Federation of the European Sporting Goods Industry

FESI Position Paper

DIGITAL Omnibus Proposal

March 2026

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Summary:

Introduction

FESI (the European Federation of the Sporting Goods Industry) warmly welcomes the European Commission's proposal for a « Digital Omnibus » Regulation[1]. For the sporting goods industry, where connected devices, wearables, data- driven services and AI applications are increasingly central to both product development and consumer experiences, legal clarity and proportionate compliance obligations are crucial. As trusted brands, FESI members support the responsible use of data, which is key to delivering a trusted and seamless consumer journey online. In this context, we particularly welcome the Commission's focus on simplifying the data acquis, clarifying rules on cookies and other tracking technologies, streamlining cybersecurity reporting obligations, and ensuring a balanced and effective implementation of the Artificial Intelligence Act. In this context, we would like to propose the following recommendations.

[1] https://eur-lex.europa.eu/resource.html?uri=cellar:ebf17714-c56e-11f0-8da2-01aa75ed71a1.0001.02/DOC_1&format=PDF

1. GDPR

a. Scope (Article 3)

FESI supports the proposed amendments to Article 3 of Regulation (EU) 2016/679 (GDPR), as they improve clarity and consistency regarding the territorial scope of the Regulation.

Recommendations:

- We recommend **keeping the amendments** proposed by the European Commission to:
  - **Article 3(1)**;
  - **Article 3(3)–(4)**;
  - **Article 3(6)**; and
  - **Article 3(8)**.

Justification:

The amendments contribute to greater legal certainty for economic operators operating across borders and facilitate more consistent interpretation and enforcement of the GDPR throughout the EU.

b. Processing of special categories of personal data (Article 9)

FESI considers that Article 9 requires further clarification to ensure its scope is appropriately aligned with its objectives, particularly regarding "health data."

Recommendations:

Clarify the definition of "health data" to specifically refer to only medical information related to health treatment or diagnoses that reveal the physical or mental health status of the data subject.

Justification:

The current definition of "health data" is relatively broad. As it stands, businesses processing non-medical data (such as individuals wearing glasses or general lifestyle data such as running and workout data, etc…) could be subject to the stricter requirements of Article 9, potentially creating significant compliance challenges and legal uncertainty. A more targeted definition would better align regulatory obligations with actual privacy risks while continuing to ensure robust protection for sensitive medical information.

c. Data Evaluation Protocols (Article 41(a))

FESI considers the new Article 41(a) unclear and potentially burdensome, as it does not address how authentication methods shift over time, creating a risk that data previously classified as non-personal could be reclassified as personal. It also fails to address the legal and retrospective consequences for operators if a previously accepted pseudonymization protocol is later invalidated by new jurisprudence.

Recommendations:

- **Delete Article 41(a)** from the GDPR.

Justification:

The Article creates legal uncertainty and retrospective liability for operators without improving data protection. Deleting it would preserve the effectiveness of existing pseudonymization practices and ensure regulatory clarity for operators.

d. Cookies (article 88(b))

FESI members fully recognize and respect the importance of putting users in control of their data especially when it comes to how their data is used and shared. Control *and* choice are central to this; FESI therefore believes that Article 88 should not prescribe gathering consent at browser level but rather provide the choice to users to be able to do so, particularly as new technology evolves.

Several FESI members have experience with detecting and honoring Global Privacy Controls (GPC) signals (*i.e. a universal opt out mechanism*), following the introduction of the California Consumer Privacy Act (CCPA) in the US. Global Privacy Controls is a technical specification for transmitting opt-out preference signals from a browser to a website. When a user enables their preferences via GPC and it is recognized by a website, the visitor is automatically opted out of targeted advertising and any activities that involve the sale or sharing of their personal data as per California law. FESI believes a similar approach should be adopted in Article 88 whereby users have the choice to turn on the signal if the user wishes to do so and that the scope be limited to targeted advertising and to any activities that involve the sale or sharing of personal data with third parties (third parties acting on behalf of a first party should be exempt). FESI believes this would meet the legal intent of Article 88 all while preserving the GDPR's principle of a risk-based approach.

Recommendations:

- **No strict mandate to gather consent only at browser level.**
- **Offer users the choice** to turn on and use Global Privacy Controls (GPC).
- **Limit the scope of GPC to opting out of targeted advertising and any activities** that involve the **sale or sharing of personal data.**

Justification:

This approach empowers users with meaningful control while maintaining technological neutrality and ensuring that the implementation of Article 88 remains proportionate and aligned with the GDPR's risk-based framework.

2. Data Act

FESI welcomes the proposed amendments to Regulation (EU) 2023/2854 (Data Act), which provide clarification and reduce administrative burden. However, we are concerned that:

- Article 32(v) allows the Commission to reclassify certain categories of data, potentially triggering remuneration requirements or additional access restrictions, creating legal uncertainty for businesses.
- Article 32(x) lacks clarity on "where appropriate" and "appropriate safeguards" for transfers of non-personal data to third countries, potentially causing operational uncertainty.

Recommendations:

- For Article 32(v), ensure that any reclassification of data is based on clear criteria, accompanied by proportionality safeguards, to maintain predictability for businesses and data-sharing arrangements.
- For Article 32(x), clarify the meaning of "where appropriate" and "appropriate safeguards" to enable consistent and effective implementation of transfer requirements.

Justification:

Unclear provisions in Articles 32(v) and 32(x) risk creating legal and operational uncertainty. Article 32(v) could disrupt existing business models, data-sharing agreements, and long-term investment planning if reclassification is applied unpredictably. Article 32(x) may impose inconsistent compliance obligations without precise standards for evaluating appropriateness and safeguards. Providing clear criteria and guidance would ensure regulatory predictability, proportional obligations, and continued robust data protection while minimising unnecessary burdens on businesses.

3. NIS 2

a. Single entry point for incident reporting (Article 6)

FESI supports improving cybersecurity resilience under NIS 2 by creating a single entry point for incident reporting obligations. However, there is a need for coherence, alignment, and practical feasibility across the EU regulatory framework to ensure that obligations are implementable for businesses.

Recommendations:

- **Ensure alignment of cybersecurity incident reporting obligations across EU** legislation to avoid overlapping or conflicting notification requirements.
- Consider **extending the notification deadline under NIS 2 and the Cyber Resilience Act from 24 to 96 hours**, as currently proposed under the GDPR through amended Article 33 paragraph 1, to provide sufficient time for accurate reporting while maintaining security standards.

Justification:

Companies may currently report the same incident to multiple authorities with slightly differing deadlines, increasing complexity, cost, and "reporting fatigue."
Extending the deadline to 96 hours balances timely reporting with the ability to submit accurate, meaningful information.
Harmonized reporting reduces administrative burden, improves incident response, and strengthens EU-wide digital resilience.

Federation of the European Sporting Goods Industry

Founded in 1960 FESI - the Federation of the European Sporting Goods Industry represents the interests of approximately 1.800 sporting goods manufacturers (85% of the European market) through its National member Sporting Goods Industry Federations and its directly affiliated companies. 70-75% of FESI's membership is made up of Small and Medium Sized Enterprises. In total, the European Sporting Goods Industry employs over 700.000 EU citizens and has an annual turnover of some 81 billion euro.

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