

EFCA Position on the Digital Omnibus on the AI Act & Digital Omnibus on the Data Act

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The European Federation of Engineering Consultancy Associations (EFCA) has member associations in 27 countries, representing more than 10,000 companies from the European engineering consultancy industry and related fields. Based in Brussels, EFCA is committed to facilitating constructive dialogue with European Institutions on issues impacting our industry; and engaging with international stakeholders on shared interests.

EFCA's position in brief

AI Act

1. Apply high-risk AI obligations only once standards and guidance are available.
2. Provide construction-specific examples, clarify links with machinery and construction product laws, and define when engineering AI counts as a safety component.
3. Explicitly include construction projects in regulatory sandboxes and real-world testing, ensure SME/SMC access, and enable cross-border pilots with proportionate procedures and clear legal bases for Annex I testing.
4. Extend SME simplifications to SMCs with simplified, sector-adapted documentation.
5. Accompany bias-detection rules with clear GDPR-compliant safeguards for workforce-related construction uses including defined responsibilities between providers and deployers and guidance for multi-contractor environments.

Data Act

1. Ensure clear, sector-specific guidance on trade-secret protection, including practical criteria and examples relevant to BIM, digital twins, and engineering know-how, and fast procedures for contested refusals, while supporting the consolidation of EU data legislation into a coherent framework and clarifying “placing on the market” for products with long development and deployment cycles.
2. Limit mandatory business-to-government data sharing strictly to genuine public emergencies, with harmonised EU rules on proportionality, liability, and fair compensation for mitigation and recovery phases.
3. Guarantee low-cost or free access for engineering SMEs and mid-caps to high-value public-sector construction and infrastructure datasets (e.g. geospatial, cadastral, permits, asset registers), with harmonised, machine-readable access conditions across Member States.
4. Provide legal clarity on switching and custom-made cloud/BIM services, with clear definitions and examples to prevent long-term vendor lock-in while respecting existing bespoke contracts.
5. Support the development of trusted, sector-specific data intermediaries for construction and infrastructure, based on voluntary participation, strong governance, and recognised sectoral codes of conduct, in a framework that avoids overlapping compliance layers and remains accessible to SMEs and small mid-caps.

Digital Omnibus on the AI Act

EFCA welcomes the Commission's Digital Omnibus proposal of the AI Act. The Omnibus has the potential to create important opportunities for Europe's construction and infrastructure sector, while also raising issues that require further clarification and sector-tailored guidance.

Key points for consulting engineers

1. Phased application of high-risk obligations is essential

EFCA supports linking the application of high-risk AI obligations to the availability of harmonised standards, common specifications and Commission guidance. In safety-critical sectors, such as some applications that relate to the built environment, premature application without technical standards would risk legal uncertainty, delayed investment and fragmented national practices.

EFCA notes that application dates could provide necessary predictability only if accompanied by timely sector-relevant standards and guidance.

2. Engineering and construction-specific guidance is needed

Many AI systems used in construction (e.g. site safety monitoring, structural health monitoring, digital twins, autonomous machinery support systems) are not clearly addressed in horizontal examples. EFCA therefore calls for construction-specific high-risk classification examples in Commission guidelines, clear guidance on the interaction between the AI Act and sectoral product legislation, including the Machinery Regulation ([2023/1230](#)) and Construction Products Regulation ([2024/3110](#)) and practical clarification of when AI systems used by engineers qualify as safety components under Annex I.

EFCA further highlights the need to ensure coherent integration of high-risk AI requirements with existing sectoral conformity assessment frameworks. Parallel or duplicative procedures risk disrupting established compliance pathways and overburdening notified bodies. Harmonised AI standards should be translated into sector-specific contexts without undermining existing conformity procedures.

3. Regulatory sandboxes and real-world testing must include construction

EFCA strongly welcomes expanded AI regulatory sandboxes and the new possibilities for real-world testing agreements. As construction projects offer controlled, real-world environments ideal for testing safety-critical AI, EFCA calls for explicit inclusion of construction and infrastructure projects among priority sectors, guaranteed access for SMEs and small mid-caps (SMCs) active in consulting engineering and for early engagement with sectoral authorities to enable cross-border pilot projects.

EFCA also supports the introduction of a clearer legal basis for real-world testing of Annex I systems and encourages practical guidance to ensure that such testing can take place without disproportionate procedural burdens. Effective sandbox access is essential for validating safety-critical AI before broader deployment in infrastructure projects.

4. Proportionality for SMEs and SMCs is critical

EFCA supports extending SME simplifications to SMCs, including the removal of registration requirements for non-high-risk AI systems, the replacement of mandatory post-market monitoring templates with guidance-based approaches, and the extension of SME relief measures to small mid-cap companies, reflecting the structure of the consulting engineering market. Simplified technical documentation and quality-management requirements are essential to avoid disproportionate compliance burdens for innovative engineering firms. In addition, disproportionate compliance obligations for smaller firms would also risk making it more difficult for larger enterprises to conduct business with them, in fear of potential compliance omissions, creating an imbalance in the value chain. Consequently, EFCA encourages the Commission to develop sector-adapted templates for simplified documentation relevant to engineering services and project-based AI deployment.

5. Bias detection and data protection safeguards

EFCA acknowledges the importance of the new legal basis allowing limited processing of special categories of personal data for bias detection and correction and supports the clarification of such a legal basis to mitigate bias in AI systems. However, in workforce-related construction use-cases (e.g. health, safety, monitoring), clear safeguards and practical guidance are essential to ensure compliance with GDPR and to avoid legal uncertainty. Practical guidance should define applicable safeguards, clarify the allocation of responsibilities between providers and deployers, and explain the interaction with occupational safety and data protection rules in complex, multi-contractor construction environments.

Digital Omnibus on the Data Act

EFCA welcomes the European Commission's proposal to simplify and streamline the EU digital acquis through the Digital Omnibus Regulation. A coherent and workable data framework is essential for engineering consultancies, which operate at the intersection of public-sector data, commercially sensitive know-how, and cross-border digital services.

Key points for consulting engineers

1. Trade secrets and protection against third-country risks

EFCA welcomes the strengthened safeguards allowing data holders to refuse disclosure where there is a demonstrable risk of unlawful acquisition, use, or disclosure of trade secrets, in particular in connection with third-country access or control. Engineering consultancies routinely

generate proprietary models, calculation methods, sensor configurations, and digital twin parameters that constitute core competitive assets and, in some cases, relate directly to public safety. However, EFCA is concerned that the requirement for a ‘duly substantiated’ refusal may lead to divergent interpretations across Member States. Uncertainty around thresholds with regards to evidence could expose consulting engineers to legal risk or pressure to disclose sensitive data.

EFCA asks for clear, sector-specific guidance at EU level on how trade-secret risks should be assessed and substantiated, with concrete examples relevant to BIM, digital twins, and infrastructure data. Fast and predictable procedures for reviewing contested refusals, to avoid delays in ongoing construction and infrastructure projects, should also be in place. At the same time, EFCA remains adamant on its position that data created in platforms used by engineering consultancies should be made available to them without any legal restriction, contractual or else.

Lastly, EFCA calls for clarification of the concept of “placing on the market” for products with long development and certification cycles, ensuring that market placement is assessed at the level of the product type or model rather than each individual unit. This is particularly relevant for connected equipment and infrastructure systems deployed over extended project timelines.

2. Business-to-government data sharing in public emergencies

EFCA recognises the importance of effective data access for public authorities in genuine public emergencies, including natural disasters, infrastructure failures, and climate-related events. EFCA also welcomes the replacement of the open-ended notion of “exceptional need” with the more narrowly defined “public emergency” threshold, which strengthens legal certainty and predictability for engineering firms while preserving authorities’ ability to act where genuinely necessary. Consulting engineers may hold data that are critical for emergency response or recovery, such as structural models, monitoring data, or asset condition information. EFCA supports the clearer limitation of mandatory business-to-government (B2G) data requests to public emergencies. Nevertheless, consulting engineers must not be left bearing disproportionate costs or liabilities when responding to such requests.

EFCA therefore asks for harmonised rules on compensation for data provided for mitigation and recovery phases, including recognition of costs related to data preparation, anonymisation, adaptation, and professional liability. Guidance on proportionality and necessity is crucial, ensuring that requests are targeted, time-limited, and limited to data that are strictly required.

3. Re-use of public sector data relevant to construction and infrastructure

As consulting engineers depend heavily on public sector data, EFCA welcomes the integration of public sector data re-use rules into the Data Act, as this may provide public authorities with clearer responsibilities regarding access and reuse conditions, thereby improving consistency across Member States. However, EFCA notes the introduction of differentiated fee regimes (Art.

32y), including the possibility for higher fees or special conditions for very large enterprises. While this may support fair competition, it is essential that consulting engineering SMEs and small mid-cap firms continue to benefit from low-cost or free access to high-value datasets.

EFCA asks for the explicit recognition of construction- and infrastructure-related datasets as high-value datasets that should be made available at low or zero cost to professional users involved in public interest projects. We also call for harmonised, machine-readable access conditions across Member States to avoid fragmentation of the internal market.

4. Switching and cloud services used by engineering consultancies

EFCA acknowledges the Omnibus proposal's clarification and partial relaxation of switching obligations for certain pre-existing or custom-made data processing services. Many consulting engineering companies rely on BIM platforms or highly customised cloud solutions. However, EFCA stresses that effective switching and interoperability remain essential to avoid long-term vendor lock-in, especially in multi-year infrastructure projects. EFCA also suggests that data ecosystems be designed to enable genuine portability, ensuring consulting engineers can interconnect tools and move project data seamlessly to alternative service providers when requested.

EFCA therefore asks for clear definitions and practical examples distinguishing custom-made services from standard services in the engineering and construction context, and for continued support for open standards and interoperability in BIM, digital twins, and infrastructure data platforms.

5. Data intermediaries and future opportunities

EFCA sees potential in trusted, sector-specific data intermediaries to facilitate secure data sharing across complex construction value chains. The move towards a more flexible and voluntary framework for data intermediation could support innovation if accompanied by strong trust and governance mechanisms. To that end, it is important to recognise sectoral codes of conduct and labels for trusted construction and infrastructure data intermediaries and to involve engineers in the development of such frameworks.

A streamlined and coherent EU data framework should encourage the development of such trusted intermediaries while avoiding overlapping compliance layers that could discourage participation by SMEs and SMCs in engineering and construction ecosystems.