



## **Response to the Digital Simplification Proposals (AI and digital omnibus)**

Middle Tech Europe (MTE) is a growing alliance whose members currently include Automattic, Dailymotion, Discord, Dropbox, Grindr, Patreon, Pinterest, Reddit, WeWard, Yahoo, and Yubo. Our members operate a wide variety of services, ranging from video-sharing and e-commerce to e-mail, forums, communication, media, online dating and hosting services – representing the often missing “middle-voice” in tech policy discussions.

Regulatory coherence and simplification are particularly important for mid-sized companies, which often lack the extensive compliance teams of the largest competitors. Middle Tech Europe therefore seeks to actively contribute towards the common goal of streamlining the digital acquis and advocate for a proportionate and flexible regulatory approach to the digital sector. With this response, MTE provides input on key areas where our members welcome simplification measures outlined in the Commission’s proposals and where further clarification is needed: Artificial Intelligence, Cookies and the GDPR, repeal of P2B Regulation, and Cyber incident reporting.

### **MTE recommendations on the AI Omnibus**

We strongly support the core objectives and obligations of the AI Act, as it provides a harmonized framework for the safe and responsible development and use of AI across the EU. We welcome those targeted simplification measures that reduce administrative burdens for businesses without compromising the Act’s intent or effectiveness.

To ensure feasible compliance, companies must be supported by timely and harmonized standards. While we welcome the delay in the application of certain high-risk AI rules, greater legal certainty is needed regarding when the relevant obligations will apply. If standards for high-risk AI systems are delayed, a corresponding temporary postponement of related obligations across the AI supply chain should be considered.

MTE welcomes the postponement of regulators’ enforcement of Article 50(2), but recommends extending it to all provisions of Article 50, including a longer postponement than 6 months and extending it to products placed on the market before 2 August 2026. The proposal delays the application of Article 50(2) by six months while paragraphs 4 and 5 continue to apply as scheduled, creating a misalignment: deployers are required to disclose GenAI deepfakes while upstream providers are not yet obliged to provide the



information (such as metadata or digital fingerprints) necessary to enable deployers' compliance.

We also welcome the Commission's intention to clarify how the AI Act interacts with other legislation, including the GDPR, and stress that such guidance should be issued without delay.

Lastly, we agree with the Commission that co-legislators should adopt this proposal as quickly as possible, and in any event before the existing AI Act deadlines take effect. If the co-legislators are unable to adopt the full Omnibus swiftly, the Commission should decouple the implementation and enforcement delays from the remainder of the Omnibus and fast-track their adoption.

## **MTE recommendations on the Digital Omnibus**

### Cookies

MTE welcomes the Commission's intention to simplify cookie rules, explore alternative legal bases - particularly for low-impact uses and to unlock contextual advertising - and reduce the burden on consumers. However, the proposals in Article 88a of the Omnibus fall short by cementing user consent as the default legal base for cookies and propose only few new exemptions. This is a missed opportunity. Co-legislators should consider further exemptions for low-impact cookie uses including uses required for advertising (such as verification of ad delivery and measurement of ad impressions). They should also ensure that third parties acting for a service provider can benefit from all exemptions to avoid discriminating against smaller providers that have to procure essential services including security and audience-measurement from specialist firms.

We note that Article 5 of the Omnibus proposes to add a new sub-paragraph after ePrivacy Directive Article 5(3): "*This paragraph shall not apply if the subscriber or user is a natural person, and the information stored or accessed constitutes or leads to the processing of personal data*". A faithful reading of the amendment and public statements from senior European Commission officials suggest that this is intended to permit alternative legal bases under Article 6 of the GDPR for certain cookie uses but the scope of application is unclear, in particular for cookies involved in personalised online experiences for consumers and higher yield advertising. It is also unclear how this approach would operate in complex supply chains where more than one entity relies on the same cookie. It is important that the omnibus as a whole delivers the intended simplification and legal certainty in practice, and co-legislators should consider additional amendments to provide this certainty including via



the full integration of ePrivacy Article 5(3) into GDPR. This should be clarified as soon as possible.

Furthermore, the one-click consent mechanism, while intended to simplify user experience, raises additional complexity for providers. It is not fully technologically neutral, codifies current EDPB guidance in a prescriptive manner, and reduces flexibility for regulators to adapt guidance as technology evolves.

MTE has additional concerns regarding Article 88b on centralized cookie controls. Centralized controls have been explored before in the Cookie Pledge initiative and during prior discussions on the proposed ePrivacy Regulation. These processes showed how mandated consent tools would significantly complicate compliance and create serious legal risk for service providers. For example, there could be conflicts between user choices expressed directly to providers versus through the centralized interface, and leave unresolved questions about which entity bears legal responsibility for obtaining and recording a valid user consent. Third parties relying on consent obtained via a centralized interface may also face uncertainty, while differing incentives among interface providers could create new gatekeepers and undermine fair implementation. Broad opt-outs through centralized controls could produce commercial and economic outcomes that conflict with other EU policy objectives. For example, near-universal rejection of cookies would jeopardize high yield advertising revenue that supports news media and other ad-funded services offered by MTE members. For all these reasons, Article 88b should be amended to become a voluntary tool or be deleted.

Thus, while MTE supports the Commission's overall objectives, the preferred proposals should go further in the form of further clarification and expansion of exemptions, coverage of third-party and cross-service processing, flexibility in technological implementation of consent mechanisms, and the removal of Article 88b to ensure the framework functions effectively in practice and reduces consent fatigue.

## GDPR

We view the proposed GDPR changes positively and would welcome their swift adoption. In particular, our members support:

- the clarification of the definition of personal data in line with established case law;
- confirmation that the processing of personal data for the development or operation of AI systems may rely on the legitimate interest legal basis although it should be clarified that the entity processing personal data for training purposes should be responsible for compliance and managing data subject opt-outs;



- and the creation of EU-wide lists of processing activities for the Data Protection Impact Assessments although these should take the form of voluntary not mandatory guidance.

However, we would propose reinstating the changes to Art. 9(1) of the GDPR, as was already envisioned in the leaked Commission’s proposal. We suggest the wording to be as follows: *“Processing of personal data that directly reveals, in relation to a specific data subject, racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, his or her health status (data concerning health), or sex life or sexual orientation, and the processing of genetic data or of biometric data for the purpose of uniquely identifying a natural person, shall be prohibited.”* Clarifying Article 9 by focusing special-category protections on personal data that directly reveals sensitive characteristics responds to growing uncertainty in interpretation, which risks undermining the provision’s effectiveness. By anchoring heightened safeguards to data that directly discloses protected traits in relation to an identifiable individual—while leaving intact the GDPR’s strict prohibitions on genetic and biometric identification—the revision reinforces a risk- and harm-based approach consistent with fundamental rights case law. This clarification helps prevent the dilution of Article 9 through over-inclusive readings that treat indirect, contextual, or speculative signals as inherently sensitive, ensuring that the Regulation’s strongest protections remain credible, enforceable, and focused on processing most likely to give rise to discrimination or serious intrusion into private life.

### Incident reporting

MTE welcomes the recognition that incident reporting obligations are duplicated across multiple EU cybersecurity and data frameworks, including the GDPR, ePrivacy Directive and the NIS2 Directive. We strongly support the creation of a single-entry point (SEP) for incident and data breach reporting and the introduction of other measures to make compliance with such obligations achievable.

We welcome the proposal to prepare a common notification template for breaches under the GDPR and to align other templates across NIS2, DORA, the CRA, and similar frameworks. However, to maximize the portal’s effectiveness and ensure the elimination of duplication and unnecessary costs, the system should allow providers to submit a single incident report that meets all applicable reporting obligations, with a centralized platform ensuring seamless sharing of reports with the relevant Member State authorities.



We also welcome the removal of the reporting obligation in the ePrivacy Directive Article 4, as well as the new GDPR requirements that only high risk personal data breaches need to be reported and providers will have more time - 96 hours - to submit their report.

For affected middle tech companies, these measures would significantly simplify incident reporting and reduce most of the legal risk and costs associated with drafting and submitting multiple reports to different authorities within very short deadlines. Recognising any IT system to support the SEP may take more time, the co-legislators should ensure that the implementation of the new template, reporting deadlines and risk thresholds is prioritised so that providers feel these simplification benefits without delay.

### P2B Regulation

Considering its overlap with other legislative instruments such as the DSA, we strongly support the repeal of the P2B Regulation, which would make compliance more efficient and less costly for mid-sized companies.

Relatedly, we also note similar existing overlaps between the DSA and other frameworks, including the Media Freedom Act (MFA), the Regulation on addressing the dissemination of terrorist content online (TERREG), the proposal on a Regulation to prevent and combat Child Sexual Abuse Material (CSAM), the GDPR, and the Data Act, which we hope to see addressed through the upcoming digital fitness check.

### Closing comments

The Commission's simplification agenda is a crucial step for enabling innovation, growth, and competitiveness across Europe's digital sector, allowing middle-sized companies to focus resources on building better services rather than navigating overly complex compliance requirements. The path to effective and proportionate digital regulation requires ongoing dialogue between policymakers, regulators and the diverse range of companies that shape Europe's internet ecosystem. Middle Tech Europe is committed to being a constructive partner in this process.