

The Guild's input to the call for evidence on the Digital package – Digital Omnibus

The Guild would like to highlight that while the revision of the data acquis is very timely, the scope of the call for evidence omits to recognise a broader community of actors that depend on access to and reuse of public sector data, as well as those that provide data, notably universities and research-performing organisations.

Below, we highlight key factors which would bring relief to the research and innovation community, aligning with the priorities outlined by the European Commission.

Universities and researchers' role in the data ecosystem

Universities and researchers are in a unique position to advance research excellence, facilitated through accessing, sharing and providing data. It is therefore essential to clearly understand the benefits and obligations under the Data Governance Act and the Open Data Directive. Without this clarity, universities face legal uncertainty that hinders their ability to ultimately engage in research, open science and contribute to Europe's overall vision of becoming a global leader.

The obligations imposed on data holders under the Data Governance Act (DGA) and the Open Data Directive (ODD) are not limited to commercial actors. In fact, they are equally valid for bodies governed by public law, which, in both cases, include entities under public supervision, often including universities, as stated in Article 2(18) and Article 2(2), respectively.

It is worth noting that data held by cultural establishments under the DGA (recital 12), such as libraries and archives, are excluded from the scope of the DGA, which creates uncertainties for universities, as many of them also have libraries under their governance structure.

Research data is included in Article 10 of the ODD, requiring Member States to support their availability through national policies and actions that promote open access to publicly funded research data. The Article notes that research data shall be reusable for commercial or non-commercial purposes, provided that it is publicly funded and researchers or research-performing organisations have already made it publicly available through an institutional or subject-based repository. As already highlighted in the European Commission study (2024) on the barriers researchers face in accessing publicly funded research results, the authors rightfully note that, in the case of ODD, the concept of "publicly funded" research data, especially in the context of public-private partnership, is too ambiguous, creating legal uncertainties. In addition, the term "publicly available" in Article 10(2) requires clarification, which complicates the determination of whether a dataset meets the criteria, especially when it involves merged data from various sources.

This demonstrates that the research community relies heavily on precise data-sharing and data provision requirements, whose complexity and fragmentation the European Commission identifies as a barrier for smaller and mid-cap companies. By omitting the research community within the scope of this exercise, the European Commission's simplification efforts risk neglecting an essential stakeholder crucial for enabling data availability, fostering trustworthy sharing, and maintaining Europe's scientific excellence.

Need for alignment with the forthcoming ERA Act and the ERA Policy Agenda

The European Commission's simplification agenda cannot be pursued in isolation from EU research policy. First, the European Commission's intention to improve framework conditions for researchers and research organisations in Europe under the forthcoming European Research Area (ERA) Act intends to include the free circulation of researchers and scientific knowledge through open science measures, such as open access to and reuse of publicly funded R&I results or access to data for research and innovation purposes. Therefore, any revisions to the data acquis under the Digital Omnibus that affect data that could be (re-)used for research should be aligned to ensure legal clarity.

At the same time, the ERA Structural Policies for 2025 – 2027 entitled “Enabling open science via sharing and re-use of data, including through the European Open Science Cloud (EOSC)” under the ERA Policy Agenda 2025 – 2027 also aims to establish a more robust EU legal framework for the open sharing, seamless access, and reliable reuse of research data, to identify policy options that make the EU's copyright and data legislative framework suitable for research.

The Guild calls on the European Commission to ensure that the simplification of the digital acquis is aligned with ERA priorities, notably in advancing open science, research data management, and the FAIR principles. Without such alignment, there is a risk of regulatory fragmentation between digital and research policies, which would undermine both agendas and the Commission's intention for simplification.