EARE's Position on the Digital Simplification Omnibus Package

The European Alliance for Research Excellence (EARE) welcomes the European Commission's Digital Simplification Omnibus package as an important first step towards streamlining and clarifying the provisions on the EU's data legislative framework and the AI Act.

The Alliance supports efforts to promote open access and re-use of data for research and innovation, reduce administrative burdens, and bring clarity to the current data and AI framework for researchers, innovators, and start-ups. It is essential that the EU continues to promote open data policies, which are key to fostering EU's research excellence and avoiding bias in research results.

However, EARE is concerned that certain proposed changes risk reducing access to data, thereby weakening the EU's open data policy, a cornerstone of the EU's research and innovation ecosystem.

Digital Omnibus on Data: A welcome step, but barriers to research data access and re-use remain

EARE supports the objectives of simplification and harmonisation set out in the Digital Omnibus, particularly by bringing together the Free Flow of Non-Personal Data Regulation, the Data Governance Act, and the Open Data Directive into a single and more coherent Data Act. These changes have the potential to enhance legal certainty and reduce regulatory fragmentation across the EU.

Nevertheless, EARE considers that certain aspects of the proposal, especially those affecting the definition of scientific research, and conditions for re-use of data, can be improved to ensure progress on open data, research, and innovation.

- **Modern research needs modern definitions: align scientific research with today's innovation reality**

The Digital Omnibus proposal include a definition of "scientific research" as part of the new Data Act which differs from the one proposed under the General Data Protection Regulation (GDPR). The GDPR version better reflects the nature of modern research, without excluding that research may also aim to further commercial interest. However, the new Data Act version includes a definition that restricts research to non-commercial purposes and does not reflect the reality of today's research where research organizations, academic institutions, and industry frequently collaborate.

EARE recommends harmonising the definition of "scientific research" across all relevant legislation, adopting the GDPR's language that supports innovation, including research with commercial implications.

- **Safeguard non-discrimination in data re-use**

The proposal allows public sector bodies to impose special conditions, including higher charges and licence restrictions, on the re-use of data by "very large enterprises". Differential charging, for example tiered fees for API access, should not involve licence restrictions, since such restrictions could lead to licence incompatibilities that will fragment the re-use landscape.

EARE urges policymakers to ensure that licensing terms for public sector and research data do not undermine the Open Definition's requirement that "anyone can freely access, use, modify, and share for any purpose". Differential treatment of large players should not be implemented by restricting licence terms. Doing so would make public sector datasets harder to re-use in practice, interrupt downstream research and innovation, weakening the EU's open data ecosystem, and ultimately harming research and innovation.

A Digital Omnibus on AI fit for research and innovation

EARE welcomes the efforts from the European Commission to simplify the implementation of the AI Act, establishing more realistic timelines and obligations for high-risk AI systems, and by extending simplified processes to small mid-caps. These changes are important to provide a clearer and more workable framework for AI development in the EU. However, further clarification is needed to ensure that the AI Act effectively supports AI research and innovation.

- **Clear research exceptions that reflect today's research realities**

The scope and application of the AI Act's research exception should be clarified. In particular, it should cover the full research and development lifecycle, apply to public-private partnerships, and include research activities conducted with a view to future commercialization.

EARE calls for clear and robust research exceptions as they are essential to ensure that researchers, universities, libraries, innovators, and start-ups can collaborate in public-private settings without legal uncertainty, or disproportionate regulatory risk, and without undermining lawful data use and text and data mining activities that are essential for AI research and development. Clearer wording is also needed to ensure that public-private AI research is not prematurely subject to full provider obligations.

- **Copyright provisions should consider the important role of Text and Data mining (TDM) for the development of AI**

The AI Act introduces a specific obligation on providers of GPAI models to put in place a policy to comply with EU copyright law as part of Article 53.

In this context, EARE stresses that the TDM exceptions established in the Directive on Copyright in the Digital Single Market (DSM Directive) are a core component of the EU copyright framework and are crucial for AI training and development. TDM practices enable researchers, universities, libraries, and innovators to analyse diverse datasets, facilitate scientific progress, and support the development of AI in the EU.

EARE further underlines that the implementation of opt-out mechanisms as part of the DSM Directive should not result in de facto restrictions that undermine lawful TDM or create legal uncertainty for research-driven AI development. This is essential to ensure that the EU can develop its own AI champions.

The way forward: unlocking Europe's digital research potential

Looking ahead, EARE considers the ongoing legislative discussions on the Digital Simplification Omnibus package a critical opportunity to ensure that simplification efforts genuinely strengthen Europe's research and innovation ecosystem. EARE calls on EU institutions to work closely with the research and innovation community as negotiations progress, and to include modifications that address remaining uncertainties around data access, re-use, and research driven AI development.

EARE stands ready to work with the Commission, Parliament, and Member States to deliver a final text that empowers researchers and innovators, supports open data policies and fosters research excellence in the EU.

About EARE: *The European Alliance for Research Excellence (EARE) was convened by Microsoft in 2017, and now brings together nine members from the research and innovation ecosystem in Europe, including the Association of European Research Libraries (LIBER Europe), the European Bureau of Library, Information and Documentation Associations (EBLIDA), BSA | The Software Alliance, Microsoft, Allied for Startups, LACA, Research Libraries UK, SCONUL (Society of College, National and University Libraries), and UCL (University College London) Library, advocating for the EU to live up to its innovation potential in the digital economy.*