

Case Id: a22c90c4-0c7c-417e-9f4c-01c4b05df7dc

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

Fields marked with \* are mandatory.

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## Objectives and General Information

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**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.

This public consultation will close on 6 January 2016 (13 weeks from the day when all language versions have been made available).

The Commission invites all interested parties to express their views on the questions targeting relations between platform providers and holders of rights in digital content (Question starting with "[A1]"), taking account of the Commission Communication "Towards a modern, more European copyright framework" of 9 December 2015. Technical features of the questionnaire have been adapted accordingly.

### **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](mailto: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](mailto: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.
- Given the volume of this consultation, you may wish to download a PDF version before responding to the survey online. The PDF version includes all possible questions. When you fill the survey in online, you will not see all of the questions; only those applicable to your chosen respondent category and to other choices made when you answer previous questions.

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

Dimitar Dimitrov, Rue du Trône 51 - 1050 Ixelles, dimi@wikimedia.be

\*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

191538712765-84

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

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## Online platforms

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### 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**

*1,000 character(s) maximum*

For the purpose of law we would like to see a more differentiated approach in defining the term "online platform". Pooling search engines, retailers, knowledge resources, forums, private blogs and social platforms together does not seem to correspond with the Commission's own intention to "follow the money". Instead we should differentiate "online platforms" depending on the flow of money and data. In this case we would have three groups - "businesses/organisational users/other platforms", "individual internet users", "advertisers". There should be different categories of platforms based on their relationship with these groups.

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*

make (cross-border) collaborations easier

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.

*3,000 character(s) maximum*

YES, it is almost impossible for users, partners and platform maintainers to apply fragmented national laws to situations where both the the creation and the use are transnational. Different copyright, data protection and liability rules create legally incoherent systems that have a chilling effect and limit creation and competition.

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*

Anything required by law.

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.

*1,500 character(s) maximum*

Just like "click-through" agreements information is often intentionally presented in a manner that is unfriendly to users. We recommend the Commission to consult both Prof. Robert Bartlett and Creative Commons on how to make legal information "human readable".

Standardised icons and short texts that quickly help users know what the "do's and don'ts" are. Again, the Creative Commons system or the laundry symbols are a great examples of how this can be done.

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

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.

*1,500 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.

*1,500 character(s) maximum*

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

*3,000 character(s) maximum*

to another platform.

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

[A1] 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.

*3,000 character(s) maximum*



Our content is freely licensed or public domain and can thus be used by anyone for any purpose, including commercial use, without asking for permission. The main issue we have is that often re-users don't respect the free license or public domain status of our content and falsely claim copyright (e.g. "All rights reserved"). This in our mind constitutes copyfraud, risks having content illegally "locked up" and should be addressed by the Commission by safeguarding the functional public domain.

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

#### 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.	Google	"Download your data" option
2.	LinkedIn	"Accessing your account data" option
3.	Facebook	No longer available, but had an option to "to copy all your information"
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.

*1,500 character(s) maximum*

The best practice is to collect only the data necessary to render the service and to allow the user to view, delete or download all data that is collected.

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

*3,000 character(s) maximum*

Assuring interoperability and the possibility for a user to port or delete his/her user data is a fundamental step toward assuring a competitive environment in the Digital Single Market and guaranteeing citizens are in control of their privacy vis-à-vis the online projects that they use.

## 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 share your general comments or ideas regarding access to data on online platforms  
*3,000 character(s) maximum*

## Tackling illegal content online and the liability of online intermediaries

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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

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

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.

*1,500 character(s) maximum*

This is a biased question. A Directive does not aim at applying homogenous rules but wants to provide clear guidance. The ECD does this. Having neutral online platforms and content transmitters with protection from intermediary liability is fundamental to the creation, growth and existence of free knowledge projects like Wikipedia. Wikimedia projects receive hundreds of edits per minute, totaling billions of edits since the projects were founded. This rapidly changing mass of knowledge contributed by volunteers can only be hosted thanks to intermediary protection.

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

*1,500 character(s) maximum*

Online platforms like Wikipedia need the same protection ISPs currently enjoy under the E-commerce Directive.

**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*

'Some of the categories stated above might require specific approach, but not within IP law.'

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

*1,000 character(s) maximum*

There is a difference between infringing IP rights and illegal content. While terrorist and child-abuse related content are often outright illegal, they might not infringe IP law. On the other hand, a song might be perfectly legal, but communicating it to the public via an online platform constitutes an infringement of copyright. Applying a one-size-fits all system would be problematic. Especially when keeping in mind, that copyright enforcement measures have in the past lead to dispropo

rtionate consequences for fundamental rights (e.g.: <https://www.eff.org/deeplinks/2014/12/copyright-law-tool-state-internet-censorship>).

### 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

*1,500 character(s) maximum*

Yes, this would to some extent minimise the problem of only allegedly illegal (but actually legal) content being taken down. The only way to legally establish the legality or illegality of content is by court ruling. Therefore the views should be heard before a judicial authority.

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

*1,500 character(s) maximum*

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

- Yes  
 No

### 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.

*1,500 character(s) maximum*

A community of volunteers looks at newly uploaded content has the right to delete copyright violations and other illegal content.

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

*1,500 character(s) maximum*

We are a volunteer driven community so every minute spent by editors on arguing about IP laws instead of creating and editing free knowledge results in less knowledge being freely available to every single human being.

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.

*1,500 character(s) maximum*

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

*1,500 character(s) maximum*

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

*1,500 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.

*5,000 character(s) maximum*

Yes, all requests, as well as granted and refused take-downs should be freely visible to anyone. We do this in regular [<https://transparency.wikimedia.org/transparency-reports>].

The "duty of care" mentioned in Recital 47 is not an additional duty but a codification of the rules in Articles 12-15. Hence, a general duty to monitor cannot and should not be derived from it. Such a duty would impose a heavy burden on volunteer driven projects that are likely to force them to limit their activities. Notice and action rules (that must in all circumstances allow counter-noticing) should be sufficient tool for removing infringing content.

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## Data and cloud in digital ecosystems

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### 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

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



## 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

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

Please share your general comments or ideas regarding data access, ownership and use  
*5,000 character(s) maximum*

The General Data Protection Regulation is not implemented yet. As a general method we should analyse how it works in practice first and answer the above stated questions later. We do believe that individuals must have the possibility of knowing what data is collected about them, how the data is used and request its deletion.

## 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?

*3,000 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**

We would support the European Commission in following-up on its "Guidelines on recommended standard licences, datasets and charging for the reuse of documents (2014/C 240/01)" by making them binding.

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

**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?**

*3,000 character(s) maximum*

There are four major threats to the re-use of data:

1. Embargoes on newly published research (currently 6-12 months).
2. Non-free licensing of data claimed to be "open access". We believe the Open Definition [<http://opendefinition.org/>] should be applied.
3. "Locking-in" of data on platforms or APIs that are not interoperable.
4. The attempt of the European Commission to make it seem like a Text and Data Mining exception is required (while we believe that the the right to read is enough for "mining").

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

- Yes
- No

**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

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?

*3,000 character(s) maximum*

The internet is a decentralised space that has the natural tendency to centralise. In the process of this centralisation a few actors will become very important in the way the network operates. With other words network effects that lead to powerful positions of platforms and players that sit "on top" of the internet. Having open platforms can help us avoid a complete monopolisation of the Digital Single Market. It is thus beneficial to have open platforms in this position, as they generally allow all market players to access them and the use of multiple/universal/non-proprietary standards. Any policy or initiative that aims at promoting open standards and open source and their use is welcome.

## 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

## 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

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

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

- Economic benefits
- Improved trust
- Others:

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:

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)					
<input checked="" type="checkbox"/> Other (please explain)					

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

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

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

*5,000 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 (1 - not important; 5 - very important).

- 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

In the case of collaborative content production, differences in key exceptions and limitations to copyright across Member States make it difficult to estimate which content is legally safe to use and re-use. A substantial part of collaborative on line initiatives nowadays are cross-border collaborations.

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

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

Partially incompatible legal regimes due to the lack of harmonisation, especially regarding limitations and exceptions to copyright.'

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

Harmonisation of limitations and exceptions to copyright in the EU. Especially the exceptions which are directly made used of on a daily basis, such as Freedom of Panorama, citation, quotation and illustration. Furthermore, the commons is fundamental to allowing collaborative initiatives to thrive. A safeguarding of public domain works would assure legal certainty and protection against copyfraud. Furthermore, ancillary copyright poses risks to the free distribution of knowledge online. Experiences in Member States have at the same time shown, that there are no positive economic effects. We therefore would welcome if the Commission protects the internet by safeguarding information sharing from such hasty initiatives.

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

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

We have between 100-200 employees and of between 15-20 thousand members and above hundred thousand volunteer contributors across the EU.

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

Free Knowledge production and distribution

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

Is the online platform imposing specific requirements on providers?

Yes

No

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

What sector of the economy do you operate in?

Transport

Tourism

Accommodation

Professional services

Other

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

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

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

- Yes
- No

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

- Yes
- No

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

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

- Yes
- No

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

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

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

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## Submission of questionnaire

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End of public consultation

### Background Documents

BG\_ Въведение (/eusurvey/files/17798068-07b6-4cfb-8c80-a8e6a4f75e29)

BG\_ Декларация за поверителност (/eusurvey/files/0b5a7e6a-5c26-47ca-b263-9ece4aa566ca)

CS\_Prohlášení o ochraně osobních údajů (/eusurvey/files/a93fa8dd-757e-421e-81f9-e1c9bca745af)

CS\_Úvod (/eusurvey/files/af54c429-c5bf-482f-8525-c156be285051)

DA\_Databeskyttelseserklæring (/eusurvey/files/5dd2c272-17fa-47f4-b0c7-2c207a86235f)

DA\_Introduktion (/eusurvey/files/05c0d888-2d35-4e19-a314-65e8092597d6)

DE\_Datenschutzerklärung (/eusurvey/files/b5e037cf-0350-40c3-b803-04f6357f9603)

DE\_Einleitung (/eusurvey/files/300a2e87-e030-422a-b678-33fe2c7520a6)

EL\_ Δήλωση περί απορρήτου (/eusurvey/files/b408fd27-c292-4fc0-9c2d-fd70c74062c4)

EL\_ Εισαγωγή (/eusurvey/files/0be38358-a600-4568-bfd0-fd9697b1810f)

EN\_Background Information (/eusurvey/files/0873ffeb-56b2-40d7-bf56-5aadbd176c3c)

EN\_Privacy Statement (/eusurvey/files/8861750d-baa1-4113-a832-f8a5454501b5)

ES\_Declaración de confidencialidad (/eusurvey/files/edd31f1e-fe9d-493a-af5e-7a7c793295a9)



ES\_Introducción (/eusurvey/files/600be540-eef2-4bde-bd3a-436360015845)  
ET\_Privaatsusteave (/eusurvey/files/294d2e58-3a3d-4e32-905f-74e8b376c5e6)  
ET\_Sissejuhatust (/eusurvey/files/4bc0f8b9-febc-478a-b828-b1032dc0117f)  
FI\_Johdanto (/eusurvey/files/a971b6fb-94d1-442c-8ad7-41a8e973f2d5)  
FI\_Tietosuojaseloste (/eusurvey/files/28a1f27e-3a8e-41f3-ae27-201e29134555)  
FR\_Déclaration relative à la protection de la vie privée (/eusurvey/files/1341b7cb-38e5-4b81-b3bc-bd0d5893d298)  
FR\_Introduction (/eusurvey/files/308a1cf7-5e78-469c-996a-372b33a1992b)  
HR\_Izjava o zaštiti osobnih podataka (/eusurvey/files/618120e1-286a-45d4-bbbd-2493d71617fb)  
HR\_Uvod (/eusurvey/files/6bfc9d48-cd5c-4603-9c68-5c45989ce864)  
HU\_Adatvédelmi nyilatkozat (/eusurvey/files/76f442e6-3e2d-4af3-acce-5efe8f74932b)  
HU\_Bevezetés (/eusurvey/files/3ea8491d-429d-4c8f-be30-82db40fa59c5)  
IT\_Informativa sulla privacy (/eusurvey/files/e2eb5a94-9e5e-4391-a8e3-35f9e151310b)  
IT\_Introduzione (/eusurvey/files/aa3bf020-9060-43ac-b92b-2ab2b6e41ba8)  
LT\_Pareiškimas apie privatumo apsaugą (/eusurvey/files/ab30fabd-4c4e-42bc-85c5-5ee75f45805d)  
LT\_Ivadas (/eusurvey/files/d5a34e68-4710-488a-8aa1-d3b39765f624)  
LV\_Ievads (/eusurvey/files/3a9bd2b1-7828-4f0e-97f1-d87cf87b7af1)  
LV\_Konfidencialitātes paziņojums (/eusurvey/files/7156fdc0-b876-4f73-a670-d97c92e6f464)  
MT\_Dikjarazzjoni ta' Privatezza (/eusurvey/files/03139a3f-7b5f-42c0-9d2f-53837c6df306)  
MT\_Introduzzjoni (/eusurvey/files/ceb27908-207c-40cf-828a-6cf193731cdf)  
NL\_Inleiding (/eusurvey/files/ca756d80-8c02-43e1-9704-3148a13c8503)  
NL\_Privacyverklaring (/eusurvey/files/83d9394e-b179-442f-8a1b-41514ad072df)  
PL\_Oświadczenie o ochronie prywatności (/eusurvey/files/15612e0b-807d-4c6e-af1c-d65fe4ec9ddb)  
PL\_Wprowadzenie (/eusurvey/files/df9e1828-bbd0-4e4a-90bb-ec45a8bf46da)  
PT\_Declaração de privacidade (/eusurvey/files/50a6e820-91bc-4531-9a0f-47b3685753d7)  
PT\_Introdução (/eusurvey/files/003979c0-5277-41e9-8092-2de66d57ca00)  
RO\_Declarație de confidențialitate (/eusurvey/files/25c135c6-ce01-4081-a83e-53e86086797e)  
RO\_Introducere (/eusurvey/files/4334379b-e465-43a5-a944-8602090b0bf5)  
SK\_Vyhlásenie o ochrane osobných údajov (/eusurvey/files/7fab071c-85f9-47eb-aaa9-949f2239701d)  
SK\_Úvod (/eusurvey/files/e45df825-5e71-4172-b2ec-e07789cc3966)  
SL\_Izjava o varstvu osebnih podatkov (/eusurvey/files/498ec1f0-3405-4454-9aa6-40607efe118f)  
SL\_Uvod (/eusurvey/files/1b0b239a-630d-4d36-a92f-d4b758d41ddc)  
SV\_Inledning (/eusurvey/files/e9111c5b-4637-4ea1-b235-ec85ef8fe1a)  
SV\_Regler för skydd av personuppgifter (/eusurvey/files/0d8275b2-8344-4895-8c09-51d075671061)

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## Contact

CNECT-PLATFORMS-CONSULTATION@ec.europa.eu

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