



Siinda, the Digital Marketing and Local Search Association, is the European association of search, digital and information providers and represents with its company and national association members more than 200 providers of publicly available directories and services from nearly all European countries and ipso facto more than 80 % of the total European directory market. Search and information providers secure putting the right people in contact in the right place and with the right partners by offering search and information media such as publicly available directories as print, online, voice and mobile services, digital advertising, presence management and a wide range of online tools. More information on www.siinda.org.

Comments on the Impact Assessment on the draft Data Act September 2021

Siinda represents the local search, directory publishers and information digital marketing players in Europe, who are key providers enabling businesses digital presence, including SMBs and fostering business contacts between all key players. Siinda members welcome the EU will consult on the future-coming Data Act which is to be unveiled at the end of 2021 and would like to give here their first comments on the Inception Impact Assessment. Separate comments will also be provided to the [EU consultation on the draft Data Act](#).

Siinda agrees with the need to adapt EU legislation to the New Digital Era and the will to adopt more principle and flexible-based rules allowing market innovation and digital development. This however should not mean removing all database protection rules granted by the 1996 EU Database Directive which has permitted the constitution of a strong EU digital and database providers market, based on the protection granted by the sui generis right.

- Directory and database providers in the EU often are **the only free organic search referencing possibility offered by directory listings for SMBs**, and these **providers rely on the EU database sui generis right to ensure their core vitals, their data enhancement, management and added value are protected from unlawful scrapping**. It is therefore crucial to ensure that when the Data Act considers the revision of the Database directive, some key elements of lawful protection such as the sui generis right remain in place.
- A fair level playing field is needed, to avoid all directory and database providers subscriber's data being transferred to non-EU big tech players and to ensure fair competition. All players should be subject to the same rules and the same protection, **making sure that substantial investments made in proprietary databases as well as business secrets remain legally protected**.



- Enabling better B2B data sharing requires regulatory clarification and certainty, as private business providers need to **get incentives** to share their data for common good or for financial compensation. The rules and contracts for B2B or B2G data sharing must be made really clear to ensure it's a win-win situation for all and also that core business know-how and investment are protected. **It should therefore not be done at the expense of database protection.**
- **Ensuring the regulatory framework coherence would free up more data flows.** For example, some cross border data sharing are currently impeded because of the legal vacuum left by the invalidation of the Privacy Shield, this could be a way to foster more data flows together with the adoption of a new adequacy decision.
- Enabling better B2G data sharing is also a wishable way forward but this need to be done in **full protection of proprietary data against scrapping** and with model contracts guaranteeing the protection of data providers legitimate and commercial interests.
- The question of mixed datasets will also raise in discussing the Data Act, it should also recognise the **importance of considering sole traders and individual entrepreneurs as businesses** for the question of inclusion in directories to ensure they would not be delisted, as also enshrined in recital 30 of the Council proposal on e-privacy: *"End-users who are natural persons acting in a professional capacity should be treated as legal persons for the purpose of the provisions on publicly available directories."*
- **A B2B fairness test** seems a good idea but it should be totally respectful of a fair-level playing field and considering countries or sector specificities and be based on a risk-assessment approach too.

We thank you for your consideration of these first comments and we look forward to being in touch with you for the next steps of discussion.

Yours sincerely,

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