
- Improved trust
- Others:

* Please specify

3000 character(s) maximum

What would be the benefit of guaranteeing the portability of data, including at European level, between different providers of cloud services

- Economic benefits
- Improved trust
- Others:

* Please specify

3000 character(s) maximum

Have you encountered any of the following contractual practices in relation to cloud based services? In your view, to what extent could those practices hamper the uptake of cloud based services? Please explain your reasoning.

	Never (Y[es] or N[no])	Sometimes (Y / N)	Often (Y / N)	Always (Y / N)	Why (1500 characters max.)?
Difficulties with negotiating contractual terms and conditions for cloud services stemming from uneven bargaining power of the parties and/or undefined standards					
Limitations as regards the possibility to switch between different cloud service providers					
Possibility for the supplier to unilaterally modify the cloud service					
Far reaching limitations of the supplier's liability for malfunctioning cloud services (including depriving the user of key remedies)					
Other (please explain)					

What are the main benefits of a specific European Open Science Cloud which would facilitate access and make publicly funded research data re-useable?

- Making Science more reliable by better quality assurance of the data
- Making Science more efficient by better sharing of resources at national and international level
- Making Science more efficient by leading faster to scientific discoveries and insights
- Creating economic benefits through better access to data by economic operators
- Making Science more responsive to quickly tackle societal challenges
- Others

Please specify

3000 character(s) maximum

Would model contracts for cloud service providers be a useful tool for building trust in cloud services?

- Yes
- No

Would your answer differ for consumer and commercial (i.e. business to business) cloud contracts?

- Yes
- No

* What approach would you prefer?

Please share your general comments or ideas regarding data, cloud computing and the topics addressed in this section of the questionnaire

5000 character(s) maximum

The collaborative economy

The following questions focus on certain issues raised by the collaborative economy and seek to improve the Commission's understanding by collecting the views of stakeholders on the regulatory environment, the effects of collaborative economy platforms on existing suppliers, innovation, and consumer choice. More broadly, they aim also at assessing the impact of the development of the collaborative economy on the rest of the economy and of the opportunities as well as the challenges it raises. They should help devising a European agenda for the collaborative economy to be considered in the context of the forthcoming Internal Market Strategy. The main question is whether EU law is fit to support this new phenomenon and whether existing policy is sufficient to let it develop and grow further, while addressing potential issues that may arise, including public policy objectives that may have already been identified.

Terms used for the purposes of this consultation:

"Collaborative economy"

For the purposes of this consultation the collaborative economy links individuals and/or legal persons through online platforms (collaborative economy platforms) allowing them to provide services and/or exchange assets, resources, time, skills, or capital, sometimes for a temporary period and without transferring ownership rights. Typical examples are transport services including the use of domestic vehicles for passenger transport and ride-sharing, accommodation or professional services.

"Traditional provider"

Individuals or legal persons who provide their services mainly through other channels, without an extensive involvement of online platforms.

"Provider in the collaborative economy"

Individuals or legal persons who provide the service by offering assets, resources, time, skills or capital through an online platform.

"User in the collaborative economy"

Individuals or legal persons who access and use the transacted assets, resources, time, skills and capital.

Please indicate your role in the collaborative economy

- Provider or association representing providers
- Traditional provider or association representing traditional providers
- Platform or association representing platforms
- Public authority
- User or consumer association

Which are the main risks and challenges associated with the growth of the collaborative economy and what are the obstacles which could hamper its growth and accessibility? Please rate from 1 to 5 according to their importance.

- Not sufficiently adapted regulatory framework

- 1
- 2
- 3
- 4
- 5

- Uncertainty for providers on their rights and obligations

- 1
- 2
- 3
- 4
- 5

- Uncertainty for users about their rights and obligations

- 1
- 2
- 3
- 4
- 5

- Weakening of employment and social rights for employees/workers

- 1
- 2
- 3
- 4
- 5

- Non-compliance with health and safety standards and regulations

- 1
- 2
- 3
- 4
- 5

- Rise in undeclared work and the black economy

- 1
- 2
- 3
- 4
- 5

- Opposition from traditional providers

- 1
- 2
- 3
- 4
- 5

- Uncertainty related to the protection of personal data

- 1
- 2
- 3
- 4
- 5

- Insufficient funding for start-ups

- 1
- 2
- 3
- 4
- 5

- Other, please explain

How do you consider the surge of the collaborative economy will impact on the different forms of employment (self-employment, free lancers, shared workers, economically dependent workers, tele-workers etc) and the creation of jobs?

- Positively across sectors
- Varies depending on the sector
- Varies depending on each case
- Varies according to the national employment laws
- Negatively across sectors
- Other

Please explain

Do you see any obstacle to the development and scaling-up of collaborative economy across borders in Europe and/or to the emergence of European market leaders?

- Yes
- No

Please explain

Do you see a need for action at European Union level specifically to promote the collaborative economy, and to foster innovation and entrepreneurship in its context?

- Yes
- No

Please indicate the sector/action

What action is necessary regarding the current regulatory environment at the level of the EU, including the Services Directive, the E-commerce Directive and the EU legislation on consumer protection law?

- No change is required
- New rules for the collaborative economy are required
- More guidance and better information on the application of the existing rules is required
- I don't know what is the current regulatory environment

Please indicate the sectors and the rules concerned

Please indicate the sectors and the rules concerned

How many people work for you?

- I am an individual provider
- 1
- 2-10
- 11-50
- 51-100
- 101-250
- More
- I do not wish to reveal this information

Please specify

What percentage of your revenues/turnover is earned via collaborative platforms in the last twelve months?

- 0-20%
- 21-40%
- 41-60%
- 61-80%
- 81-100%
- I do not wish to reveal this information

What has been your revenue/turnover growth in the last twelve months earned via collaborative platforms?

- 0-5%
- 6-15%
- 16-35%
- 36-50%
- More than 50%
- I do not wish to reveal this information

What sector of the economy do you operate in?

- Transport
- Tourism
- Accommodation
- Professional services
- Other

Please specify

As a provider active in the collaborative economy, are you aware if the following requirements have to be fulfilled in order to offer/share your assets, resources, time, skills, and/or capital on a platform?

- Specific authorisation or licence

- Yes
- No
- I don't know

- Registration in a business registry

- Yes
- No
- I don't know

- Specific qualifications

- Yes
- No
- I don't know

- Insurance coverage

- Yes
- No
- I don't know

- Membership in a professional chamber

- Yes
- No
- I don't know

- Compliance with health and safety requirements

- Yes
- No
- I don't know

- Compliance with planning permission or fire safety requirements

- Yes
- No
- I don't know

- Compliance with fixed-tariffs

- Yes
- No
- I don't know

- Compliance with consumer protection requirements

- Yes
- No
- I don't know

- Other, please specify

In case you need to comply with at least one of the above requirements, does this represent a burden for the exercise of your services via collaborative business models?

- A significant burden
- A minor burden
- No burden
- N/A (no requirements apply to my activities)

Do you think that lighter rules should be applied to smaller providers?

- Yes
- No

What should be the threshold of a provider's activity in the collaborative economy for it to become subject to rules, such as authorisations, registrations, consumer protection (e.g. level of absolute revenue from collaborative economy, relative share of revenue from collaborative economy, in overall revenues, number of rented units/rental days etc)?

Is the online platform imposing specific requirements on providers?

- Yes
- No

What are the requirements and did the online platform verify their fulfilment and if so how? Please explain briefly.

Are providers using platforms able to find the right insurance to protect themselves against risks when providing services and assets in the collaborative economy?

- Yes
- No

Please explain why not

What sector of the economy do you operate in?

- Transport
- Tourism
- Accommodation
- Professional services
- Other

Please specify

Have your revenues/turnover been reduced as a result of competition from collaborative platforms?

- Yes
- No

By what percentage?

- 0-5%
- 6-15%
- 16-35%
- 36-50%
- More than 50%
- I do not wish to reveal this information

Do you use or intend to use collaborative platforms to offer your existing services and assets?

- Yes
- No

Please explain – If yes, what is/expected to be the impact on your revenues/profits?

If applicable, how can we ensure a level playing field between providers in the collaborative economy and traditional providers?

- Better enforcement of existing legislation for platforms and providers in the collaborative economy
- Developing specific legislation for providers in the collaborative economy
- Improving the existing rules for providers in the collaborative economy
- Improving the rules for traditional providers
- Other

Please specify

What sector of the economy do you operate in?

- Transport
- Tourism
- Accommodation
- Professional services
- Other

Please specify

How many people work for your company?

- 1
- 2-10
- 11-50
- 51-100
- 101-250
- More than 250
- I do not wish to reveal this information

What has been your revenue/turnover growth over the last twelve months?

- 0-20%
- 21-40%
- 41-60%
- 61-80%
- 81-100%
- Negative
- I do not wish to reveal this information

Do you offer services and products in countries other than your own?

- Yes
- No

What percentage of your revenue is due to cross-border activities?

- 0-20%
- 21-40%
- 41-60%
- 61-80%
- 81-100%
- I do not wish to reveal this information

What type of transactions does your platform provide?

- Only peer-to-peer
- Peer-to-peer and business to consumer
- Peer-to-peer, business to consumer and business to business

Are there any specific prior authorisation requirements in place in your country of establishment for collaborative economy platforms? Are there specific authorisation requirements for your sector of activity and with which you, as a platform, have to comply?

- Yes
- No
- I don't know

Please indicate whether these are:

- Specific authorisation or licence

- Yes
- No
- I don't know

- Registration in a business registry

- Yes
- No
- I don't know

- Insurance coverage

- Yes
- No
- I don't know

- Membership in a professional chamber

- Yes
- No
- I don't know

- Specific qualifications

- Yes
- No
- I don't know

- Compliance with health and safety requirements

- Yes
- No
- I don't know

- Compliance with planning permission or fire safety requirements

- Yes
- No
- I don't know

- Compliance with fixed-tariffs

- Yes
- No
- I don't know

- Requirements applicable to providers I can host on the platform

- Yes
- No
- I don't know

- Other, please specify

Do you face any specific authorisation requirements in those EU countries where you provide cross border services temporarily without being established?

- Yes
- No
- Not applicable

Please explain briefly

As a platform, are you involved in tax collection from the providers in the collaborative economy?

- Yes
- No

Please explain briefly

Are you providing insurance or other types of guarantees for consumers and providers active on your platform?

- Yes
- No

Please explain briefly

Do you inform providers regarding their legal obligations and do you ensure compliance of providers with specific legislation applying to them (for example, possession of authorisations, licences, consumer information requirements etc.)?

- Yes
- No

Please explain briefly

Is collaborative economy raising specific regulatory and enforcement issues?

- Yes
- No

Please explain briefly, indicating also what steps, if any, have been undertaken to solve such issues.

Is self-regulation, including voluntary standards, sufficient in the context of collaborative economy?

- Yes
- No

Please explain briefly

How do you ensure that social protection is applied regardless of the business model (collaborative economy model or traditional business models)? Please explain briefly

How do you distinguish between commercial activity within the collaborative economy and the occasional intervention of private individuals in this context?

- VAT threshold
- Frequency of the activity concerned
- On the basis of the safety risk
- Other

Please explain

Do you see problems related to taxation of collaborative economy activities?

- Yes
- No

Please explain briefly

Do you think there is a need for a special tax regime for collaborative economy providers?

- Yes
- No

Please explain briefly

Have you used a service or asset via a collaborative platform?

- Yes
- No

Please specify in which period

- During the last month
- During the last three months
- During the last six months
- During the last twelve months

Have you exchanged your assets or services against other persons' assets or services or did you pay for them?

- Exchange
- Payment

In which sectors have you used services or assets offered through platforms?

- Transport
- Tourism
- Accommodation
- Professional services
- Other

Please specify

Do you receive, on the collaborative economy platform, sufficient information on the provider in the collaborative economy (including whether the provider is an individual or a legal person), your consumer rights, the characteristics and modalities of the offer and your statutory rights (such as withdrawal/cancellation right when applicable)?

- Yes
- No

Please explain

How important are reputation/rating systems in facilitating transactions on collaborative economy platforms?

- Very important
- Important
- Not important

Do you rely on other elements when deciding to use a service or asset via collaborative economy platforms?

- Vetting of the provider
- Existence of a complaint process
- Reputation of the platform
- Other

Please specify

Submission of questionnaire

End of public consultation