Digital Package and Omnibus
France Digitale's Contribution to the European Commission Call for Evidence

October 14th, 2025

We welcome the European Commission's willingness to streamline the EU's digital regulatory framework. The objective should be better articulation and coherence of digital rules. Simplification must not result in weakening or indirectly deregulating key legislative acts such as the Digital Services Act (DSA) or the Digital Markets Act (DMA). The objective should be to create a well-structured, consistent, and future-proof digital rulebook that supports innovation while maintaining trust and fairness in the digital economy.

What startups need

Startups and scale-ups need **clarity, predictability, and coherence** in the digital rulebook. Over the past few years, a large number of regulations have been adopted, while each pursues legitimate objectives, their fragmentation and overlap create growing challenges for startups and scaleups.

Without a consistent and readable framework, startups risk non-compliance, not due to bad faith, but because of regulatory complexity. This situation also undermines the effectiveness of the rules themselves.

For startups, competitiveness depends on being able to focus resources on innovation and scaling, not on navigating administrative burdens. Excessive compliance requirements delay innovation, a risk that small actors simply cannot afford.

It is also essential that **EU rules apply uniformly across all 27 Member States**. Divergent national interpretations undermine the single market and discourage scaling across borders.

We encourage the Commission to conduct a **systemic evaluation** of how existing and upcoming EU digital rules affect startups and scaleups.

Such a review should aim to:

- Identify and remove inconsistencies and overlaps between texts;
- Develop common taxonomies and definitions across legislations;
- Streamline the number of governance bodies and simplify interactions for businesses;
- Clarify and, where appropriate, simplify procedural obligations.

Circulation of Data: A Cornerstone for AI and Innovation in Europe

The circulation of data is crucial for AI and technological development in Europe. The digital rulebook must ensure that data can move efficiently.

If we want Europe to stay in the AI race, innovators must have access to high-quality datasets to train, fine-tune, and validate their models. Without data availability and clarity on data use, innovation will stagnate.

To unlock the full potential of AI while preserving fundamental rights, **the interaction between the AI Act and the GDPR must be clarified.**

Startups and scale-ups currently face major uncertainties, including:

- How to use personal data for AI training in compliance with the GDPR;
- How to balance the AI Act's obligation to prevent bias with the GDPR's requirement to minimise data collection;
- How to conduct impact assessments efficiently: today, the Data Protection Impact Assessment under the GDPR and the Fundamental Rights Impact Assessment under the AI Act are uncoordinated, creating duplication, confusion, and administrative burden.

Harmonisation and clear guidance are essential to ensure consistent interpretation across Member States and to give startups legal certainty. The EU should promote a common European approach to data protection and AI compliance, avoiding divergent practices by national authorities.

For AI to thrive, data must also be available and reusable. The Open Data Directive plays a central role here but still requires clarifications: when data is both open and personal, how should it be treated? For example, can a Member State deny access to a public dataset (e.g. company registers including CEO names) by invoking data protection? **Clear guidance at EU level is needed to prevent inconsistent implementation.**

In addition, we urge the Commission to broaden the scope of High-Value Datasets as much as possible. For instance, in the field of legal technology, court decisions, public hearing agendas, and metadata of judgments, should be made available to foster innovation.

Encouraging Data Sharing Through Economic Incentives. The EU should explore mechanisms that make data sharing economically viable, such as: allowing data to be recognised as an asset on company balance sheets; enabling data to be used as collateral for financial instruments; supporting public–private partnerships that reward responsible data exchange.

Some Legislations Must Be Better Targeted

Regarding the **Data Act**: while the objectives of the Data Act, such as improving access to and portability of cloud and IoT data, are welcome and can help reduce vendor lock-in,

certain contractual rules, if not clarified, risk undermining the business models of thousands of European startups and scaleups that are not cloud providers.

Software-as-a-Service (SaaS) startups base their business model on multi-year contracts. Such recurring revenue allows them to invest in innovation, raise capital and justify their valuation with investors. SaaS startups are among the fastest growing businesses in Europe and in France alone they are the number one job creator among all startups[1].

According to a certain interpretation of art. 25, however, the fixed-term contracts SaaS startups rely on would be incompatible with the new mandatory short-term termination rights. While recital 89 seems to allow for such contracts and even enable the introduction of early termination penalties, calculating such penalties remains challenging, especially in the face of hybrid pricing models like success-based and usage-based pricing.

Unfortunately, the recently published Commission FAQs are insufficient to clarify beyond every reasonable doubt the situation for the thousands of SaaS startups and scaleups across Europe.

We urge the Commission to answer the following questions on the application of the Data Act:

- **Does the Data Act apply to SaaS offered directly *by the cloud providers* or also SaaS by third parties** (service startups)?
- **Are fixed-term contracts still allowed under the Data Act**, as suggested by recital 89?
- **Does the Data Act create a general right of termination, or only a conditional right**, for instance, when a customer wishes to switch providers or request the deletion of its data?
- Must the customer justify its termination request in such cases?
- And if the customer neither switches providers nor provides a justification, can the provider refuse termination?
- **Is it fair and legitimate to introduce early termination penalties to *existing* contracts to compensate for the new early termination right?**
- **How should penalties be calculated?**
    - Should only the actual net loss, after deducting avoided costs, be accounted for, or is it possible to recover all remaining fees until the initial contract term (which would preserve recurring revenue)?
    - **Can specific development fees be retained, or must they be reimbursed in the event of early termination?**
    - **What happens if these fees are included in an annual package or not clearly separated?**
    - **Is it safe to assume that such early termination penalties will not be considered barriers to exit?**

[1] motherbase.ai, January-December 2024

Without this clarity, the Data Act risks damaging the very ecosystem it seeks to strengthen.

Regarding the **Data Governance Act**, we recommend:

- Introducing a clear definition of *"closed group"*;
- Expanding the list of *"authorised data treatments"* (e.g., securisation of data transactions, formatting into semantic standards, use of generative AI for data format conversion);
- Including *"data altruism organisations"* under the broader *"data intermediation service"* framework;
  Accelerating the **adoption of common technical standards** to facilitate interoperability and trust.

Streamlining Compliance

Startups often face an overlapping web of obligations, under the GDPR, DGA, Data Act, NIS2, and soon the AI Act. To ensure these rules remain workable, compliance must be streamlined.

For instance, the implementation of **NIS2 should be aligned with ISO 27001**, a widely recognised and globally adopted security standard, to reduce redundancy between audits and certifications, and thus lower compliance costs.

At present, harmonised standards for AI conformity assessment are not yet finalised, while obligations for high-risk systems will apply from August 2026. This leaves startups with very limited preparation time, especially since national governance authorities are still being established.

To ensure fair and effective implementation, the Commission should: publish clear and practical guidance for companies; provide standardised assessment templates and compliance tools; coordinate the publication of harmonised standards, well ahead of the application date.

About France Digitale: Founded in 2012, France Digitale is the largest startup association in Europe, bringing together over 2000 startups and investors (venture capitalists and business angels). The association's goal is to help build Europe's future tech champions by raising the voice of those who innovate to change the face of the world.

Transparency Register number: 479234015862-06

Contact: ap@francedigitale.org