

Cut the noise, not consumer empowerment

*Euroconsumers' position on the GDPR related elements
of the Digital Omnibus*



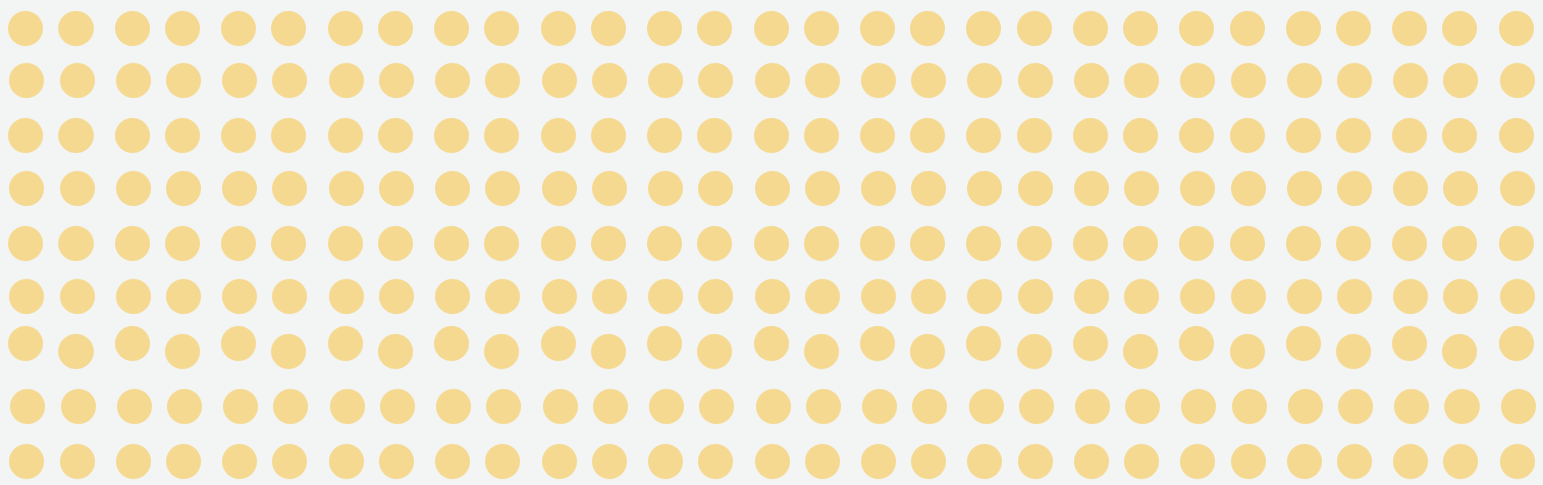


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Empower people,
improve the market.

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Introduction

As a group of national membership-based consumer organisations representing over 7 million people, we hear the consumer voice loud and clear. What they want leaves little room for speculation: **consumers want good, trustworthy and affordable products and services**. They care about protection, they care about privacy and want to remain in control, but they also long for innovation and the benefits it can bring.

This is particularly true when it comes to AI.

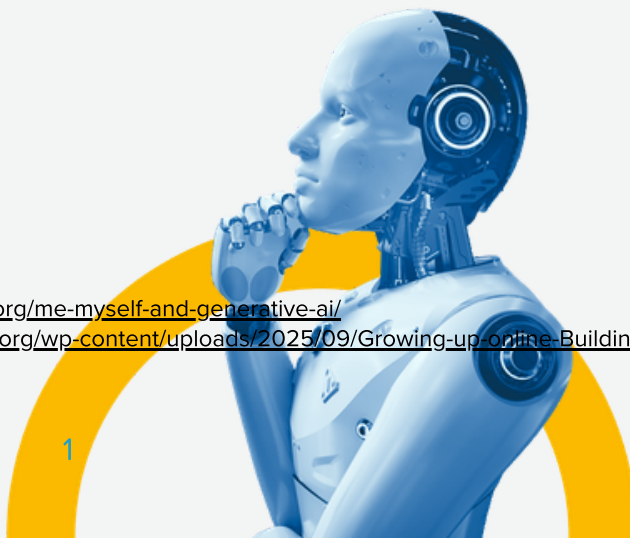
Early consumer survey results from 2020 showed indeed **concerns about the use of their data**, but it also painted a picture of consumers open to what AI could give them. Even more, not entirely satisfied by what it delivered so far, **they expected AI to do better**. Since then, AI driven tools boomed and so did the consumer uptake – from Large Language Models to AI assistants.

Our 2023 consumer poll¹ showed that even in the very early days of ChatGPT **74% of respondents aged 18–34** were already using it. Privacy remained a concern; at the same time most users leaned towards being happy about the solutions offered by generative AI. Same goes for the even younger generation: Euroconsumers' 2025 survey² on minors online found that **68% of 12- to 17-year-olds use generative AI** at least occasionally and some daily.

Consumers do not see innovation and protection as an either-or choice, and neither should regulation. For Euroconsumers, the objective is therefore clear: **give consumers access reliable digital innovation, and trustworthy AI tools to be more specific**. This is exactly why we support simplification as a means to an end: strengthening Europe's competitiveness and its capacity to innovate responsibly for consumers.

¹ Euroconsumers, 2023, <https://www.euroconsumers.org/me-myself-and-generative-ai/>

² Euroconsumers, 2025, <https://www.euroconsumers.org/wp-content/uploads/2025/09/Growing-up-online-Building-a-digital-future-for-minors-by-minors-1-.pdf>





Against this background, Euroconsumers welcomes the Digital Omnibus where it **removes overlapping requirements and unnecessary complexity** that create bureaucratic hurdles without genuinely improving consumer protection or consumer experience. Businesses should focus their time, resources and investment on consumer-centered innovation instead.

We draw however the line when **simplification touches on real consumer rights and real consumer empowerment**. Protection and innovation are not at odds, quite the contrary. Strong, well protected, consumers have the power to shape markets and challenge strong businesses to step up. This turns Europe's 450 million consumers into Europe's biggest industrial asset. A competitive European economy depends not merely on businesses being able to innovate; it is **equally shaped by consumers trusting and willing** to embrace the products and services that innovation creates.



Whether we are talking about data needed to develop AI, the enforcement of GDPR rights or consumers' daily cookie confrontation, the question should ultimately be the same: **does the framework enable innovation that benefits consumers while giving them the trust, protection and meaningful choice they expect and deserve?**

It is from this perspective that Euroconsumers sets out its position on the GDPR-specific aspects of the Digital Omnibus.

1. Responsible data use for consumer-centred innovation

Consumers are clear on what they want: they increasingly expect better products and services that respond to their needs and improve their everyday lives. **Expectations are particularly high for AI**, where access to large and diverse datasets is key to developing more capable models and applications. At the same time, consumers expect their privacy to be protected and their data to be used responsibly.



Are consumers asking the impossible?

No, they are not.



If used responsibly, better access to data can help business develop better products and services and significantly improve consumers' lives. It can support the development of more capable consumer-fit AI models; it can improve healthcare through faster diagnosis, more personalised treatments and medical innovation; and it can strengthen fraud detection.



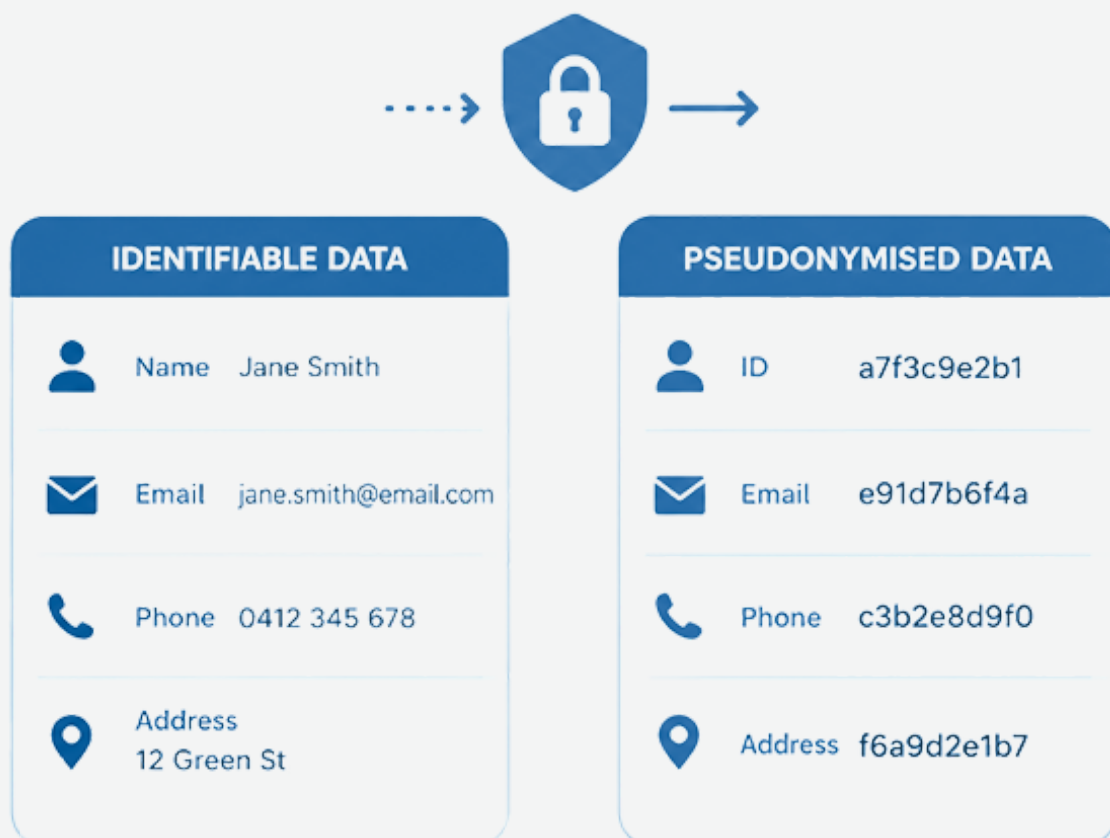
Better access to data can also create **a fairer and more competitive market**. Access to data should not be a privilege reserved for the lucky few - the largest players - SMEs and start-ups equally need data to develop new products and services, innovate and compete.



That is why creating **greater legal certainty** for the responsible use of data offers significant opportunities to boost European business innovation and secure consumer access to more fit products and services.

We believe that **pseudonymisation can help achieve both greater data use and strong privacy protection**. It makes it more difficult to link data back to an individual, while preserving its usefulness for analysis and innovation. This is recognized by the EDPB Guidelines 01/2025 which identify pseudonymisation as an important safeguard that can reduce risks for individuals, facilitate the responsible use of personal data and, where the other GDPR requirements are met, facilitate reliance on legitimate interests as a legal basis for processing³.

At the same time, **pseudonymisation is not without risks**. Re-identification can still occur, for example when additional information needed to identify an individual becomes available or when different datasets can be combined. That's why securing **sufficient safeguards against re-identification** remains a key precondition. As reflected in the EDPB Guidelines 01/2025, these include keeping the additional information necessary for attribution separate and protected, restricting access to that information, and putting in place appropriate technical and organisational measures to prevent unauthorised re-identification⁴.



3 European Data Protection Board, Guidelines 01/2025 on Pseudonymisation, adopted 16 January 2025, Executive Summary, p. 3.

4 European Data Protection Board (EDPB), Guidelines 01/2025 on Pseudonymisation, adopted 16 January 2025, paras. 5, 9, 20–21.



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That's why the **safeguards included in Article 88c GDPR are equally important as the legal certainty it creates**. Under the Digital Omnibus legitimate interest remains subject to the balancing test under Article 6(1)(f) and consent continues to apply where explicitly required under Union or national law, with particular protection for children.

The proposal also requires **data minimisation** when selecting data sources and during training and testing. It includes protection against the disclosure of personal data retained in AI systems or models, enhanced transparency towards data subjects and an unconditional right to object.



Euroconsumers recommendation

The co-legislators should preserve the **right balance between privacy and innovation in both provisions**. The final text should provide legal certainty for the responsible use of pseudonymised data and personal data for AI development, while preserving effective safeguards against re-identification and the concrete protections included in Article 88c.

The combination of legal certainty and effective safeguards can pave the way for **more responsible innovation and more consumer trust**, two key ingredients for more European competitiveness.



2. From paper to practice: making GDPR compliance and enforcement real

Consumers don't need rights on mere paper; **they need it to work on ground**. They need to be able to exercise their rights, and they need businesses to be able to comply with them.

Against this background, Euroconsumers supports the objective behind the proposed amendment to Article 12(5) GDPR that allows for **restrictions on data requests that are manifestly unfounded or excessive**. Genuinely abusive or excessive requests create unnecessary burdens for businesses - particularly SMEs - and divert resources away from responding to legitimate requests and investing in compliance.

They also generate **unnecessary disputes and complaints**, adding pressure to already stretched enforcement authorities. Consumers need a framework that facilitates compliance, allows resources to be focused on legitimate consumer requests, and helps Data Protection Authorities focus their enforcement resources on cases where consumer rights are genuinely at stake.

Providing **greater clarity around genuine abuse** can therefore be a legitimate part of the simplification effort – one that benefits both businesses and consumers. But what it cannot do is create another barrier for consumers to exercise their rights. The **right to access** can be important for many legitimate reasons beyond data protection alone.

Consumers may i.e. need their data to understand a decision that affects them, to assess whether they have been treated unfairly, or to exercise another legal right. The fact that an **access request also serves another legitimate purpose** should therefore not, in itself, make it abusive.



For Euroconsumers it is key to strike the **right balance between cutting abuse and safeguarding real consumer empowerment**. In this respect, the approach proposed in the European Parliament's draft report⁵ provides a good way forward: it allows **genuine abuse to be addressed while recognising that GDPR rights** may also support other legitimate aims and setting a fair threshold for establishing abuse.

But let's be real: fighting excessive data requests is not the miracle solution to proper GDPR compliance.

It is merely a patch on a much bigger wound called **GDPR enforcement**. That enforcement gap is very real for consumers and goes beyond tackling data access abuse alone. Euroconsumers has previously highlighted⁶ **insufficient resources, lengthy procedures, fragmentation between national approaches and difficulties in cross-border enforcement**. These problems make it harder for consumers to effectively exercise their rights and create uncertainty for businesses operating across the Single Market.

Euroconsumers recommendation

The co-legislators should pursue **simplification that facilitates compliance** while upholding meaningful access to consumer rights. Genuine abuse should be addressed, but legitimate requests should remain protected, including when they serve another legitimate purpose.

On top of that, it is crucial to tackle the **broader structural challenges of GDPR enforcement** to ensure that consumers can effectively exercise their rights and businesses benefit from more predictable and consistent application of the rules

⁵ European Parliament, 2026, https://www.europarl.europa.eu/doceo/document/CJ72-PR-786818_EN.pdf

⁶ Euroconsumers, 2022, <https://www.euroconsumers.org/gdpr-enforcement-is-gridlocked-what-can-be-done/>

4. Cookies reimaged: empower consumers, support innovation

Cookie fatigue has become one of the clearest examples of where the current consent framework hits its boundaries. Instead of helping people make informed privacy choices, repeated cookie banners have become an everyday frustration. Most consumers simply click "accept" to access the content they want, **not knowing what they are accepting**. That is not consumer protection; that is just noise.

At the same time, consumers increasingly expect **digital services that are intuitive, personalised and continuously improving**. Remembering language preferences, recommending suitable products, or helping to discover relevant content on a very crowded website, are all examples of personalisation that improve the consumer experience.

Consumers also benefit when businesses can access data that helps them understand how their services are used, identify technical problems and develop better products. The debate tends to focus a lot on the big online platforms, but having access to this data is even more important for start-ups and SMEs.



The question should not be about limiting data use; it is about creating the conditions for responsible, consumer-centered innovation that allows businesses of all sizes to compete. **So how can we strike the right balance between data driven innovation and consumer trust?** How can we cut the noise, while securing consumer protection and empowerment?



Keep it simple

First of all, by keeping it simple. The objective of Article 3(15) of the Digital Omnibus, **integrating the cookie rules currently contained in the ePrivacy Directive into the GDPR through new Articles 88a and 88b, is a welcome step.** Bringing the rules into a single legal framework should reduce legal fragmentation and provide greater legal certainty for consumers and businesses.



One size does not fit all

There is no discussion about it, cookie fatigue is a real problem that deserves a real, meaningful solution. Euroconsumers supports the objective of new Article 88a(4) GDPR to **reduce cookie fatigue through simpler consent mechanisms.** However, we do not consider the browser- or operating system-level consent preferences provided for in Article 88b to be the right solution. It may reduce the number of consent requests; **it does not address the underlying problem.**

A browser level consent model would treat all cookies equal, even though they serve very different purposes: non-invasive website analytics that help businesses understand and improve their services, or non-sensitive personalisation that improves the consumer experience, could still be subject to the same consent model as more intrusive uses of cookies: yes or no. By saying ‘no’ to some cookies that consumers might not like, they would be saying ‘no’ to the ones that benefit them as well.

But even more importantly, it takes away **meaningful consumer empowerment** in the same way cookie banners do. At Euroconsumers we strongly believe in **empowered consumers that can shape markets.** As consumers may wish to support certain businesses while refusing cookies on others, offering only a simple “yes or no” at browser level would block any possibility to differentiate and take away meaningful consumer choice.



A third way, the consumer way

Instead of a blanket approval or refusal, Euroconsumers recommends considering a more granular, risk-based and, ultimately, consumer-proof approach.

First of all, **we welcome the approach set out in Article 88a(3)**, which recognises that certain uses of cookies should not require consent, including where they are necessary to provide a service explicitly requested by the user, maintain the security of a service or create aggregated information to measure the audience of an online service solely for the controller's own use.

We encourage the Digital Omnibus to build on this approach by **further distinguishing between the different purposes** for which cookies are used and applying the appropriate legal basis to each of them.

Building on our response⁷ to the Digital Omnibus Call for Evidence we propose:

- **To build on the exemption for first-party audience measurement introduced in Article 88a(3)(c) by providing greater legal certainty for Privacy-Enhancing Analytics (PEA).** The Digital Omnibus should clarify that essential and non-invasive analytics used solely to understand website performance and improve products and services fall within the exemption provided for in Article 88a(3)(c), under the precondition that they remain subject to strict GDPR data minimisation principles.
- **That leaves the question of how to handle other uses of cookies.** Knowing that systematically relying on consent leads to fatigue, knowing that many consumers appreciate the user experience facilitated by cookies, **meaningful consumer control for non-sensitive personalisation can also be achieved through a strong and safeguarded opt-out.** This implies clarifying that legitimate interest under Article 6(1)(f) GDPR may serve as the legal basis for certain categories of non-sensitive personalisation such as product or content recommendations based on a consumer's interactions with a service. Targeted advertising based on profiling requires a different assessment and is not covered by this approach.

⁷ Euroconsumers, 2025, <https://www.euroconsumers.org/wp-content/uploads/2025/10/Euroconsumers-Response-to-the-Digital-Omnibus-Call-for-Evidence-Cookie-fatigue.pdf>

- **But by no means can this be seen as free entrance.** This option can only be considered when **accompanied by strong safeguards**, including:
 - **full transparency**, providing consumers with clear information on the personalisation logic, the categories of data used and the expected benefits;
 - **a simple, prominent and immediately effective opt-out**, available with minimum friction wherever personalisation is applied;
 - **a prohibition on personalisation that exploits consumers' vulnerabilities**, including their economic situation, known mental or physical frailties, or age-related inexperience, while excluding personalisation directed at children, consistent with existing EU law.

Euroconsumers recommendation

The co-legislators should make the **cookie framework work better for consumers**. The answer is not more consent banners, but smarter choices. Information and transparency alone are not enough: **meaningful consumer control requires the appropriate legal basis, strong safeguards and an easy opt-out** where appropriate. Different uses of cookies should therefore be treated differently, making it easier for businesses to improve and personalise their services while giving consumers a simple way to say no when they do not want it.

Conclusion

GDPR was never meant to be a barrier to innovation, quite the contrary. The Digital Omnibus is an opportunity to reaffirm this and make it work better for consumers and businesses. Simplification should focus on removing unnecessary complexity, providing greater legal certainty and creating the space for responsible data use and innovation, while preserving consumers' privacy and control over their personal data. As this paper shows: **innovation and privacy protection are not opposing objectives.**

At the same time, it is fair to say the **Digital Omnibus is not a silver bullet.** Smarter rules alone will not make the GDPR work better. **Simplification must go hand in hand with effective compliance and enforcement.** Consumers need to be able to exercise their data protection rights, businesses need predictable and consistent application of the rules, and Data Protection Authorities need the resources to focus on cases where consumers' privacy and rights are genuinely at stake.

Ultimately, **smart simplification** should be judged by what it delivers: meaningful privacy protection and strong consumer empowerment, more innovation and choice for consumers, and greater legal certainty and competitiveness for European businesses. **Empowering consumers does not mean asking them to consent to every use of their data.**

It means giving them meaningful choice where it matters, while allowing personalisation and responsible data use that improve their experience and support innovation. If the Digital Omnibus achieves that balance, **simplification will not mean less protection**, but a GDPR that works better for consumers and innovation.





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