

EU Digital Omnibus Proposal Briefing

On 19 November 2025 the European Commission published the EU Digital Omnibus Package. The package is made up of two proposed omnibus laws:

- a Regulation on the simplification of the implementation of harmonised rules on artificial intelligence (the "Digital Omnibus on AI"); and
- a Regulation simplifying and consolidating parts of the EU's digital acquis, making targeted amendments to data, privacy and cyber laws ("Digital Legislation Omnibus").

The EU Digital Omnibus Proposal represents a major legislative turn designed to modernise and harmonise digital-era rules across the European Union. The Proposal seeks to streamline existing frameworks, close regulatory gaps and ensure consistent protections and obligations across GDPR, the ePrivacy Directive, the Data Governance Act, and the NIS2 Directive on cybersecurity. The Proposal aims to create a clearer, more coherent regulatory environment for organisations operating across the EU's internal market, while supporting innovation and safeguarding fundamental rights.

Some of the key proposals of the Omnibus relate to:

- facilitating use of personal data in AI training, development and operation;
- postponing entry into application some aspects of the EU's AI Act including the high-risk AI provisions, transitional periods for entry of certain transparency requirements for generative AI and targeted amendments to other EU AI Act provisions on oversight, AI literacy, documentation and registration;
- addressing consent fatigue and cookie rules;
- codifying a subjective, entity-driven approach to the definition of personal data in the EU's General Data Protection Regulation (GDPR);
- minimising the burden on controllers for certain data subject rights under the GDPR;
- creating a single point for incident reporting under a number of EU laws, and increasing reporting thresholds and timeframes under the GDPR;
- amending and consolidating key EU laws on data access and re-use; and
- repealing the Platform-to-Business Regulation.

Overview of Key Instruments

Article. 4 of GDPR: Definitions

Digital Omnibus Proposal Reference: Article 3, Point 1(a)

Personal Data

This provision aligns with the recent judgment issued by the Court of Justice ([EDPS vs SRB](#)) of the European Union, which found that pseudonymised data will not be personal data in all circumstances. The new proposed text sets out that personal data will be context specific and requires an assessment of all the means reasonably likely to be used to identify the individual.

New Article. 41 a

Digital Omnibus Proposal Reference: Article 3, Point 10

This proposal would enable the Commission to adopt implementing acts that define the means and criteria for determining when pseudonymised data can be regarded as no longer constituting personal data. In doing so, the Commission must assess the state of the art in relevant techniques and develop criteria or categories to help controllers and data recipients evaluate re-identification risks in relation to typical recipients.

Compliance with these criteria could be used to demonstrate that data cannot reasonably lead to re-identification. The Commission will closely involve the European Data Protection Board (EDPB) in preparing these measures and, the EDPB will issue an opinion within eight weeks of receiving each draft. The implementing acts would then be adopted through the Article 93(3) examination procedure.

Potential Impact

This proposal introduces a practical, risk-based identifiability test for controllers and recipients. This may facilitate data sharing and analytics in situations where the re-identification risk is demonstrably lower for the recipient. The Commission and/or the EDPB will develop criteria to determine when pseudonymised data can be treated as non-personal for specific entities. For research practitioners, this provides clarity that pseudonymised data is not automatically personal data in all circumstances but must be assessed in relation to the specific re-identification risks faced by the recipient. It also expands access to richer datasets, enabling more robust insights while maintaining compliance and reducing legal uncertainty.

Broader definition of research

Digital Omnibus Proposal Reference: Article 3, Point 1(b)

The Proposal clarifies the concept of “scientific research”, explicitly recognising commercial research as a legitimate scientific activity under EU law. This mirrors the clarification provided in the UK’s Data Use and Access Act (DUAA), which broadened the scope of scientific research to include commercial research. This reflects the increasing role of private-sector research in supporting innovation, product development and policy evaluation and decision-making.

Proposed Change

This new definition clarifies when the specific provisions of GDPR concerning 'scientific research' can be applied.

Potential Impact

This change broadens the scope of scientific research to explicitly include commercial activities. In turn this will provide confidence for researchers, in enacting research provisions and benefiting from the same legal privileges as academic research. The provision could go further by enabling the use of sector-specific codes, which would streamline understanding, reinforce practical usability, and clarify legal requirements in a way that reflects the needs of the sector.

Article 5(1)(b) of GDPR: Purpose Limitation

Digital Omnibus Proposal Reference: Article 3, Point 2

The proposal updates the purpose-limitation principle that restricts controllers from using personal data for purposes that differ from the original purpose for collection unless certain conditions are met (Article 6(4)). This has long been an ambiguous area for those undertaking scientific, statistical or historical research activities.

Proposed Change

The proposal clarifies this grey area by stating that further processing for archiving in the public interest, scientific or historical research, or statistical purposes is *automatically* considered compatible with the original purpose. This removes the need to conduct the Article 6(4) compatibility assessment.

Potential Impact

The proposal brings more clarity to scientific and archival purposes as being compatible with the initial purposes, independent of Article 6(4)

Article. 35 of GDPR: Data Protection Impact Assessment

Digital Omnibus Proposal Reference: Article 3, Point 9

The proposal introduces EU-level harmonisation of data protection impact assessment (DPIA) requirements. The EDPB would be tasked with drafting three items for the Commission: (i) a list of processing operations that require a DPIA, (ii) a list of operations that do not require one, and (iii) a common EU template and methodology for conducting DPIAs. These proposals must be submitted within nine months of the Regulation's application date. Following review, the Commission would adopt them through implementing acts, with a mandatory periodic review at least every three years.

Proposed Change

The proposal would introduce EU-level lists of processing operations that do and do not require a data protection impact assessment alongside a common EU-wide DPIA template and methodology.

Potential Impact:

The proposal would enable stronger harmonisation across the EU; greater predictability in risk assessment scoping, and organisations can standardise DPIA practices across jurisdictions.

New Article. 88a: Storing of personal data or accessing to personal data stored in terminal equipment of natural persons (cookies/ trackers)

The proposal introduces a clearer, more harmonised approach to determining when organisations may rely on legitimate interests, particularly in contexts involving digital service delivery - including, transmitting a message over a network and aggregated information about the usage of an online service for audience measurement. This mirrors the UK's Data Use and Access Act (DUAA), which expands exceptions to the consent requirement under the Privacy and Electronic Communications Regulations (PECR) for certain non-essential cookies, including those used for statistical purposes.

Proposed change

The Proposal incorporates into GDPR the consent requirements for storing/accessing personal data on/from users' (natural persons) terminal equipment. For research practitioners, this would mean streamlining the collection of valuable aggregated usage data, such as audience measurement insights, while reducing the complexity and regulatory burden around cookie consent, ultimately enabling more efficient and compliant data-driven research.

Potential Impact

The Proposal consolidates governance for cookies and trackers into a single instrument when personal data is involved. This should streamline interpretation and enforcement and help reduce inconsistencies between overlapping regulatory regimes.

New Article 88c: AI Development & Operation

Digital Omnibus Proposal Reference: Article 3, Point 15

The proposal introduces a new Article relating to processing in the context of the development and operation of AI. This Article enables personal data to be processed based on the legitimate interests of the controller under Article 6(1)(f) GDPR, where necessary for the development or functioning of an AI system or model (Regulation (EU)

2024/1689), except where other national laws explicitly require the data subjects consent, or where the legitimate interests of the controller are outweighed by the data subject's rights and fundamental freedoms, particularly in the case of children, requiring the protection of personal data.

Proposed Change

This new proposal recognises legitimate interests as a lawful basis for processing personal data in the context of developing and operating AI systems or models, where appropriate and provided these interests are not overridden by the rights and freedoms of the data subject. Such processing must include enhanced safeguards, including data minimisation during source selection, training, and testing; protections against residual data disclosure; increased transparency for data subjects; and an unconditional right for individuals to object to the processing of their personal data.

Potential Impact

This amendment would provide a structured path for AI training/operation, subject to robust safeguards. The provision requires a lot more clarity and consideration with respect to scraping and accessing large datasets. Organisations can expect alignment with the AI Act and increased scrutiny on data minimisation, and unconditional opt-out.

Conclusion

The EU Digital Omnibus Proposal is open for consultation until 5 March 2026. EFAMRO will respond to the Proposals, highlighting the importance of proportionate regulatory measures, the continued role and relevance of sector codes, and the ability of research practitioners to innovate responsibly while maintaining public trust, alongside targeted feedback on the proposed provisions.

Organisations are encouraged to share any comments or remarks via kaleke.kolawole@mrs.org.uk by Monday 16 February 2026. EFAMRO will publish its final response.