Ibec
For Irish Business

Implementing an open European digital future

Ibec response to European Commission consultation on its European Strategy for Data

**Brexit &
Future EU**

An Ibec campaign

Contents

Key messages

The shape of Europe's digital future matters. Ibec envisage a more competitive, smarter low carbon economy, with a sustainable enterprise base that provides quality jobs and enables a high quality of life. We envisage an outward looking, dynamic and successful EU, that provides the conditions for organisations and individuals to adapt to technological change and reach their full potential. Under the right conditions, Artificial Intelligence (AI) are a suite of transformative technologies or systems that can enable that vision. Developing a strong European data economy and ensuring excellence and trust are crucial to that success.

Key recommendations

- Ensure the outcome of the EU approach speeds up Europe's capacities in data innovation and data application.

- Promote an overarching, market-friendly data strategy to enable further digital transformation of its economy and society.

- Invest in enhancing general data literacy across organisations and individuals in the economy, enable everyone to engage and succeed with further data-innovation.

- Deliver the investment promised for data infrastructure in the next long-term EU budget to support the desired ecosystem of excellence in AI.

- Encourage the development of European data spaces in strategic sectors and domains of public interest, while respecting IP, data privacy and security requirements and avoiding forced data localisation. Participation in the data spaces should be voluntary, access open to all players, and non-discriminating. Encouraging enhanced data quality, availability, access and collaboration can help further digital transformation to address both societal and economic challenges across Europe.

- Intensify collaboration between government, regulators, enterprise and the research community to encourage voluntary, responsible sharing of datasets for training AI systems relevant to key sectors while respecting IP, privacy and cyber security requirements.

- Ensure competition and the right incentives enable further investment and data innovation. Ensure effective enforcement of competition law.

- Leverage ongoing activities on the development of international data governance standards. Avoid duplication of effort. Shared global standards on data governance can further enable trust, fair competition and avoid market distortions.

- Support the development of industry-led data governance standards 'bottom-up', using the following principles: inclusiveness, consensus, transparency, effectiveness, technology, neutrality and impartiality.

- Facilitate cross-border data flows and prevent forced data localisation measures.

- Intensify the use of free trade agreements (FTAs) and mutual adequacy decisions as a vehicle to promote further (bilateral) digital trade and cross-border data flows; and to address digital protectionism without prejudice to EU data protection rules.

- There should be further industry engagement and clarity on how 'public interest' data is defined.

- The proliferation of standards at a national level creates market barriers, especially for smaller players should be avoided.

- The existence of unjustified limitations to the use of cloud services (including data residency) hinders European organizations' abilities to innovate, such barriers must be removed.

- We welcome the creation of a "Cloud Rulebook" that compiles existing regulatory frameworks and industry-recognized standards that will help customers to navigate their risk assessments and due diligence as they plan their journey to the cloud.

Introduction

The shape of Europe's digital future matters. Ibec[1], Ireland's business group, welcome the publication of the European Commission's Communication, 'Shaping Europe's digital future', as bringing a necessary focus to the importance of: digital leadership; enabling further development of our digital capacities; and championing further digital and data innovation, enterprise and trade. Ibec and its members have outlined nine policy recommendations across these three priority areas to EU policy makers and influencers. We envisage a Europe that provides the ambition and tools to enable its Member States, businesses, innovators and citizens to lead and succeed in the local and global opportunities offered by further digital transformation, enabling further innovation, quality jobs, better services and enhanced well-being in period 2020-2024[2].

Excellence and trust in artificial intelligence (AI) matters

Our vision of a future Ireland is for a more competitive, smarter low carbon economy, with a sustainable enterprise base that provides quality jobs and enables a high quality of life. An inclusive Ireland at the heart of an outward looking, dynamic and successful EU, that provides the conditions for organisations and individuals to adapt to technological change and reach their full potential. Under the right conditions, Artificial Intelligence (AI) are a suite of transformative technologies or systems that can enable that vision. Ibec and its members have outlined policy recommendations to policy makers and influencers on the future European approach to AI[3] and our national AI strategy[4]. These include the delivery of physical and data infrastructure and enabling governments, public and private organisations and individuals to further collaborate, innovate and succeed with AI. We envisage national AI strategies, aligned with EU initiatives and globally relevant standards for interoperable and trustworthy AI, that enable governments, organisations and individuals across the EU to: embrace innovation and technological change; address policy issues of strategic importance; deliver quality jobs and enhance well-being in period 2020-2024.

A European data economy matters

For Europe to 'become a global leader in innovation in the data economy and its applications' it will need access to quality data in quantities that may exceed those held by individual businesses or public bodies. The EU needs an overarching, market-friendly data strategy to enable further digital transformation of its economy and society.

In this context, Ibec and its members welcome the opportunity to contribute to the Commission's public consultations on further shaping Europe's digital future, specifically in the areas of AI[5] and data[6]. This paper outlines Ibec views on the proposed European strategy for data. Ibec has also developed a separate response to the Commission's White Paper on AI.

Implementing an open European digital future

Views on European Strategy for Data

General comments on proposed approach

For Europe to 'become a global leader in innovation in the data economy and its applications' it will need access to quality data in quantities that may exceed those held by individual businesses or public bodies. Europe needs to encourage further data flows, resist forced data localisation and encourage the voluntary and responsible sharing and use of quality data across the public and private sector, while respecting data privacy, security and IP requirements.

In this context, the EU needs an overarching, market-friendly data strategy to enable further digital transformation of its economy and society.

Recommendations:
- The outcome of the EU approach must speed up not slow down Europe's capacities in data innovation and data application.

- Invest in enhancing general data literacy across organisations and individuals in the economy, enable everyone to engage and succeed with further data-innovation[7].

- Deliver the investment promised for data infrastructure in the next long-term EU budget to support the desired ecosystem of excellence in AI[8].

- The development of European data spaces in strategic sectors and domains of public interest[9] should be encouraged, while respecting IP, data privacy and security requirements and avoiding forced data localisation. Participation in the data spaces should be voluntary, access open to all players, and non-discriminating. Encouraging enhanced data quality, availability, access and collaboration can help further digital transformation to address both societal and economic challenges across Europe.

- Intensify collaboration between government, regulators, enterprise and the research community to encourage voluntary, responsible sharing of datasets for training AI systems relevant to key sectors while respecting IP, privacy and cyber security requirements.
    - Engage stakeholders, identify and breakdown technical barriers to sharing data (for example around portability and interoperability), establish standards and mechanisms to enable legal and responsible data sharing.
    - Provide further guidance on how data from businesses can be shared, accessed or mined.
    - Incentivise the legal and responsible sharing of research datasets:
        - Encourage voluntary sharing of data.
            - Explore the use of standards, industry agreements or model clauses to support this.
        - Promote data usage agreements.
        - Use regulatory sandboxes to test data sharing standards and mechanisms.

- Ensure competition and the right incentives enable further investment and data innovation. Ensure effective enforcement of competition law. It is important for Europe's future competitiveness that our digitalised markets remain competitive and open to new business models. Use an evidence-based approach to assess barriers to competition and to address any infringements or identified market failures. Be mindful of unintended impacts of market-wide regulation to correct for competition concerns and apply better regulation principles to ensure such action is justified, proportionate and non-discriminatory. The rights of market actors should be balanced in any new proposals – adequate market information, IP rights, and the freedom of contract of firms.

Specific comments on proposed approach

Data governance

Data governance can support efforts to capture the potential of data in cross-sectoral use. Standards will be important in encouraging the growth of quality data and further data innovation.

We agree that public data has several advantages: significant potential for re-use in new products and services and help address societal challenges in many areas. Therefore, we support the Commission's efforts to improve access to this data and its interoperability.

Recommendations
- Leverage ongoing activities on the development of international data governance standards. Avoid duplication of effort. Shared global standards on data governance can further enable trust, fair competition and avoid market distortions.

- Support the development of industry-led data governance standards[10] 'bottom-up', using the following principles: inclusiveness, consensus, transparency, effectiveness, technology, neutrality and impartiality. This will ensure we can encourage and benefit from trustworthy data standards outside the EU but also that data standards developed within the EU can move across borders easily.

    - EU or national bodies can support standardisation in:
        - Providing funding to ensure open standards.
        - Engage in the prioritisation and co-ordination of standardisation needs, creation and updates.
        - Provide funding to test draft standards in practice and develop tools to implement them early-on.
        - Leverage existing international standards and the work done by well-established standardization bodies (in which Member States play a part) such as ISO. Standards at a national level create market barriers and fragmentation and must be avoided.

- Facilitate cross-border data flows and prevent forced data localisation measures. Ibec like several European business groups and likeminded member states, support EU legislation to remove unjustified restrictions to the free flow of data. We don't agree that AI trained on non-European data would throw up different results to that trained on EU data in every context.

- Intensify the use of free trade agreements (FTAs) and mutual adequacy decisions as a vehicle to promote further (bilateral) digital trade and cross-border data flows; and to address digital protectionism without prejudice to EU data protection rules.

- There should be further industry engagement and clarity on how 'public interest' data is defined.

Cloud computing

The Consultation calls for the identification of "problems in the context of the current functioning and constitution of the market for cloud services in Europe". Several issues need to be addressed:

- The lack of public procurement rules fit for cloud services prevents public sector organizations from taking full advantage of cloud-based innovation. Cloud public procurement frameworks should consider the following principles:
  - Multi-tenant Cloud environments: The use of commercially available versions of cloud services should be supported to the highest possible extent. The imposition of bespoke requirements raises costs that negatively impact the economies of scale that underpin cloud models and therefore impact price and efficiency.
  - Shared responsibility: In cloud environments, customers bear responsibility for their content, applications built on top of the cloud infrastructure, and specific configurations; while CSPs remain responsible for, and must have the ability to protect and maintain the services and the overall multi-tenant environment.
  - Contractual framework: Typically, terms of services have been developed with a deep understanding of how these services operate in practice and factoring in their constant technological evolution and innovation. The contractual framework needs to be limited in scope and cater for shared services and facilities, which is a fundamental aspect of cloud ecosystems.

Recommendations

- The proliferation of standards at a national level creates market barriers, especially for smaller players; therefore, it should be avoided.

- The existence of unjustified limitations to the use of cloud services (including data residency) hinders European organizations' abilities to innovate, such barriers must be removed.

- We welcome the creation of a "Cloud Rulebook" that compiles existing regulatory frameworks and industry-recognized standards that will help customers to navigate their risk assessments and due diligence as they plan their journey to the cloud.

References and notes

1. www.ibec.ie/digitalpolicy

2. Ibec (2019a) Europe's digital future – open for business, https://www.ibec.ie/connect-and-learn/insights/insights/2020/02/07/europes-digital-future-open-for-business

3. Ibec (2019a) Ibid.

4. Ibec (2019b) Smarter technology for a better future, https://www.ibec.ie/connect-and-learn/insights/insights/2020/02/20/smarter-technology-for-a-better-future

5. European Commission (2020a) White Paper on Artificial Intelligence – A European approach to excellence and trust, COM (2020) 65 final

6. European Commission (2020b) Communication - A European strategy for data, COM (2020) 66 final

7. 12% of EU enterprises analyse big data from any data source and 26% invest in cloud computing. Larger enterprises are currently more invested than SMEs in both big data analysis and cloud computing. Source: European Commission DESI Report (2019)/Eurostat (2018).

8. The European Multiannual Financial Framework (MFF), for the 2021-2027 period

9. Industry/manufacturing, EU's Green Deal, mobility, health, finance, energy, agriculture, public administration and skills.

10. Elements such as common data models, data exchange protocols and Application Programming Interfaces (API) could be useful in terms of standardisation.

About Ibec

Ibec is Ireland's largest lobby group, representing Irish business both domestically and internationally. Our members span all sectors of the economy, collectively employing over 70% of the private sector workforce. Our policy work seeks to improve business conditions and thereby promote sustainable economic growth.

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