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**THE EU DIGITAL OMNIBUS PACKAGE IN TRANSATLANTIC
NEXUS – BETWEEN SIMPLIFICATION AND DEREGULATION OF
AI PERSONAL DATA PROCESSING**

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Abstract

Witnessing Artificial Intelligence take the spotlight in global development, the legal frameworks are increasingly prone to being overshadowed. The European Union, a considerable regulatory power, has acknowledged this phenomenon and is actively reshaping its legislative corpus to consolidate technological and digital sovereignty.

The 19th of November 2025 Digital Omnibus package proposal advanced by the European Commission is a set of amendments intended to simplify the data acquis of the EU and redefine the concept of personal data. The dissertation regards the Digital Omnibus package as a product of US Big Tech regulatory capture of EU legislation-making apparatus, pursuing the objective to deregulate data protection law restraining data processing for AI product development. While recognizing the *realpolitik* aspect backing Commission's simplification ambitions, particularly the EU overdependence on American private actors and the global competition for AI supremacy, one must not overlook Digital Omnibus's negligent approach towards the protection of personal data. Methodologically, the investigation approaches a legal doctrinal analysis of the Digital Omnibus AI data processing amendments and qualitative research of US Big Tech industry lobby reports. While the first methodological approach consolidates a legal doctrinal analysis of the proposed DO amendments and their structural effect on data subject autonomy, the second applies qualitative research to assess American corporate lobbying influence over the European regulatory environment.

In this regard, the investigation serves to assess to what extent the US Big Tech can influence the EU lawmaking through industry lobby pressure in matters of data protection and AI, by conducting a structural analysis of the amendments proposed by Commission's Digital Omnibus.

Table of Abbreviations

AIA — Artificial Intelligence Act

CJEU — Court of Justice of the European Union

CNIL — Commission Nationale de Informatique et des Libertés (National Commission on Informatics and Liberty)

COM — Commission Document

DO — Digital Omnibus

DPA — Data Protection Authority

EDPB — European Data Protection Board

EDPS — European Data Protection Supervisor

EU — European Union

EUDPR — European Data Protection Regulation (for EU institutions)

GDPR — General Data Protection Regulation

LLM — Large Language Model

noyb - None of Your Business (European Academy for Digital Rights)

SCD — Special Category of Data

SME — Small and Medium-sized Enterprise

US — The United States (of America)

Keywords

Digital Omnibus, Regulatory Capture, GDPR Deregulation, Artificial Intelligence Act, Transatlantic Lobbying.

1. Introduction

Amid efforts calling for European autonomy consolidation in the wake of China as economic superpower and the US informal imperialism in decline, on the 19th of November 2025, the European Commission proposes a simplification of its legislative corpus on data protection and AI data processing. The EU Digital Omnibus (DO) package, as defined *mot à mot* by the Commission, seeks to bring about a more cost-effective and innovation-friendly implementation of EU rulebook, all the while maintaining high standards and agreed objectives.

Specifically, the package aims to reduce the overly burdening legislation regarding data methodologies in order to reinvigorate the European private sector, particularly for the new-market arrival companies and SMEs. Such agenda is pursued by amending legislation on personal data and technology dimensions, such as the NIS2 Directive, GDPR, AI Act, DORA, eIDAS Regulation, CER Directive. Simultaneously, it proposes the repealing of The Data Governance Act, The Open Data Directive, The Free Flow of Non-Personal Data Regulation, which would be merged under the Data Act, and the absolute repealing of The Platform-to-Business (P2B) Regulation. In nexus with the personal data regulation, the Commission proclaimed having designed the proposal package including two high-priority objectives, namely the restructuring of data protection and privacy rules under simplified guidelines and providing the law-based “legitimate interest” utility for training AI models, at the reassurance of suitable safeguards.

The ambiguity looming over the amendments proposed by the DO essentially had spawned doubt whether the intentions sought by the Commission are primarily to consolidate the EU single market and private sector ecosystem, or additionally to indulge the interests of transatlantic stakeholders. Accordingly, the thesis will aim to prove that the DO is a product of American Big Tech industry lobby campaigns, while emphasizing on doctrinal law analysis on the normative coherence of the amendments with the current EU legislation. The normative amendments subjected to analysis are the ones seeking to minimize GDPR and AI Act safeguards for data processes.

Framing the emergence of DO through geopolitical considerations, the dissertation will provide evidence of lobbying assertiveness conducted by American Big Tech through

direct negotiations with the European Commission. Nevertheless, such employment of foreign pressure in redefining the European normative and political status-quo will be explained through the “Washington effect” propagating all the way to Brussels. While the simplification efforts primarily support the streamlining of practices and minimize the heightened levels of bureaucracy, as stated by the Commission, the DO package presents itself as a politically shaped outcome incentivized by the market-leading American Tech enterprises, namely by the most prominent lobby investor, Meta, followed by notorious others, Google, Microsoft, Apple and Amazon. According to Corporate Europe Observatory, the digital industry lobby spending in Brussels had increased significantly from 97 million euros in 2021 to 151 million euros in 2025, consisting of an increase of 55 percent throughout the span of only four years.

1.1 Research question and Central Argument

The research question which this thesis addresses is the following:

Do the Digital Omnibus Package amendments to GDPR and AI Act provisions governing AI data processing promote masked simplification with deregulation ambitions at the capture of US Big Tech?

The research question aims to clarify the possible legislative consequences for the implementation of DO amendments, attempting to determine whether the proposal is a simplification initiative, as proclaimed by the European Commission, or deregulation ambition in the legislative sector of AI data processing, subsequently manifesting to the detriment of European data protection rights. From a political and economic perspective, the question challenges the political integrity of the DO and incites research on the industry lobby activity undergone by the Big Tech aiming to reduce normative perimeters for AI data processing serving economic benefits. From a legislative perspective, the research question is meant to investigate the specific amendments to Regulation (EU) 2016/679 (General Data Protection Regulation/GDPR) and AI Act pursuing to ease data protection.

The central argument consists of the assertion that the normative simplification sought through the DO package proposal contains ambitions of deregulation by the European Commission in order to indulge the US Big Tech regulatory preferences in AI data processing

operations. The argument doesn't exclude that the interpretation according to which the European Union seeks the optimization of the single market by introducing facilitated data processing guidelines and enhancing competitiveness for medium-sized enterprises (SMEs) and small-mid-cap companies (SMCs). Instead, the study focuses on the transatlantic influences within the EU competences of lawmaking for personal data processing legislation hindering or prohibiting the training of AI models and services.

The main legislation hindering the Big Tech practices of data processing, the GDPR, and the AI Act, provide extensive normative protection of personal sensitive information belonging to data subjects of the EU. These pieces of legislation targeted for amendment are the very mechanisms that prevent data subjects to become exploitable data products for private sector.

1.2 Scope and Temporal Delimitations

The scope of investigation will methodologically consider the US Big Tech lobby as contextual framing of the dissertation, and the analysis of relevant DO amendments concerning AI data processes as doctrinal legislative elaboration. For the contextual framing, the dissertation will consult relevant academia and scholar papers assuring an introductory theoretical approach, while advancing with qualitative research through lobby registry materials on official meetings between the Commission and US Big Tech.

In order to maintain an adequate level of coherence throughout the analysis on legislative material, the study will consult sources issued from 1st of December 2024 to 11th of February 2026. More precisely, the timeframe spans from the inauguration of the 2024 Commission under Ursula von der Leyen's second mandate as institution president, until the joint opinion of EDPB and EDPS regarding suggestions on the proposed amendments on GDPR simplification. I believe such timeframe it's recommendable for a thorough analysis of the lobby campaigns designed by US Big Tech companies and for encapsulating the events relevant at present moment. Respecting these temporal limitations, the DO package will serve as midpoint and the central legislative piece of doctrinal analysis.

In matters of lobby material selection, the thesis will select relevant lobby material available to public subscription-free audiences, issued from Commission's tenure

inauguration in December 2024 until the publishment of DO package on the Official Journal of the European Union on November 19th, 2025. The thesis will consider solely lobby interactions conducted under the subject of AI regulation in correlation with GDPR/AIA provisions, focusing only on the material regarding Meta, Google/Alphabet and Microsoft, with their respective AI large-language models (LLMs), Llama, Gemini and Copilot. These companies have been selected based on the criteria of financial scale, regulatory exposure and available lobby documentation. The lobby materials will seek to demonstrate systematic alignment between industry preferences and legislative outcomes and argue that this alignment is non-coincidental, given the lobby intensity.

In matters of legal sources selection, the thesis primarily covers the simplifications proposed by the DO in relation to the AI data processes, which target certain GDPR and AI Act provisions. In this sense, the main legislation subjected to analysis would be the proposed amendments, the GDPR (EU) 2016/679, AIA (EU) 2024/1689, EDPB-EDPS joint opinions of 21st January and of 10th February 2026, and relevant consultative statements from other European bodies issued after the DO package until the EDPB-EDPS opinion in February. The DO provisions which ought to be analyzed are the GDPR Articles 6, 9(2)(k), 22 and 5(1)(b) and DO Articles 88c and 4a. The limitation of sources and timeframe had been decided so to efficiently investigate the proposed objectives set by the research question and central argument.

For the purposes of this thesis, the AI data processing refers to “any operation or set of operations which is performed on personal data or on sets of personal data¹ for the purpose of development, training, testing and validation of AI models and services.”² Other pieces of legislation, both from internal and external frameworks of the European Union will marginally be mentioned if needed, carrying minimal analytical weight for the analysis scope. Additionally, in certain instances, national legislation will be considered, together with appropriate case law jurisprudence, although their relevance for the thesis will prove exemplary or simply required for contextual framing.

¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) [2016] OJ L119/1.

² Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act) [2024] OJ L 2024/1689.

1.3 Methodologies

The dissertation will focus on the qualitative research methodology on legal, institutional, lobbying, consultative and scholar source material. These sources will be regarded as primary or secondary depending on the priority order for answering the research question while following the central argument of the thesis. The sources will be selected from research areas of transnational lobbying, GDPR and fundamental rights, data protection, AI Act and data processing, regulatory capture, Brussels effect and EU normative power projection.

The primary sources will be covered by the AI data processing related amendments issued by the European Commission through the DO simplification package, together with the targeted legislation providing data protection the GDPR and the AI Act. The DGPR will be regarded as the legislative foundation of analysis, whereas the AI Act will be considered as a tool of legislative coherence with the simplified provisions of the GDPR. Additionally, looking into the recommendations of EU consultative entities, the thesis will make use of the joint statements by EDPB and EDPS, of January and February 2026. Regarding the lobby accuracy material, the study includes the EU Transparency Register, LobbyFacts EU and Corporate Research Observatory reports. In order to depict the preference-outcome alignment between Big Tech preferences and DO outcomes, the thesis refers to the reports of Mario Draghi, presented in “The Future of European Competitiveness”, to Enrico Letta’s “Much More Than a Market” and lobby material.

The secondary sources assure a theoretical scope of the paper examining the lobby and legislative phenomenon proceeding the DO package. On the data protection front, the thesis will consult literature from Orla Lynskey, namely from “The Foundations of EU Data Protection Law”, a pioneer source for this layer of analysis. Regarding the intertwining of the AI Act and the GDPR on analyzing the AI and personal data regulation, the writing of Giovanni De Gregorio, “Digital Constitutionalism in Europe”, will prove extremely adequate. Anu Bradford’s “The Brussels Effect: How the European Union Rules the World”, will prove suitable for examining the Brussels Effect and EU regulatory power in relation with Transatlantic lobby pressures. Following on the note of US regulatory capture, the work

of Daniel Carpenter and David Moss, “Preventing Regulatory Capture”, will prove highly valuable for highlighting the lobby repercussions on the lawmaking integrity of the EU.

1.4 Dissertation Structure

Dissertation’s structure has been designed respecting the thesis objectives and the two methodological approaches, namely the legal doctrinal and qualitative material analysis. The dissertation is structured to build a logical argument, providing the necessary background to support the conclusions reached in this research.

While the first chapter had presented dissertation’s research objectives and methodologies, the second chapter aims to introduce into the theoretical framework and literature review for the discussed topic. The Chapter 3 investigates the political economy background of the DO, which will be covering the “realpolitik” section of the thesis, expanding on the transatlantic influence in the European affairs and market. Transitioning towards the doctrinal legislative analysis, Chapter 4 elaborates upon the specific amendments of the DO package for the GDPR and AI Act provisions on personal data safeguards.

Moving to the concluding assessments, Chapter 5 sets out to formally answer the research question on the premises of study findings and central argument, to determine whether the DO is an US-engineered product pursuing deregulation at the regulatory capture of Big Tech companies.

2. Theoretical Framework

2.1 The Brussels Effect and EU Regulatory Power

As conceptualized by the academia, there are five cornerstone elements granting European Union’s regulatory power, the market size, regulatory capacity, stringent standards, inelastic targets, and non-divisibility.³ Anu Bradford contributes with insightful perspectives on EU’s capacity to externalize its jurisdiction standards outside of European configuration,

³ Anu Bradford, *The Brussels Effect: How the European Union Rules the World* (Oxford University Press 2020) 55.

amid an international environment partitioned between the American and emerging Chinese pax.

Bradford emphasizes that all five elements are strictly required for the Brussels Effect to occur. Where the economic prowess stands as precondition for the unilateral regulatory globalization, without the company of the regulatory capacity to sustain an exportation model of European values, the Brussels Effect undoubtedly would lack the potential to exercise global regulatory authority. Similarly, the other factors prove undividable for EU's Regulatory Power and Brussels Effect. Solely considering the economic dimensions, the United States demonstrate superior overall performance than its European counterpart, although the Washington Effect doesn't equal the rigorousness and complexity of EU's regulatory apparatus. Bradford emphasizes upon the factors in which the Washington Effect falls short, arguing that the US's market size, elastic and regulatory arbitrage exploitable by the companies represent the compromising factors undermining its efficacy on global projection.⁴

As both the private and public sector in the US present a united front seeking EU deregulation, both facing the so unilaterally proclaimed "unjustified digital trade barriers", the White House leverages into negotiations the economic presence of American enterprises within the EU. According to Mikołaj Barczentewicz, Washington's methodology of coercion, instrumentalized under Trump administration II, poses the threat of discouraging the capitalist ventures of American companies in the European Union, concerns also highlighted throughout Mario Draghi's report.⁵ Barczentewicz also takes into account the debate surrounding regulatory safeguarding at the compromise of technological innovation, drawing upon the reflection whether the Brussels Effect, dependent on the regulatory power, truthfully represents an equivalent exchange trade-off. The study doesn't neglect the conflict between regulation and innovation, although, it considers indispensable the protection of the first in relation with the later.

Analyzing the Washington and Brussels effect, Drezner argues that states want to replicate their domestic rule structures globally. The study includes Drezner on the premises

⁴ Ibid

⁵ Mikołaj Barczentewicz, "The Washington Effect: Will the Brussels Bureaucracy Bend?" (Truth on the Market, 29 July 2025) <https://truthonthemarket.com/2025/07/29/the-washington-effect-will-the-brussels-bureaucracy-bend/> accessed 26 April 2026

that the rivaling global powers don't share the same preferences on regulatory standards. Nevertheless, presenting through a study of regulatory coordination, the author claims that the global powers are capable of collaboration under the condition of "harmonized preferences" on regulation topics.⁶ Drezner especially argues that the EU and US present "rivalry standards" on the topic of privacy rights. Whereas the individual privacy rights in the US are based on freedom from state intervention, labelled as negative right, in the European Union these are considered positive fundamental rights to be protected by the state.⁷ The US constitution only limits the state intervention, without encompassing the same eloquent level of detail as the GDPR does in regulating corporate intervention referring to privacy rights, such in the context of mass data harvesting, algorithmic profiling, and facial recognition.

2.2 Regulatory Capture Theory

Aiming to consolidate a foundation for the literature review on the Regulatory Capture Theory, the dissertation consults the works of George J. Stigler, Daniel P. Carpenter and David A. Moss. The regulatory capture theory has been thoroughly investigated by international law scholars, gaining considerable analytical weight in analyzing the power dimensions between the governmental and the private sector entities.

Carpenter and Moss define the regulatory capture as "the result or process by which regulation, in law or application, is consistently or repeatedly directed away from the public interest and toward the interests of the regulated industry, by the intent and action of the industry itself."⁸ On further note, this definition relies on several key factors, namely, the public interest, intent, and regulated industry. Under an alternative phrasing, the capture seeks to derail regulation's primary objective of acting in the solidarity of public interest, towards favoring the interest of industry. Following with the industry behavior, the private sector will always seek to objectify regulatory exigencies in the name of capital gains or

⁶ Daniel W Drezner, *All Politics Is Global: Explaining International Regulatory Regimes* (Princeton University Press 2007)

⁷ Ibid

⁸ Daniel Carpenter and David A Moss (eds), *Preventing Regulatory Capture: Special Interest Influence and How to Limit It* (Cambridge University Press 2014).

reductional compliance within a respective market. Stigler's work, under a unique approach, presents the friction between the public and industry interest in regulation-making.⁹ Defying the academia of his time, Stigler believed that regulation largely advances private interests because of the way political factions create incentives for leaders to emphasize an industry's interests over the broader public's interests.¹⁰

The study presents the European mechanisms under the regulatory capture of the US Big Tech, which for the prospect of personal data exploits and AI model training, intends to undermine the regulatory safeguards of the EU. In this sense, the DO proposal package inherences the interpretation of a product under the previously defined regulatory capture, pursuing deregulation under the façade of simplification.

2.3 Transnational Corporate Lobbying in EU Lawmaking

The structure of this chapter is based on a three-layered argument, referring to most adequate sources needed for theory analysis, considering Susan Strange's structural market power framework, Farrell and Newman's institutional interdependence theory, and Katharina Pistor's legal-capital analysis.

Understanding the corporate lobbying in the EU, the dissertation must examine the power dimensions of the transatlantic stakeholders in relation with the EU and the member states. It's of great importance to underline US's coercive model of market power employed in neoglaciation with the EU, moreover, taking account of the financially prominent American multinationals, some even exceeding the Gross Domestic Product (GDP) of multiple EU member states. In this instance, Joseph Nye's theory on hard power matches exactly with the predominant typology of US influence. Given EU's single market trade system, the European Union similarly can resort to hard power coercion strategies, although, the community also proves well capable in harmoniously blending these practices with "soft power" approaches, bringing about the concept of "smart power" methodology.¹¹

⁹ Christopher Carrigan and Cary Coglianese, 'George J Stigler, "The Theory of Economic Regulation"' in Daniel Carpenter and David Moss (eds), *Preventing Regulatory Capture: Special Interest Influence and How to Limit It* (Cambridge University Press 2013) 288

¹⁰ George J Stigler, 'The Theory of Economic Regulation' (1971) *Bell Journal of Economics and Management Science* 3

¹¹ Joseph S Nye Jr, *The Future of Power* (PublicAffairs 2011) 23.

Firstly, considering Susan Strange's "States and Markets", the relation between markets and political economy vastly depends on the wielding of power and possessing authority, in essence, on a certain distribution of power between market operators. Strange sheds light upon the power structures within the market, grounding her deductions in a realist IR theory interpretation. Referring to her study, the dissertation considers that the American coercive model projected has led to the regulatory capture of EU's competent lawmaking bodies.

Secondly, the work entitled "The New Politics of Interdependence", by Farrell & Newman, consolidates dissertation's institutional level of analysis. In this sense, the article conceptualizes institutions, domestic and international, not just as "rules of the game" but as a key source of asymmetric power.¹² From the perspective of comparative politics, it emphasizes how institutions shape the power resources of actors as well as their understanding of their preferences.¹³ The authors lay out the "rule overlap" between the actors of different domestic legislation in contrast with conflicting external regulatory standards, advocating that actors may seek to establish a common rulebook equally applicable to all or intent to assimilate the more restrictive foreign legal obligations. Relevant to the objectives set out by dissertation's central argument, the US Big Tech, accustomed with the permissive American states' legislation, actively seeks to assimilate the demanding EU rulebook, resorting to its vast resources for seeing this goal all the way through. Accordingly, the EU institutions hold the asymmetric power to determine regulation perimeters of AI data processing.

Thirdly, Katharina Pistor's "The Code of Capital" analyzes the control over the legal code and code's masters, considering that the modern lawmaking is done more in private law firms, and less in parliaments and courtrooms.¹⁴ The migration of rulemaking prerogatives underlined by Pistor can be also witnesses outside the American and European modern considerations, as the private entities have been objectifying the capitalist model and have gained resources to infiltrate within state institutional functioning. The legal code behind GDPR is formally codified in Article 25, introducing the principles of Privacy by Design and

¹² Henry Farrell and Abraham Newman, 'The New Interdependence Approach: Theoretical Development and Empirical Demonstration' (2016) 23(5) *Review of International Political Economy* 716.

¹³ *Ibid*

¹⁴ Katharina Pistor, *The Code of Capital: How the Law Creates Wealth and Inequality* (Princeton University Press 2019) 11.

by Default. Accordingly, the companies seeking access to the EU market must develop a proactive thinking while developing their commodities and services (privacy by design), and that prior to the market release, the goods must comply with the highest standards of data protection (privacy by default). The dissertation regards the position of US Big Tech contrary to both the regulatory safeguards and principles, coercively seeking to mellow the restrictive European environment of processing personal data.

2.4 Data Protection as EU Fundamental Rights Framework

The North American and European regulatory cultures on data protection are fundamentally different and present untransferable authentic features. Whereas the American perception on privacy rights promotes freedom from state intervention, the European one treats it as fundamental right protected under principle-based legislation.

Before the 2016 GDPR, the EU brought about the Data Protection Directive in 1995, with the core objectives to safeguard personal data of natural persons as a fundamental right while preventing data protection from becoming an impediment to cross-border data flows inside the EU.¹⁵ Both the Data Protection Directive and GDPR consider the privacy right as fundamental under the Article 7 (Respect for private and family life) and Article 8 (Protection of personal data) of the EU Charter of Fundamental Rights (EUCFR), sharing many common aspects among provisions. As the directive was designed for the data limitations of the time, it became unsuitable for the exponential development of social media and new technologies, and moreover, lacking the general enforcement under the EU Omnibus governing regime, which a communitarian regulation would bring, for instance.

Therefore, the Commission sought creating a more adequate piece of legislation adapting the digital advancements of the time. Brought in 2016 and entering into force in 2018, the GDPR includes additional judicial marks addressing contemporary challenges. For instance, the provisions which shall be considered for the dissertation, Articles 6, 9(2)(k), 22, and art. 5(1)(b), provide to the EU the legislative basis to address abuses of personal data rights regardless of the infringing entity. The tech-enthusiast scholar, Giovanni de Gregorio,

¹⁵ GDPR Local, 'European Union Privacy Directive: From Directive 95/46/EC to GDPR' (GDPR Local, 5 September 2025) <https://gdprlocal.com/european-unioni-privacy-directive/> accessed 3 May 2026.

refers to the existence of digital constitutionalism, primarily concerning the exercise of public powers threatening rights and freedoms in the digital era, such as internet blackouts or surveillance.¹⁶ De Gregorio also expresses the biggest concern regarding the “capture” of public sector prerogatives by the private companies in data processes, emphasizing on the fact that such transition of data governing power, which risks excluding important safeguards, possess a great threat to the rights of any data subject.

Following on this note, consulting the work entitled “Foundations of EU Data Protection Law” by Orla Lynskey, the author showcases the challenges brought by the “digitalization wave” overstressing the traditional-bound legislation, mostly emphasizing on the limitations of data protection laws in relation with governmental and private interests. Lynskey considers that there is a “tag of war” between the industry and individual for personal data, believing that the individuals are losing it due to the marginal effect of legislative material on data processing practices, considering that the data protection law has ultimately become a “dead letter” protecting the interests of data subjects.¹⁷ Furthermore, the author believes that personal data has become a commodity sought by the companies and public authorities, taking account of the sporadic circulation of data in a constantly evolving technological environment.¹⁸ The dissertation emphasizes exactly on the conflict highlighted by Lynskey, in this case, between the US Big Tech and the individual protected within the scope of European jurisdiction

3. The Political Economy of the Digital Omnibus

3.1 GDPR as an Obstacle to AI Development and EU Competitiveness

From an economic point of view, the GDRP represents a meddlesome thorn for the American businesses seeking access to the data of European clientele. It’s highly restrictive, budget-draining and extremely complex for achieving compliance, impediments which the American Big Tech don’t encounter while dealing with the domestic legislative repertoire.

¹⁶ Giovanni De Gregorio, 'Digital Constitutionalism: Reframing Rights and Powers in the Algorithmic Society' (The Conversation, 2022) <https://theconversation.com> accessed 28 May 2026.

¹⁷ Orla Lynskey, *The Foundations of EU Data Protection Law* (Oxford University Press 2015) 3.

¹⁸ Ibid

The AI race for competitive advantage is already investment-requiring as it is, and in addition, the GDPR “privacy firewall” burdens even more the ambitions set by the American AI tech developers.

Casting a glance upon the numbers, the three selected US Big Tech, Meta, Google and Microsoft, have been held responsible for multiple breaches of the GDPR, being sanctioned by the national DPAs due to non-compliance. Meta is the most heavily fined company in the GDPR history. In May 2023, the EDPB issued Meta a record €1.2 billion fine for unlawfully transferring EU user data to the United States without adequate protections.¹⁹ In January 2023 and October 2024, Meta was fined €390 million and €91 million, for using contractual necessity rather than explicit consent as the legal basis for personalized advertising²⁰ and for going against Article 5(1)(f) GDPR by storing Facebook user passwords unencrypted.²¹ From a transatlantic perspective, such costs are extremely burdensome, and thinking on the possibility that the GDPR could become more permissive under the suitable political and economic pressure, the American Big Tech companies find it in their better interest to encourage deregulation.

Moreover, for understanding the position of the EU Commission on the DO package, we must take account of the concerns flagged by the reports of Draghi and Letta. The Draghi report argued that the European Union was technologically falling behind the US and China. This reframing of the Commission's agenda created a predisposition for deregulatory lobbying before notable mobilization from the Big Tech industry. Draghi's report hails regulatory simplification due to the economic repercussion within European Union compared to global counterparts. According to the study, the business environment in the EU is less favorable than in the US, with the 61% of participating companies in the 2023 EIB Investment Survey flagging regulation as an obstacle to long-term investment in the EU. Moreover, 83% of companies polled in 2023 by Business Europe, across 21 Member States,

¹⁹ ‘1.2 billion euros fine against Meta over EU US data transfers’ (PwC Legal, 24 May 2023) <https://www.pwclegal.be/en/news/1-2-billion-euros-fine-against-meta-over-eu-us-data-transfers.html> accessed 7 May 2026.

²⁰ ‘20 Biggest GDPR Fines So Far [2025]’ (Data Privacy Manager, 4 March 2025) <https://dataprivacymanager.net/5-biggest-gdpr-fines-so-far-2020/> accessed 7 May 2026.

²¹ Ibid

summoned legislative complexity as key obstacles for investing in Europe.²² Without deflection, the EU needs to rectify these problems as soon as possible, but while excluding the personal data “scape goat” mentality. Draghi uses GDPR as an example of EU legislation encumbering the private sector growth, flagging challenges in complying with the accumulation of ‘gold-plating’ EU legislation.²³ The federalist Draghi considers that the AI technological setback could become even more dangerous under the prospect of regulatory overlap of GDPR and AI Act. Although, looking into the argumentation, for both the Commission and Draghi, the simplification appeared as the optimal solution for the competitiveness question, disregarding the creation of additional mechanisms supporting the SMEs and the current data protection guidelines. The conclusive deductions of both seem rational, as the simplification is the most cost-effective alternative, although not the adequate one for protecting personal data from operators’ exploits. Analyzing from the point of EU strategic autonomy, the communitarian bloc presents a sovereignty crisis in what is the *data value loss* (i.e. the amount of EU data transferred to third countries). Today, the *data value loss* is estimated at 90%, with a long-term risk of loss of industrial know-how.²⁴

On the page of AI development, Draghi’s research shows that in 2023, an estimated USD 8 billion in venture capital investment was made in AI in the EU, compared to USD 68 billion in the US and USD 15 billion in China.²⁵ Draghi also stresses the crucial need for large investment to bolster EU AI competitive alternatives to US players, referring especially to the models Aleph Alpha and Mistral. Such discrepancies between EU and US investments for AI R&D can mainly be explained by communitarian block’s considerable economic disadvantage in relation with its transatlantic partner. Considering Letta’s findings, the EU and US economic areas had a comparable size in 1993. Although, while the GDP per capita in the US increased by almost 60% from 1993 to 2022, in Europe the increase was less than 30%.²⁶

²² Mario Draghi, The future of European competitiveness (European Commission 2024) https://commission.europa.eu/topics/strengthening-european-competitiveness/eu-competitiveness-looking-ahead_en accessed 28th May 2026.

²³ Ibid 318.

²⁴ Ibid 67.

²⁵ Ibid 79.

²⁶ Enrico Letta, Much More Than a Market: Speed, Security, Solidarity (April 2024) <https://www.institutdelors.eu> accessed 28th May 2026.

3.2 Lobbying under Von der Leyen II — Industry Access Analysis

Von der Leyen II came into office in 2024 explicitly framing EU digital policy around competitiveness rather than personal rights protection, prioritizing the concerns of strategic nature flagged by Draghi, Letta and Niinistö. In the article published on 29th of November 2025, the Corporate Europe Observatory flagged a considerable increase of industry lobby spending of US Big Tech to Berlaymont. Apart from the 33% increase of lobby spending from these companies within the short time span of two years from annual €113 million (2023) to €151 million (2025), the intensity of this deregulation pressure is also reflected in the fact that Big Tech companies have on average more than one lobby meeting per day with EU Commission officials.²⁷

For the three selected American Big Tech actors, the biggest industry lobby investor is Meta Platforms Ireland Limited, showing a spending record of more than ten million euros in the each of the financial years 2024 and 2025.²⁸ Microsoft Corporation follows the same expenditure trend, counting between seven and eight million euros in both years.²⁹ The most remarkable spending growth between 2024 and 2025 is held by Google Ireland Limited (and affiliates), presenting an increase from around five million to six million, more specifically of average 21%.³⁰

Company	Annual Revenue (EUR)*	EU Lobby Spending	Lobby as % of Revenue
Meta	€171.3 billion	€10 million	0.005%
Microsoft	€240.1 billion	€7 million	0.002%
Google/Alphabet	€343.3 billion	€4.5 million	0.001%

Fig.1 – Comparison Annual Revenue to EU Lobby Spending for Meta, Microsoft and Google. Source: Compiled by author based on 2024/2025 EU Transparency Register declarations via LobbyFacts.eu.

²⁷ Corporate Europe Observatory and LobbyControl, 'Big Tech Lobby Budgets Hit Record Levels' (Corporate Europe Observatory, 29 October 2025) <https://corporateeurope.org/en/2025/10/big-tech-lobby-budgets-hit-record-levels> accessed [28.04.2026]

²⁸ LobbyFacts, 'Meta Platforms Ireland Limited and its various subsidiaries (f.k.a. Facebook Ireland Limited)' (LobbyFacts.eu) <https://www.lobbyfacts.eu/datacard/meta-platforms-ireland-limited-and-its-various-subsidiaries-f-k-a-facebook-ireland-limited?rid=28666427835-74&sid=241906> accessed 3 May 2026.

²⁹ LobbyFacts, 'Microsoft Corporation' (LobbyFacts.eu) <https://www.lobbyfacts.eu/datacard/microsoft-corporation?rid=0801162959-21&sid=233332> accessed 3 May 2026.

³⁰ LobbyFacts, 'Google' (LobbyFacts.eu) <https://www.lobbyfacts.eu/datacard/google?rid=03181945560-59&sid=215960> accessed 3 May 2026.

USD to EUR conversions applied at a rate of 1 USD = 0.852 EUR.

Examining the findings of LobbyFacts annual Big Tech company reports (fig.1), the study unveils a considerable discrepancy of the annual revenue made by the US Big Tech in contrast with the amount spent on industry lobbying to the EU institutions. These values demonstrate the shallow financial efforts compared to the company annual earnings in 2024-2025, for delivering efficient lobbying designed to reform the demanding European corpus of legislation. The strategic rationale behind US Big Tech is as plain as it is. If the cheap successful lobbying campaigns in EU bring an advantageous deregulation in return, then there is more the reason to keep going with this practice. The Europeans had already lived the repercussions of lacking proper personal data safeguards with the 2013 PRISM case, when Edward Snowden publicly disclosed that US Intelligence Agencies have gained access to the personal data of European users via surveillance programs and providers like Microsoft, Facebook and Google.³¹

3.3 Commission Consultation Responses — Industry Positions on GDPR deregulation

The European Tech industry is segregated between the supporters of the deregulation aspirations sought by the European Commission harmoniously with the US government and Big Tech, and the opposition, represented mostly by data rights advocating NGOs and social society actors. Among the data protection NGOs watchdogs, there are honorable mentions like the noyb (None of Your Business), EDR (European Digital Rights), the largest network of digital rights NGOs in Europe, the Corporate Europe Observatory (CEO), and the Irish Council for Civil Liberties (ICCL).

For instance, the non-governmental organization, noyb, ran by the notorious PRISM case-revealer Austrian Max Schrems, expressed concern for the Commission's draft leak prior to the official release date. Referring to the problems underlined, the document suggests giving to AI companies (like Google, Meta or OpenAI) a blank check to suck up European's

³¹ NOYB, 'Data Transfers' (NOYB) <https://noyb.eu/en/project/eu-us-transfers> accessed 7 May 2026.

personal data.³² And the public view on AI LLMs development with personal data doesn't fall far from noyb's assertion. According to a study conducted by noyb and Gallup Institute in 2025, designed to assess public awareness and Meta's policy strategy in practice for AI data collection, out of at least 274 million Meta users, 73% of them have heard about a policy change notifying that their personal data will be used for AI training. Out of the total, this leaves out 27% of people who weren't informed, rounding about 68.5 million people have never realized that Meta has started to irreversibly feed their data into an AI system.³³

During the drafting phase of the DO, the Commission organized prior stakeholder consultations within limited spheres of civil society and private sector entities. In the early Spring 2025, the newly configured Commission dutifully started a tripartite round of public consultations generating 718 unique responses. The first consultatory pillar was entitled the AI Apply AI Strategy, the second, the Revision of the Cybersecurity Act, both running from April to June, and the third, The European Data Union Strategy, from May to July 2025.³⁴ Within the DO proposal, it appears mentioned that during consultations with non-disclosed stakeholders, there was a "clear call" for streamlining the data acquis, including the GDPR.

Later in 2025, a Call for Evidence referring to the DO was published, presenting with the opportunity for the selected stakeholders to comment on a near completed version of the proposal. There was a total of 513 responses received. According to the Commission, among the respondent there were businesses, associations, civil society, academics, authorities, as well as individual contributions from EU citizens. In the following months, leading up to the publication date of the DO in EU's Official Journal, Henna Virkkunen hosted two dialogues on the key topics addressed in the proposal, the first being on data policy, and the second on cybersecurity policy, on June 1st and September 15th.³⁵

Putting together the lobby findings of the following chapter and the stakeholders' consultation periods, the study unveils a period of heightened level of contact about AI related topics between the Big Tech and Commission. Analyzing the three-fold set of

³² NOYB, 'Digital Omnibus: EU Commission wants to wreck core GDPR principles' (NOYB, 19 November 2025) <https://noyb.eu/en/digital-omnibus-eu-commission-wants-wreck-core-gdpr-principles> accessed 3 May 2026.

³³ NOYB, 'noyb survey: Only 7% of users want Meta to use their personal data for AI' (NOYB) accessed 15 May 2026.

³⁴ Commission, 'Proposal for a Regulation of the European Parliament and of the Council' COM (2025) 837 final, 12.

³⁵ Ibid

negotiations, from 9th April to 20th July 2025, there are notable high-end meetings between Big Tech spokespersons, including the participation of Meta CEO Mark Zuckerberg via video teleconference, and EU Commission officials, such as the EVPs Henna Virkkunen, Teresa Ribera Rodríguez and Ursula's Cabinet Chief, Bjoern Seibert. During the Call for evidence consultation period, the lobbying activity intensified considerably prior to the DO final touches. For instance, on 29th of September 2025, within the spanning of a single day, the Big Tech had engaged in five meetings with EU officials, with Meta attending four of them and Microsoft attending one. Apart from the sessions with Seibert and Virkkunen's cabinet officials, the spokespersons met with DG CNECT high officials regarding digital policy architecture, Data Centers and Cloud policies. The last two meetings within this timeframe window, were on 1st and 9th of October, about "Artificial Intelligence, Simplification, the Digital Markets Act, Data Protection" and "Data Protection and Privacy", respectively.³⁶

3.4 Preference-Outcome Alignment — Big Tech Requests and the Omnibus Proposals

The US Big Tech's current policy strategy is to consolidate AI-tech driven multilevel ecosystems. This methodological approach is structured within a competitive "arms' race" environment, in which technological progress heavily relies on personal data and financial resources. The same internal competitiveness is being projected in the EU market.

Conducting an analysis over the lobby meetings consistency, while respecting the predetermined scope material from December 2024 to 19th November 2025, the lobby activity sheets present a total of 144 meetings between EU Commission officials and Meta, Microsoft and Google. Out of these interactions, 42 of them, nearly 30%, explicitly cited AI, the DO, Data Protection, or GDPR as the core subject. On 18th of March 2025, both Meta and Google held meetings on the exact same day referring to "protection of minors, data protection, simplification."³⁷ Similarly, on the 14th and 15th of May 2025, Meta and Google

³⁶ LobbyFacts, (LobbyFacts.eu) <https://www.lobbyfacts.eu> 28th May 2026.

³⁷ LobbyFacts, 'Meta Platforms Ireland Limited and its various subsidiaries (f.k.a. Facebook Ireland Limited)' (LobbyFacts.eu) <https://www.lobbyfacts.eu/datacard/meta-platforms-ireland-limited-and-its-various-subsidiaries-f-k-a-facebook-ireland-limited?rid=28666427835-74&sid=241906> accessed 20 May 2026, meeting of 18 March 2025

lobbyists took part to arrangements concerning “the agenda to boost tech innovation and competitiveness in the EU, in particular in the field of AI.”³⁸

Within a very short timeframe and with exactly one week before DO package release, on November 11th and 12th, Meta organized meeting on "updating on the DO and national implementation of the AI Act"³⁹ and on “the expansion of access to Meta Llama AI models to EU national and security defense entities.”⁴⁰ Microsoft held two important meetings on March 4th specifically covering "data protection, the role of AI, competitiveness and simplification", and on September 16th, regarding the “exchange of views on security, the EU-US e-evidence agreement... and access to data.” While pursuing a common agenda for deregulation, each company has its own particular objectives. For instance, while Google and Microsoft share many similarities regarding their services, Meta stands as the odd addition, applying pressure on social media and messaging communication regulation, mostly because of Meta’s heavily restricted VLOPs Facebook, Instagram and WhatsApp.⁴¹ The material available may be limited content-wise, although it suffices for showing the frequency of contact between the Commission and US Big Tech on tech-related topics encompassing data protection and AI.

Consulting Draghi, Letta and Niinistö’s reports, the Commission took notice of EU’s adverse disadvantage in AI and tech development. Von der Leyen Commission’s agenda for 2024-2029 aims to consolidate EU’s tech sovereignty, considering the deregulation solution as valid for the accomplishment of this objective. Virkkunen considers that tech sovereignty refers to strengthening capacities in certain areas, from semiconductors supply chains to

LobbyFacts, 'Google' (LobbyFacts.eu) <https://www.lobbyfacts.eu/datacard/google?rid=03181945560-59&sid=215960> accessed 20 May 2026, meeting of 18 March 2025.

³⁸ Ibid

³⁹ LobbyFacts, 'Meta Platforms Ireland Limited and its various subsidiaries (f.k.a. Facebook Ireland Limited)' (LobbyFacts.eu) <https://www.lobbyfacts.eu/datacard/meta-platforms-ireland-limited-and-its-various-subsidiaries-f-k-a-facebook-ireland-limited?rid=28666427835-74&sid=241906> accessed 20 May 2026, meeting of 11 November 2025.

⁴⁰ LobbyFacts, 'Meta Platforms Ireland Limited and its various subsidiaries (f.k.a. Facebook Ireland Limited)' (LobbyFacts.eu) <https://www.lobbyfacts.eu/datacard/meta-platforms-ireland-limited-and-its-various-subsidiaries-f-k-a-facebook-ireland-limited?rid=28666427835-74&sid=241906> accessed 20 May 2026, meeting of 12 November 2025.

⁴¹ DataGuidance, 'EU: Commission designates WhatsApp as VLOP under DSA' (DataGuidance, 28 January 2026) <https://www.dataguidance.com/news/eu-commission-designates-whatsapp-vlop-under-dsa> accessed 20 May 2026.

cloud services, and cutting risky dependencies of the EU.⁴² From a diplomatic perspective, Brussels must navigate an extremely delicate balance to maintain constructive relations with Washington, needing to seek a collaborative stratagem and not convert the transatlantic partner into an adversary.

Regardless of interpretation, the outcome succeeding the DO would essentially benefit more the US Big Tech than the European AI developers. The AI “innovation-deregulation” trade-off scenario as presented by the European Commission comes handy for the Big Tech lobbyists advocating for derogations.

4. The Paradigm Shift in Fundamental Rights - GDPR and AIA Data Processing Amendments

4.1 Legal Basis for AI Data Processing — Article 6 GDPR and New Article 88c

The Article 6 GDPR lays legal foundation for the *lawfulness of processing* determining the obligations both the EU and the Member States have in this regard. This article is a central provision of the GDPR, deciding over the legality criterion of processing personal data imposed upon any entity with access to information of natural persons, with a few exceptions such as the national authorities acting within the public interest, Article 6(1)(e), and legal obligation, Article 6(1)(c). Whereas the DO package doesn’t amend Article 6 GDPR, the proposal introduces an additional text block under the newly created Article 88c.

According to the joint papers of the authorities, the data protection authorities support the general aim of the DO proposal to ease administrative burdens for data operators. Casting a look on the recommendation paper of February 2026, the authorities put forward the exigency to include a three-steps case-by-case assessment to verify that the controllers can lawfully rely on Article 6(1)(f) for using personal data in AI model development. They also emphasize on the importance to expressly refer to legitimate interest in the first paragraph of

⁴² Euronews, 'Technological sovereignty is not about isolation, EU digital chief says' (Euronews, 21 May 2026) <https://www.euronews.com/my-europe/2026/05/21/technological-sovereignty-is-not-about-isolation-eu-digital-chief-says> accessed 22 May 2026.

the Article 88c and include that controllers can only legally rely on Article 6(1)(f) GDPR provided that all conditions of that provision are met.⁴³

The DO proposes the creation of the Article 88c derogation. Where the Article 6 AIA legally hinders the controller to objectify personal data for the operation or development of an AI system or model, as defined in Article 3(1) AIA, the Commission proposes a dilution of processing safeguards through the Article 88c. It proposes that the data controller should be able to invoke the legitimate interest for the development of AI using personal data, complying with the legal obligations set by Article 6(1)(f), where appropriate, but except where other Union or national laws explicitly require consent, and where such interests are superseded by the fundamental rights and freedoms of the data subject, in particular where the data subject is a child. The additional Article 88c introduces passages referring to data minimization, by ensuring enhanced transparency for data subjects and granting them an unconditional right to object to the processing of personal data. In stark contrast, the authorities remind that mitigating measures should not be confused with the measures that the controller is legally bound to adopt for ensuring compliance with the GDPR.⁴⁴ Given these frictions, the authorities' concerns are well-founded, stemming from the potential failure of data controllers to implement the necessary safeguards to protect personal data.

Taking into consideration the paper of January 2026, both authorities recommend maintaining the obligation for providers to register AI systems in the EU database for high-risk systems also in the cases where the provider has concluded the system is - despite being referred to in Annex III AI Act - not high-risk, under the conditions set by Article 6(3) AIA.⁴⁵ The demanded explanations aim to ensure transparent conduct of risk assessment-making by controllers, offering adequate oversight prerogatives to the responsible authorities.

For understanding the Article 6 GDPR, the dissertation puts forward one notorious case concerning Meta. Taking account of the case *Meta v Bundeskartellamt* (Case C-252/21) in 2023, Meta was ruled by the CJEU as non-compliant with EU law, namely with Article 6 and 9 GDPR, for combining personal data across its many services, Instagram, WhatsApp, Oculus, and Facebook Business Tools, undergoing additional data collection after the data

⁴³ EDPB-EDPS, 'Joint Opinion 2/2026 on the Proposal for a Regulation as regards the simplification of the digital legislative framework (Digital Omnibus)' (10 February 2026) 17, para 44.

⁴⁴ Ibid

⁴⁵ Ibid

subject gave consent only to the social media platform's privacy policy.⁴⁶ The CJEU ruled based on a stringent interpretation, that Meta completely neglected the GDPR provisions, shallowly interpreting the Article 6.1(a) of consent validity conditions and Article 6.1(f) of processing exclusion by legitimate interest. The case was abandoned by both parties, as Meta redesigned the platform privacy policy in accordance with the GDPR. Such instance demonstrates Big Tech's versatile strategy, leveraging financial power within informal settings without public scrutiny.

The creation of Article 88c contains controversial aspects to it generative of exigent debate, especially given the ambiguity of the Commission behind the proposal, concerns which have been dutifully expressed by the responsible European data authorities.

4.2 Special Category Data in AI Development – Article 9(2)(k) GDPR and Article 4(a) AIA

The GDPR classifies personal data accordingly with the nature of it. Special Category of Data (SCD) is the personal information that legally cannot be processed regardless of company legitimate interest. Citing the GDPR *mot à mot*, the data encompassed under processing prohibition are racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation.⁴⁷

The DO proposal focuses considerably on AI training of LLM models while referring to the Article 9, putting forward the newly proposed provisions of Articles 9(2)(k) and 9(2)(l). The proposal recognizes that AI training requires a vast quantity of data to be poured into it after collection, therefore, in order not to disproportionately hinder the development and operation of AI model, the Recital 33 of DO advances a derogation clause for the prohibition on processing special categories of personal data under Article 9(2) GDPR. Or rather put, the proposal grants statutory derogation for the controllers which train AI models using SCD, under the conditionality of implementing adequate measures in the AI lifecycle, the training, testing and validation phase, to avoid the processing of SCDs and the dissemination of them

⁴⁶ Case C-252/21 Meta Platforms Inc. and Others v Bundeskartellamt [2023] ECLI:EU:C:2023:537.

⁴⁷ Regulation (EU) 2016/679 (General Data Protection Regulation) [2016] OJ L119/1.

if the AI model trained on SCD requires “disproportionate effort” to be redesigned. The ambiguity behind the proposal is too substantial to be overlooked. Basically, the Article 9(1) which prohibited the processing of SCD, now limitedly accepts AI model training, under the condition that the controller implements the so-called adequate measures to prevent processing, and if not possible, to at least contain the SCD from getting accessed by third parties.

The modification of Article 9(2)(k) is welcomed both EDPB and EDPS, considering that the controllers can’t always exclude the incidental infiltration of SCD from data collection processes, and that easing judicial repercussions is recommendable in this case. Although, both the authorities emphasize on a clear phrasing of the provision, recommending that “incidental and residual” processing to be added in the enacting terms, as to ensure the correct interpretation of the proposed Article 9(2)(k) GDPR. Moreover, they recommend embedding controller’s obligation to present document-based compliance evidence, considering the state-of-art (SOTA) technology and the possible impacts on data subjects. Regardless, the DO proposal and EU data authorities mutually agree on that the controller must still conduct a GDPR balancing test and respect individuals’ right to object (opt-out Article 21) if personal data is used for AI training objectives.⁴⁸

The new Article 4a AIA, substituting Article 10(5) AIA, provides a legal basis for providers and deployers of AI systems and models to exceptionally process special categories of personal data for the purpose of ensuring bias detection and correction under certain conditions.⁴⁹ The amendment aims to ease restrictive measures for AI model training, allowing controllers to process SCD for the insurance of model bias detection and correction in relation to high-risk AI systems. On the broader picture, the AI model training is being accomplished through intake of unfiltered data with different variables, some of which present common identifiable elements such as gender or race, thereby predisposing the AI model to create biased results. To develop and correct biased models, the providers require to process SCD, which currently is heavily regularized by Article 10 AIA and Article 9 GDPR. While the authorities recognize the potential risks, they also consider that bias-trained

⁴⁸ Milner-Smith A, Laher Z and Long B, 'The EU's Digital Omnibus: Everything You Need to Know' (Ius Laboris, 19 December 2025)

⁴⁹ Commission, 'Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) 2024/1689 and (EU) 2018/1139 as regards the simplification of the implementation of harmonised rules on artificial intelligence (Digital Omnibus on AI)' COM(2025) 836 final.

AI models could present a wider risk to data subjects and even to society as a whole. The authorities expressed concern for potential abuses, stating that such processing should be clearly circumscribed and limited only in instances the bias is proven with sufficiently serious adverse effects to justify the processing of SCD. Following on the January EDPB-EDPS joint statement, the authorities demand to be indicated the specific examples of non-high-risk AI systems or models that could adversely affect individuals whose SCD is being processed in correcting the pattern of bias.⁵⁰

The authorities adopt a firmer position in relation with Recital 34, related to the proposal addition Article 9(2)(l), demanding a more rigorous compliance on the processing of biometric SCD. In the Recital 34, the authorities recommend rectifying the phrasing “that processing of biometric data is not likely to create significant risks to his or her fundamental rights and freedoms” if the data is stored at data subject’s side or briefly SOTA technology encrypted at controller, advocating that operations involving such type of SCD can still imply high risks in some situations. In this sense, the proposal introduces Article 9(2)(l) as a derogation of SCD processing in the context of confirming the identity of a data subject, where the biometric data or the means needed for the verification is under the sole control of the data subject.

From an analytical perspective, the core ambition behind the additional points 9.2(k)-(l) is to facilitate AI training of LLMs utilizing personal data. Altogether, one must recognize the challenges of filtering sensitive personal data during collection processes, understanding that if the EU plans to create an environment propitious for AI innovation and bolstering competitiveness, it sees itself obligated to cut corners in some legislative respects, such as in the data protection. Currently, Article 9 GDPR is too demanding on controllers seeking to train AI models, being expected that the data protection legislation to be amended following the state-of-art tech. In this sense, the proposal meets the set objective, although simultaneously containing ambiguously phrased enacting provisions regarding the effect of AI model training over data subject protection.

⁵⁰ European Data Protection Board and European Data Protection Supervisor, 'Joint Opinion 1/2026 on the Proposal for a Regulation as regards the simplification of the implementation of harmonised rules on artificial intelligence (Digital Omnibus on AI)' (20 January 2026) para 14.

4.3 Automated Decision Making and Human Oversight – Article 22(a) GDPR

The automated decision making (ADM) is a highly debated topic among legislators, governors and scholars due to the sensitive nature of such operations. Consulting the GDPR provision, the Article 22 grants the right not to be subject to a decision based solely on automated processing, including profiling, which produces legal effects concerning the individual or similarly significantly affects him or her.

The DO proposal advances an amended form of Article 22(1)(a) suggesting that a decision can be made through automated processing only if is necessary for entering into, or performance of, a contract between the data subject and a data controller. The points (b) and (c) remain unchanged, keeping the same derogation standards as the initial 2016 GDPR. The amended version of point (a) embeds the specific clarification that decision based on automated processing can figure under the letter of law regardless of alternative method other than solely automated means. In this sense, the Proposal derogates the data subject right in favor of controller's, obstructing a judicial pathway available for the individual subjected to automated AI processing. The authorities note that proposal's objective is to clarify on the whether the automated decision-making is necessary for entering into or performing a contract between the data subject and a data controller. While the EDPS and EDPB share a critical perspective, both welcome the initiative of the proposal to inspire more consistency of application for the Article 22 GDPR and Article 24(1) EUDPR, the data protection legislation designed for the EU institutions.

Referring to CJEU's ruling on the "prohibition by principle" of automated decision-making without human intervention regarding a natural person, both the EDPB and EDPS recommended a firmer language as to prevent exploitations through loose interpretation by the controllers. In this regard, the two authorities recommend substituting the wording "may be based solely on automated processing" with "shall not be based solely on automated processing", so denoting a resolute interpretation of the amended. The authorities urge that the proposal to include Article 22(1) GDPR and Article 24(1) EUDPR, would continue to also provide a right that data subjects can invoke under the Chapter III GDPR. The ADM is heavily regulated by GDPR and the even if the derogation conditions are met, under the Article 22(3), the controller has the obligation to implement safeguards, minimally to

introduce the right to obtain human intervention (oversight), to express his or her point of view and to contest the decision.

Within the Recital 38, the proposal mentions that the controller isn't mandated by law to opt out the automated processing solely on the human conducted alternative. While such addition grants election power to the controller for conducting personal data processing, the amended also states that, in the instance in which, both the automated and human conducted processing are available options, the controller "should use the less intrusive one". The ambiguous phrasing is prone to shallow interpretation, allowing the controller to decide on the standard of data intrusiveness. The authorities consider that such phrasing could also prove misleading, recommending that the proposal should specify that automated processing is a necessity only if no other equally effective and less intrusive means (automated or not) are available to the controller.

Therefore, the amendments offer a greater flexibility for the controllers to utilize AI automated means of data processing and decision making. While the European business and start-ups come out privileged from such initiative, the American Big Tech has much more to gain in this instance, and the EU cannot approach a discriminating policy for the very influential transatlantic companies. Regardless, the automatization of processing and decision-making should continue as a "prohibition by principle" and be regarded adequately for the sensitive nature of it.

4.4 Purpose Limitation and AI Training Data — Article 5(1)(b)

Article 5(1)(b) GDPR establishes the core principle of purpose limitation, mandating that controllers process data only for specified, explicit, and legitimate purposes, as to prevent any incompatible processing. For instance, if a private entity requires the personal data for managing a newsletter, the entity is not entitled to use the email address for other type of processing, such as user activity monitorization through access of links and beyond, if the data subject had expressed consent solely for the initial newsletter communication purpose.

In the judicial case *Google vs CNIL 2020*, the US Big Tech was sanctioned 50 million euros over company's opaque privacy policy and lack of legal basis for personalized ads. The company considered that it fulfilled the legislative expectations for undergoing

personalized ads in the possession of needed consent, whereas the CNIL proved it as practice of GDPR non-compliance. Firstly, the consent wasn't "specific" and "unambiguous" enough, CNIL considering that the information is diluted in several documents. Per Article 7 GDPR, specificity and the ambiguity are two of the four main criteria for a valid consent, among the deliberate and informed assent. And secondly, the consent needs to be given distinctly for each purpose behind processing operations, whereas Google used a consent form involving all the operation.

The proposal suggests an amendment on the limitations under which processing can be legally feasible apart from the initial purpose, on the principle of compatibility and independently of the conditions set by Article 6(4) GDPR, which determines the binding obligations of the controller for undergoing a new processing with personal data previously acquired. In other words, this rectification facilitates exploitation by the US Big Tech masking GDPR compliance for the data repurposing while summoning the principle of compatibility. The US Big Tech can become extremely crafty in the sense of dressing shallow compliance, especially for the purpose of AI development. In this regard, the dissertation evokes the Meta change of privacy policy strategy in 2024 for the purpose of developing "AI technology". Instead of asking users for their consent, Meta argued that it has a legitimate interest for processing, thus neglecting the fundamental data protection of EU citizens.⁵¹ Nevertheless, when it comes to consent, Meta bypassed the right to opt-in and designed the option to opt-out difficult to access by platform users. In this case, the repurpose of data processing had been flagged also by Max Schrems, stating that it's not only illegal, but that the phrasing "AI technologies" is an extremely broad term without real legal limit.

The data protection authorities embrace Commission's intentions to clarify under which conditions can repurposing be legally applied, although they are somehow critical on the choosing of phrasing. Both the authorities, recommend an appropriate firmer wording, denoting that the question of compatibility of purposes should not be confused with the principle of legality under the GDPR and EUDPR.⁵²

⁵¹ Foo Yun Chee, 'Meta gets 11 EU complaints over use of personal data to train AI models' Reuters (Brussels, 6 June 2024) <<https://www.reuters.com/technology/meta-gets-11-eu-complaints-over-use-personal-data-train-ai-models-2024-06-06/>> accessed 9 June 2026.

⁵² EDPB and EDPS, 'Joint Opinion 2/2026 on the Proposal for a Regulation of the European Parliament and of the Council on the simplification of the digital acquis' (10 February 2026) para 32.

4.5 Critical Assessment, Simplification or Fundamental Rights Deregulation?

The dissertation shed light upon the amendments sought to be implemented by the European Commission in relation to AI data processing simplification, seeking to answer the research question and validate the central argument. The doubt remains whether the European Commission vouches for simplification or derogation of rights. The data protection authorities welcome proposal's objectives to bolster competitiveness, to clarify GDPR/AIA provisions and to reduce the bureaucratic burden for enterprises, while simultaneously expressing concerns regarding the possible downplaying interpretations by the controllers and AI providers/deployers of the amended provisions, urging a more rigorous choice of phrasing. Nevertheless, one must recognize the precocious stage of the DO package, as recently having cleared the trilogue negotiations and finding itself in the final stage of formal adoption, waiting for the formal approval in the Parliament and ulteriorly in the Council.

Consulting the study, the proposed amendments on the DO primarily intend to encourage AI development and competitiveness, to strategically emancipate EU from the dependence on the Chinese and American technologies. Therefore, does the DO promotes simplification or deregulation of personal data rights? Dismantling the assessment piece by piece, one should consider that the amendments proposed, primarily, contain worrying levels of ambiguity related to derogation clauses. On one hand, according to the authorities' responses, the Commission has decided an overly permissive choice of derogation phrasing, which ultimately advantages the US Big Tech with exploitable loopholes for bypassing the EU data protection legislation. It's possible that under the pressure of urgency, as the DO was being drafted between five and six months, the working groups couldn't make use of a precise formulation. Or knowing that the DO was prone to future amendments, they chose to not adopt a firmer normative language. On the other hand, taking account of the US Big Tech strategic industry lobby approach in the European context, the dissertation demonstrated the little respect of the Big Tech for the EU data protection legislation, preferring to elaborate lobby campaigns than to deploy consistent compliance efforts.

Considering the amendments subjected under dissertation's scope of investigation, all the regarded provisions introduce derogations to the current GDPR and AIA safeguards. Even if the derogations require fulfilling sets of conditions, the proposal tends to be

considerably permissive for the controllers to harvest, utilize and store personal data and for the developers to design AI models. As such, Commission's permissive approach encourages deregulation over simplification. Within the European context, considering simultaneously the current unraveling technological revolution, regulatory simplification is treated as a zero-sum game, where streamlining measures cannot be achieved without compromising the already bestowed rights. In this sense, the concept of simplification, by itself, it's easily manipulable and intended to nurture a strategy of rhetoric. It's a matter of methodological precision and effort for separating derogation from simplification. The DO proposal was drafted within the span of five to six months and the Big Tech lobby interventions continued pressuring even after the proposal was published. Having thoroughly analyzed the environment, the actors and their respective positioning in relation to the DO proposal, and the amending outcomes succeeding the drafting process, the dissertation demonstrated the reality of an US masterminded regulatory capture of EU apparatus.

Therefore, considering the study findings, one cannot blindly regard the DO as a matter of trivial simplification, as it incorporates elements promoting the erosion of European fundamental rights, intended to serve Commission's objectives for the post-2024 Transatlantic and digital sovereignty dilemma within an "arms' race" for AI supremacy.

5. Conclusion

5.1 Answering RQ and Central Argument Depictions

The research question set out to determine whether the Digital Omnibus proposal is a product of regulatory capture of the US Big Tech lobby, promoting deregulation under the façade of EU data acquis, GDPR and AIA simplification. The dissertation had presented the harboring elements of deregulation within the simplification proposal, analyzing the AI data processing related amendments introducing new derogations. Therefore, having unveiled the regulatory capture by the US Big Tech and investigating proposal's new derogations, the DO package does indeed contain deregulation ambitions under the US Big Tech interests for the EU data legislation.

The central argument considered that US Big Tech's AI data processing ambitions represent a deliberate conduct of deregulation, regarded as a regulatory capture of the EU.

Having investigated the US Big Tech influence within the European setting and the preference-outcome alignment between the Big Tech preferences and Digital Omnibus outcomes, the central argument proves as a correct assertion.

5.2 Limitations and Avenues for Further Research

The study findings imply limitations for definitive answers. Regarding the available material consulted, the lobby research can refer to a coordinated strategy among the US Big Tech, although, it cannot investigate precisely into behind-doors negotiations held between EU Commission officials and the US Big Tech ambassadors to Brussels. Nevertheless, the material indeed facilitated the understanding of the lobby behavior employed by the US Big Tech, especially into the domains of AI and other technological interests, with the objective to reduce AIA and GDPR safeguards.

Another notable limitation consists of dissertation's predetermined analytical scope for the European Commission Digital Omnibus proposal package. If the interest is to conduct analysis at European macro level, the final version of the amendment succeeding the legislative mechanism is required. The study consulted the proposal of 19th of November 2025 advanced by the Commission with the support of the working groups under institution's umbrella. Moreover, the joint statements of January and February of data protection authorities fulfill a consultative role, without binding obligations for the trilogue actors. In this sense, no legislator presents the constraint to follow the recommendations advanced by EDPS and EDPB. Nevertheless, the purpose behind these recommendations is not obsolete, as they are able to flag irregularities, originating from authorized bodies of the European Union.

Under the prospect of further research, there lies significant potential for continuous scholarly investigation. As the dissertation considered the DO Commission proposal, the material can be considered limited from future considerations. At political economic level, the post-2024 Transatlantic-EU relations are still undergoing a redefinition process, especially considering the current Trump administration II mandate. Moreover, the DO is still young, as part to a larger process of EU normative reconfiguration. Expanding more about the market and competitiveness repercussions, the study could encapsulate the analysis

of other relative jurisprudence, such as the DMA or DSA. The dissertation represents a scholar interpretation with the present considerations, valuable for the future academia motivated to investigate the depths of EU data protection law under the DO simplification regime to even extensive standards.

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