



## POSITION PAPER

Brussels, 22/7/2025

# CECE Recommendations for the Upcoming Digital Omnibus Simplification Package

### Executive Summary

In light of the European Commission's announced *Digital Omnibus Package*, this position paper sets out the construction equipment industry's key priorities and practical recommendations to support a more coherent, predictable, and industry-aligned digital regulatory environment. As digital legislation continues to expand across domains such as cybersecurity, data, and artificial intelligence, manufacturers face increasing complexity and overlapping compliance obligations.

**CECE strongly supports the Commission's objective to simplify and streamline the EU digital framework**, ensuring it fosters innovation, competitiveness, and legal certainty across the Single Market. In this context, **we call on the Commission to address the following regulatory priorities and ensure that the Digital Omnibus Package:**

1. ***Introduces a 12-month application delay (Stop-the-clock) for the Data Act***
2. ***Clarifies the interplay between the Data Act and GDPR***
3. ***Ensures coherent implementation of Machinery Regulation EHSRs 1.1.9 and 1.2.1 with the CRA***
4. ***Removes double reporting obligations of cybersecurity incidents for CRA and NIS***
5. ***Introduces a 24-month delay for AI-related requirements under the Machinery Regulation***
6. ***Narrows down the scope of a new future ePrivacy Regulation***

## Introduction

The European Commission's forthcoming Digital Omnibus Simplification Package, expected by the end of 2025, represents a strategic opportunity to recalibrate the EU's digital regulatory landscape. By streamlining the existing legislation on data, cybersecurity, and artificial intelligence, the initiative should aim to reduce legal complexity, enhance regulatory coherence, and strengthen Europe's competitiveness in an increasingly digital global economy. It also highlights the importance of aligning emerging data economy principles with the operational realities of industrial B2B contexts.

## Simplification priorities for construction equipment

Regulatory clarity and proportionality are not only essential for compliance, but also crucial enablers of innovation, productivity, and sustainable growth for the European construction machinery industry. As the EU accelerates its digital transformation through major legislative initiatives such as the **Data Act**, **Cyber Resilience Act**, **AI Act** (and potentially the **ePrivacy Regulation**), industry stakeholders face

significant challenges. More specifically, the overlapping scope and inconsistent application of these frameworks have created legal uncertainty, especially for machinery manufacturers and OEMs operating in complex contractual and technical ecosystems. The forthcoming Digital Omnibus must therefore deliver meaningful simplifications that enable businesses to operate efficiently across the Single Market. As the voice of construction equipment manufacturers in Europe, CECE welcomes the Commission's ambition for a more business-friendly digital framework.

In this context, **we urge the European Commission to give due consideration to the following priorities and targeted recommendations as part of the Digital Simplification agenda.**

## **CECE recommendations on data policy**

### **1. Data Act Stop-the-clock for 1 year**

Construction equipment manufacturers are fully committed to complying with the new obligations introduced by the EU Data Act. This state of readiness has been made possible through to the constructive and continuous dialogue with the European Commission, as well as through the valuable interpretative clarifications provided in the Commission's FAQ on the Regulation. Nevertheless, during the implementation phase, CECE members have identified a number of remaining challenges that require further clarification. In line with the stop-the-clock approach adopted by the European Commission under the recent Omnibus Simplification packages, **CECE members call for a postponement of the start of the application of the Data Act Chapters 2, 3 and 4 at least for one year, from 12 September 2025 to 12 September 2026.**

Since the design and manufacturing obligation under Article 3(1) of the Data Act will start applying on that date, the suggested postponement would align all provisions of Chapters 2, 3 and 4 to one-single application date for the Data Act. The measure is necessary to grant adequate time for businesses to renegotiate the contractual agreements currently in place based on the new provisions of the Regulation and Commission's Model Contractual Terms.

The renegotiation of the existing contracts takes time especially in B2B contexts, where the construction equipment industry mainly operates. Additionally, the recommendation for Model Contractual Terms, along with the Commission's guidelines for calculation of the reasonable compensation, will be made available right too short before the start of the Data Act application. Therefore, the voluntary clauses will not be of any use to companies for day-1 compliance.

It is worth saying that companies operating in construction equipment are typically OEMs with a reselling distribution network in the EU, thus in many cases, they don't have any contractual agreement currently in place with the customer for the thousands of machines that are in the field today. Therefore, construction equipment manufacturers will also have to conclude new contracts for data access and sharing with the existing customers for machinery products already available on the market without knowing their customers' identity – e.g., the dealer concluded the original contract with the user.

### **2. Address interplay between Data Act and GDPR**

The types of data in scope of the Data Act cover both industrial and personal data. In light of the preventive ban on the disclosure of personal data established under GDPR, mixed data sets (where personal and non-personal data are often inextricably linked) represent a challenge for compliance with the Data Act requirements for CECE members.

Insofar as the user is usually not the operator of the construction machinery (i.e. the data subject whose data is requested), the Data Act requires a legal basis for the transfer of personal data. In

addition, the Data Act itself does not constitute a legal basis for the processing of personal data pursuant to Article 6(1) GDPR. Rather, reference is simply made to the general authorisation conditions of GDPR. Although the latter prevails in case of conflicts, the complex interplay between Data Act and GDPR provisions creates substantial uncertainty at the technical and contractual level. Since construction machinery manufacturers extensively collect and use telematics data for quality improvement and updates of connected machines already available on the market, the conclusion of new contractual agreements is needed also for legacy machinery products for full compliance with the Data Act provision on the re-use of mixed data sets. In this context, separate consents might be required for different parts of the data set with personal references to third parties or, alternatively, they have to be separated out before sharing, creating a particularly burdensome situation for companies together with a fragmented responsibility between the Data Holders (whose first obligation is to obtain their users' consent) and the users themselves, whose obligation is to collect the consent of the data subjects.

**We thus encourage the European Commission to consider the consent given under Article 6(1) of GDPR as an authorisation within the meaning of the Data Act, at least when it comes to data sharing under Art 4(1) and Art 5(1) requested by data subjects.**

## **CECE recommendations on cybersecurity aspects**

### **3. Ensure coherent implementation of Machinery Regulation EHSRs 1.1.9 and 1.2.1 with CRA**

The construction equipment industry is increasingly concerned about regulatory misalignment arising from the parallel implementation of the Machinery Regulation (EU) 2023/1230, the Cyber Resilience Act (CRA), and the AI Act. In particular, certain Essential Health and Safety Requirements (EHSRs) under the new Machinery Regulation raise important questions regarding their interpretation and practical application in light of evolving cybersecurity obligations.

The following EHSRs are of particular concern:

- **EHSR 1.1.9** – Protection against corruption
- **EHSR 1.2.1** – Safety and reliability of control systems

These provisions introduce obligations that closely intersect with requirements under the CRA. According to experts, compliance with the CRA would de facto ensure compliance with EHSRs 1.1.9 and 1.2.1 of the Machinery Regulation, justifying the alignment of the application dates to prevent overlapping or conflicting compliance demands.

For these reasons, **CECE urges the European Commission to postpone the application of EHSR 1.1.9 and 1.2.1 under the Machinery Regulation** to grant alignment in the **entry into application** with the implementation date of the CRA (**11 December 2027**).

This alignment should be pursued as part of the upcoming **Digital Omnibus Package**, in line with the EU's stated objective of creating a streamlined, coherent digital regulatory environment.

### **4. Remove double cybersecurity incidents reporting obligations**

The enforcement of cybersecurity legislative framework is weakened by duplications and inconsistencies related to the **reporting of cybersecurity incidents**. The reporting obligations established by the CRA overlap with NIS requirements leading to administrative burden and increased

compliance costs due to the various reporting requirements and their potential overlaps, or the need to report similar information several times to different authorities. Currently, in cases where the incident covers elements of cybersecurity (both, NIS & CRA), the same incident must be reported through different procedures to several public authorities.

Incident reporting needs to be simplified, as new cybersecurity rules are implemented. **This can be achieved through a one-stop-shop mechanism which includes clear, step-by-step rules of reporting incidents and a single point of contact.**

CECE welcomes the plan for simplification of the digital package which includes cybersecurity rules and supports the creation of a **single reporting platform under the CRA (Article 16)** for a smooth and efficient relay of information.

## CECE recommendations on artificial intelligence

### **5. Items 5 and 6 in Annex I, Part A, of the Machinery Regulation Stop-the-clock for 2 years**

The European Commission is still consulting on the definition of 'high-risk AI systems' under the AI Act regulation. The outcome of this is expected to directly impact products covered by Annex I, Part A, items 5 and 6 of the Machinery Regulation. This creates further uncertainty regarding the interpretation of *"safety components with fully or partially self-evolving behaviour using machine-learning approaches ensuring safety functions"*. Discrepancies in the assessment of expected requirement levels can significantly impact the design and selection of architectures, particularly when software is concerned.

For this reason, **CECE urges the European Commission to postpone the application of the requirements concerning the conformity assessment procedures for the items 5 and 6 of Annex I, Part A of the Machinery Regulation by at least 24 months**, starting from the finalisation of the interpretative work in the application guide of the Machinery Regulation.

## CECE comments on data privacy

### **6. Narrow down the scope of a future ePrivacy Regulation**

Another challenge for the construction equipment industry would be a new future proposal reviving the ePrivacy Regulation. CECE welcomes the European Commission's decision to withdraw the legislative proposal after failure to progress in the negotiations, and we caution the Commission in all its future work towards a new legislative proposal for a regulation on this topic.

Any new proposal should have a clear definition of the application scope to stick to the traditional telecoms or online sectors, so that any future regulation would not apply broadly to all products and services in Europe's connected society. Europe's ability to innovate in artificial intelligence, energy transition, and manufacturing would be subject to static, one-size-fits-all rules that are unreasonable for very different use cases. CECE's main concerns on the Commission's proposal for ePrivacy Regulation (COM/2017/010) focus on the scope of protection for end-users' terminal equipment information under Article 8 and Recital 12 of the draft Regulation.

In the event of any potential reopening of the ePrivacy Regulation by the European Commission, **CECE strongly encourages policymakers to maintain the balanced approach reflected in the Council's previous negotiating mandate.**