

Consultation response

AmCham EU's feedback to data sharing in the EU – common European data spaces (new rules)

A legislative framework for the governance of common European data spaces

AmCham EU speaks for American companies committed to Europe on trade, investment and competitiveness issues. It aims to ensure a growth-orientated business and investment climate in Europe. AmCham EU facilitates the resolution of transatlantic issues that impact business and plays a role in creating better understanding of EU and U.S. positions on business matters. Aggregate U.S. investment in Europe totalled more than €3 trillion in 2019, directly supports more than 4.8 million jobs in Europe, and generates billions of euros annually in income, trade and research and development.

The American Chamber of Commerce to the European Union (AmCham EU) shares the European Commission's vision that common European data spaces will create an enabling environment where market participants feel empowered to share and re-use data and are in control of their data. At the heart of the proposed data spaces are the users, who need certainty that their data is handled in a responsible manner. The success of the EU data strategy depends on establishing data governance mechanisms and structures that foster an open and inclusive approach, built on responsible and values-driven data sharing. We are convinced there is an opportunity to develop a better culture of data sharing in Europe, and that ultimately this will contribute to boosting the EU data economy.

We welcome the Commission's intention as expressed in the roadmap to focus its policy initiative to establishing structural enablers, rather than modifying existing legislation. Any proposed legislation should first and foremost provide market participants with the needed flexibility and legal certainty when participating in data spaces. High-level and sector-specific rules for open, transparent and structured stakeholder involvement and decision-making processes are more suitable than prescriptive rules. The focus should also be on participatory and compatibility issues around data spaces, with a clear scope for what type of data will feed into the data spaces.

AmCham EU believes that the development and adoption of the envisaged data spaces can and should serve to advance as a practical means of achieving the goals of the EU Open Data Directive. As data held by the public sectors has immense innovative potential for businesses, capturing the value of such data for commercial purposes will significantly contribute to the uptake of innovative technologies that can help tackle society's most pressing challenges, such as climate change.

COVID-19 has demonstrated the importance and value of data and data sharing. We emphasise that data altruism mechanisms can contribute to increasing research and development (R&D), particularly for industries such as the healthcare sector. These mechanisms must be General Data Protection Regulation (GDPR) compliant and ensure that such datasets are anonymised.

We support the idea of building spaces in strategic areas where companies would be incentivised to share high quality data. We support a principle-based data governance model to provide adequate guidance on the general functioning of the data spaces, in particular regarding participation and basic rules on types of data to be pooled, common data formats etc., whilst keeping in mind the need for flexibility to adapt to the specificities of each strategic sector. We welcome that the focus of the framework is on voluntary data sharing. This should also be defined based on a context-specific approach, through a continuous dialogue with all relevant stakeholders and across sectors. Furthermore, at the technical level we believe that Europe must take into account the work done by international and European standardisation bodies, fora and consortia with broad participation from industry, academia, consumer organisations, etc. Significant work is already underway on interoperability, portability, data formats, etc. If the goal is to lower the cost of data use through technical means and standards, then any new body at European level that is established in the context of the data governance legislative initiative, should cooperate closely with these entities.

The role of data intermediaries necessitates more discussions at EU level to foster common understanding about their nature, role and objectives. We would highlight that open data agreements can also contribute to lowering transaction costs in data sharing. Standardised data licence agreements can facilitate new collaborative approaches for sharing data resources and should be supported by EU policymakers when setting up data spaces.

Finally, we would like to reiterate the importance of international data flows for Europe's competitiveness, economic growth and innovation potential.

AmCham EU and our members are committed to continuing the dialogue with policymakers and stakeholders on the essential role of data in domains of public interest and for the EU economy.