- Bundesverband E-Commerce und Versandhandel Deutschland e.V. (bevh) -

Position on the EU's Data Strategy

Berlin, 27 May 2020

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Summary

Introduction

We welcome that the data strategy recognises the huge economic potential of data and raises important questions on how to ensure a level playing field in a data driven economy. However, there are a couple of aspects that still need to be taken into account to allow for its success.

Need for demand-driven services

In order to be successful and taken up by users, it is essential that European data services put consumer needs at centre stage instead of focusing on the needs of manufacturers.

Need to be up to speed

Given the fact that technology gets outdated quickly and that the EU will only invest a comparatively small amount of money in the European data spaces, it needs to integrate and build up on already existing solutions instead of trying to build something new from scratch.

Need for incentives to use a new EU infrastructure

To convince users to change from the services of non-European service providers to a new European infrastructure, the EU system needs to be at least as good as or better than the already existing ones. Although high data protection standards can be an asset, competitiveness with US and Chinese counterparts still needs to be ensured. Incentives are also needed for businesses to share their data voluntarily.

Need to avoid fragmentation

The regulatory differences between Member States, but also the approach to develop its logic across countries and stakeholders show that the EU's concept is prone to fragmentation. However, to ensure a functioning supply chain and interoperability, fragmentation needs to be avoided.

Need for a level playing field

We welcome the EU's goal to achieve a level playing field at international level. However, there is a need to clarify how the mere access to data can really remedy a situation of market power imbalance. At the same time, a clear distinction between the access to data and its company-generated value added would need to be made when it comes to granting a data access right in order to ensure that companies do not lose their incentive to innovate and invest into the European market.

Need for capacity building

Education needs to focus on gaining knowledge and insights from data instead of focusing on how to access them.

1. Introduction

Data is the lifeblood of the e-commerce industry and has also increasingly gained importance in all other significant economic sectors over the past years. It enables technologies such as artificial intelligence, machine learning and IoT that are vital for future growth. Thus, it is crucial to set up an appropriate framework to allow European businesses to better use data for innovation and growth in order to be able to compete with their Chinese and US counterparts. Therefore, bevh[1] welcomes the Commission's European Strategy for Data, which recognizes this huge economic potential for the economy. The data strategy is ambitious, and the proposed measures sound promising. However, it is extremely important not to lose sight of the fact that each strategy can only be measured by its practical implementation. Although the strategy raises important issues that need to be addressed in order to ensure a level playing field, its approach neglects some relevant aspects, which, from our point of view, could endanger its success.

2. Need for demand-driven services

E-commerce is a frontrunner when it comes to successful data usage. Therefore, although the data strategy is focusing on the B2B sector, it should take into account the lessons learnt in online retail over the past years. Being demand-driven ("customer centric") instead of being supply-oriented, e-commerce has shown how data analysis allows companies to further optimize and target their offer to customer needs. The tendency is to move away from mass production and to focus more and more on individual production in order to meet a concrete demand as this method has proven to be the most successful. This approach is not only beneficial for the companies but also for the environment as it allows companies to sell without building up stocks and to minimize overproduction and surpluses to an absolute minimum.

The EU's data strategy in contrast, seems to put the cart before the horse as it neglects the needs of the end-users by focusing on the manufacturers and not on business-user needs. Of course, the strategy is not focusing on B2C data. But this principle of user centricity is nowadays also valid for the B2B sector. Therefore, the data strategy should avoid trying to reckon without its host. When we look for example at the cloud providers that are successful today at a global scale, we see that they and all their associated services have been built bottom-up; they evolved and continue to evolve around their users' growing needs and these needs have always been and will remain at the core of innovation.

In order to be successful, the EU system also needs to be developed based on the specific needs of its users. One cannot expect users to adapt to a ready-made system, especially not as long as they are offered non-European alternatives that are putting their needs at centre stage. Only taking this principle into account will allow the EU to ensure that its services will be fit for purpose. In this sense, it is also surprising that e-commerce is not even mentioned once in the entire document.

3. Need to be up to speed

One major obstacle the EU's plan to build up its own data infrastructure is facing is that technology is often outdated even before it is put on the market. Considering that the existing players are constantly innovating, it seems difficult to catch up with the standards they are setting today – and even more so three years from now. Moreover, looking at the amount of money invested by the three biggest players Amazon, Microsoft and Google[2] every year, it seems rather futile to build up something similar with an investment of only € 4-6 billion that the Commission deems necessary.

Considering that the EU project is basically supposed to start from scratch, this seems to be even more unrealistic as it has to catch up with the learnings from investments of in total € 270 billion (and counting) made by these three players since 2000. Moreover, third party companies who are offering their own software solutions e.g. on AWS, Azure or Alibaba Cloud additionally add up to the amount of money that is continuously invested in innovation as they create an added value and attract additional users, which is the precondition for a successful marketplace.

Therefore, it is difficult to imagine that with such little investment and without a running business model driven by active users the already existing gap can be closed. In this sense, it seems crucial that a European solution integrates and builds up on the already existing solutions instead of trying to build a new European solution from scratch. This being said, we deem it highly promising that globally leading non EU-companies like AWS, IBM or Microsoft participate or intend to participate in national projects like Gaia-X. Nonetheless, it is important that at the same time, the EU infrastructure and services will keep a competitive edge in case said existing solutions might no longer be accessible.

4. Need for incentives to use a new EU infrastructure

Although in Germany there are currently only about 10% of companies using public cloud infrastructures, it is estimated that this number will double every three years, which will make up to almost about 50% in 6 years.[3] This means the longer it takes to develop a European alternative, the more European companies will already be using US or Chinese cloud infrastructures. Leaving these existing infrastructures will be costly for companies in terms of money and time. Therefore, they will need incentives to do so.

A good argument in favour could be related to the guarantee of cyber security standards as company data stored in clouds such as business secrets is critical data. However, the Commission should not blindly rely on its assumption that businesses will always opt for the EU solution only because it is European. Incentives must also come from the point of view of practicality, innovation, service and economic efficiency – meaning the EU cloud would need to be at least as good as or even better and more innovative in order to be competitive with the (then) existing solutions. However, in contrast, the proposed concept of future data spaces for the Green Deal, mobility, health, finance, energy, agriculture, public administration (Gov-Tech, Reg-Tech, Legal-Tech) and skills largely corresponds e.g. to the AI verticals in the Alibaba Cloud that

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[2] Amazon: 22.6 bn dollar in R&D in 2017; Microsoft: 11 bn Dollar p.a. in R&D; Alphabet (Google): 11 bn dollar p.a. in R&D.

[3] 451 Research (2019): https://www.purestorage.com/content/dam/pdf/en/analyst-reports/ar-451-digital-pulse-workloads-and-key-projects.pdf

are already existing today or are about to be launched in the upcoming months. Despite the supposed concerns about data sovereignty, European companies are already today successfully implementing business models in the industrial, medical or energy sectors based on existing cloud solutions that the EU is only planning for the future.

The planned set-up of a cloud services marketplace for EU users from the private and public sector also basically represents an EU AWS. Whereas having an EU alternative might sound useful, it is unclear if it will work in practice. Experience in the e-commerce sector has shown that it is impossible to build up a marketplace from scratch. In order to stand a chance as a marketplace, one needs to have a very attractive offer on the market first. Only if enough people are making use of it, it becomes attractive for third parties to participate in a marketplace against a fee.

Of course, we value the approach to guarantee European data protection, security and ethical standards as they are a fundamental part of European society and can represent a real asset of the EU infrastructure. However, it needs to be ensured that they do not prevent the future EU infrastructure from being competitive with its US or Chinese counterparts on a technical and functional level. Otherwise, there is little chance that users are ready to switch platforms.

Finally, the data strategy builds on the assumption that companies will be readily sharing their data. However, this will also require some incentives: only if there is a clearly identifiable advantage for companies, they will be ready to share their data voluntarily.

5. Need to avoid fragmentation

We welcome a European Data Space across the entire Single Market. However, if the EU only sets the framework and leaves a margin to Member States to regulate themselves, there is always the risk of fragmentation. As the Single Market is far from being entirely accomplished, this phenomenon can be observed in several areas - especially in the field of data protection for example, where concrete rules and interpretations largely vary between Member States.

This fragmentation within the Single Market is putting the concept of establishing a service that is offered in an identical way across the entire EU into question. Moreover, the creation of the European data spaces is even challenging in two ways as it requires not only a coordination between countries but also between sectors. Whereas private companies can develop a consistent approach, the EU aims at developing the framework and logic across countries and stakeholders, which is another reason why the EU's concept is prone to fragmentation. However, especially in terms of ensuring the functioning of supply chains across sectors, it is essential that data spaces do not develop into silos.

From a technical point of view, at least the interoperability and portability of data needs to be guaranteed. This is also a precondition to allow for multi-cloud scenarios. These are already offered today by the existing global players as it was requested by their customers, which offers them more security and reduces their dependency on one single service provider.

6. Need for a level playing field

In order to remain attractive for all relevant players, the European framework needs to ensure that the same access conditions apply for European and non-European actors alike to allow for a secure and safe international data value chain.

Although, in general, we welcome the Commission's goal to ensure fair competition, we caution against the proposed approach to fight market imbalances. A company such as a big platform that is successful and gained a competitive advantage based on its innovative work, which allows them to set the conditions for sharing their success with others, does not constitute a market failure as such. Otherwise, this would be detrimental to the attractiveness of the European market and would clearly reduce the incentive for businesses to compete, innovate and invest.

Against this background, it is also crucial that if a real market failure in a sector was identified and a sector-specific data access right was granted as proposed, meaning the company is forced to grant access to its data, the company would still need to be able to keep the value added of the data that they generated as a company which constitute a company value. Therefore, it is important that there is a clear line drawn and distinction made between data and the added value of data. Moreover, in this case, business secrets would need to be protected and data protection rules guaranteed.

This also raises the question if currently SMEs are at a competitive disadvantage and if this disadvantage will really be remedied by granting them access to data. First of all, the usage of platforms also eliminates market entry barriers for SMEs and offers them a wider reach and access to technological innovation. In order to really improve the position of SMEs, data access would need to make their participation in the market simpler, cheaper and more secure. This, however, still needs to be proven. This assumption rather neglects two important factors. First of all, companies need to be in a position to deal with the data and to generate knowledge from them, which will mainly be the big players. SMEs however will not always be able to make use of raw data offered or granted to them. They will more often rely on a third-party service to get meaningful insights from them. Consequently, a competitive advantage is not generated by the ownership or the access to data as such but from the insights gained from them. This also raises the question how data can really be used in the sense of the value chain and which data are not yet accessible today by using services like (in the B2C sector) Amalyze and Sellics that allow businesses to optimize their offers based on data analysis.

7. Need for capacity building

The strategy rightly highlights that the precondition to be successful in the field of industrial data is education. Therefore, we welcome the Commission's plan to halve the current gap of 1 million digital specialists in the EU by 2025. However, the Commission rather seems to aim at making people able to deal with the technology and to access data. What is yet more important is to teach them how they can generate value from data by means of operationalization. Improving the way data is used and dealt with will not only contribute to more economic competitiveness but also to solve the societal and ecological issues of our times.