

How we can contribute to a digitally empowered Europe by 2030

At different levels and from different angles, the European Union is working towards a digitally empowered Europe. The European Council called for a 'Digital Compass', setting out concrete digital ambitions for 2030. In reply to this call, in March 2021, the European Commission published their policy proposals to achieve this goal ("2030 Digital Compass: the European way for the Digital Decade").

In February 2020, the European Commission had already published a digital strategy, which consequently led to a legislative proposal for an Data Governance Act, a legislative proposal for a Digital Services Act and a legislative proposal van a Digital Markets Act.

On top of this, Germany and France published a joint proposal on the creation of a pan-European federated data infrastructure (GAIA-X), which was embraced by the President of the European Commission in her 2020 State of the Union Address: "innovation ecosystems, data spaces. a European cloud as part of NextGenerationEU - based on GAIA-X." GAIA-X can be combined with and be instrumental to the realisation of the nine Data Spaces which have by the European Commission in their Data Governance Act. The objective is to promote the seamless and pan-European exchange of data that is relevant to entities in those Data Spaces. GAIA-X will need a solid governance model. On the basis of their experience and expertise in the Health, automotive and energy sectors, Hooghiemstra & Partners are well placed to take up this challenge.

In the framework of the above, a number of challenges will have to be met in the upcoming years. Some of these challenges are the following:

Informational self-determination GDPR: "Natural persons should have control of their own personal data."

Purpose limitation and data minimization when processing personal data in order to minimize the intrusion in the private life of individuals.

Data protection by design and by default which, on the one hand requires strong end-to-end encryption of data but, on the other hand, has triggered a discussion of building in so-called 'backdoors' that can be used by law enforcement agencies and/or state security services.

Digital rights management to avoid access by unauthorized parties (not only to avoid data breaches, bu also for other goals such as, for example, copyright management).

Combatting fake news leading to conspiracy theories and deep fake content ("metahumans"): democratic societies can only function well if members of the public are well informed. The challenge is to protect the democratic debate by ensuring that all voices are heard and by preventing the manipulation or misrepresentation of factual information.

Jurisdiction issues: Almost all organisations, governmental and non-governmental, have no choice but to rely on cloud services. More often than not, those cloud services are governed by the laws of countries outside of the European Union.

For this reason, the German and French governments have taken the initiative to provide an alternative: a European cloud environment that will meet European standards.

The idea is not to create a centralized European cloud service provider, but rather to develop a pan-European system that will make it possible to interconnect distributed clouds and cloud services that

use the technical protocols and that meet the legal requirements of the GAIA-X scheme. The scheme requires a governance model. At Hooghiemstra & Partners we have a broad expertise in developing governance models for data processing.

Just like in the physical world, service providers in the online world must be able to verify a person's identity if there is a genuine practical need for it or if they are required to do so by law. Experts at Hooghiemstra & Partners have a long-term and wide-ranging expertise in regard to electronic identification systems.

Access to essential facilities/data silos: For companies it is important that they can access databases that contain data which is essential for the development of new services that depend on this data. This is especially important in the case where it is not feasible from a technical, economic or legal point of view to replicate such databases. The owner of such a database holds an essential facility and can therefore prevent and hamper competition. The challenge is to develop a policy that grants market parties access to such essential facilities on a fair, relevant and non-discriminatory basis (FRAND). On the basis of their past experience in other sectors (electronic communications networks; collective rights management), experts at Hooghiemstra & Partners are well placed to participate in this debate and to suggest solutions that work in practice.

In addition, European law (GDPR) requires that data subjects have access to any data that concern them at all platforms and they must also be empowered to use this data elsewhere. This is another area in which Hooghiemstra & Partners can be of service, as our strategic experts are familiar with solutions that meet the legal requirements without undermining the business models of companies.

At Hooghiemstra & Partners we closely monitor how policymakers and regulators attempt to deal with the challenges identified above. Consequently, we incorporate this knowledge in our services. This allows us to act as a sparring partner and to provide companies with strategic advice at C-level. It also makes us a valuable party for compliance offices in companies, for policy makers at different levels of government as well as the legislators.

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