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## **TIF First Reactions to the Leaked Data Act Proposal**

Technology Industries of Finland would like to offer following remarks on leaked Data Act proposal.

### **Good**

- Information & transparency on Data will put focus on data
- Push for APIs, interoperability on data spaces would lead to creation of new market for data
- Producer – user relation is a ‘natural’ starting point
- No new IP protection – no need to add complexity
- Low level of detail in the proposal
- Model contracts are a possibility if industry-driven

### **Bad**

- Data free of charge – free does not create market mechanism. FRAND -terms & specific provision benefiting SMEs are better solution.
- Challenge to lineate w/ protection of trade secrets. Industries’ ability to define data generated by use is crucial, to protect trade secrets and avoid competition law problems.
- Closed industrial environments are not addressed – favours users and producers do not get data needed for R&D and new business concepts. There are many cases, where manufacturers do not have the negotiation power to secure access to data.
- Business and consumer needs are different – a differentiated approach might work better as consumer data is typically already covered by the GDPR.

## **Additional remarks**

### Definition of data

- This is the most crucial aspect and links to essential questions of protection of trade secrets and IPR.
- Data generated by use should cover only raw, unprocessed data that would not typically include producers’ trade secrets or IPR.
- Data generated by use should not cover analysed, processed data, that contains IPR or trade secrets, otherwise protection of trade secrets and IPR would be void in practice. If the scope of the data is too wide, it would give rise to competition problems (dominance of sheer force).

### Possibility to design products optimally

- Data obligations should not deter companies from using edge computing solutions – definition of data is once again crucial.

### International transfers

- Companies should remain free to run global data policies and choose their partners, such as data processors and make decisions on location of their data freely.

#### Protection of freedom of contract

- pricing, reasonable conditions on data usage, cybersecurity solutions are to be addressed by contract.

#### Industry's role in developing practices is crucial

- Industry should be free to define what data is generated by use. This is the way to steer clear of competition law challenges and would suffice to create a market mechanism for industrial data. If this is to be defined by law, it should merely be raw data.
- Industry should have a role when establishing standards and common specifications and developing model contracts – TIF can provide [its model contract](#) as a basis.

Inquiries: Jussi Mäkinen, Director, EU Regulation +358 40 900 3066, jussi.makinen@techind.fi

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*The Technology Industries of Finland (TIF) represents Finnish technology industries, comprised of 1,600 firms spanning the electronics and electrotechnical engineering, mechanical engineering, metal technology branches as well as health and information technologies and consulting engineering. Together they represent the Finland's largest manufacturing sector, generating annual turnover of over €77 billion euros and providing 311 000 jobs in Finland.*

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