Joint SME position on protecting trade secrets in the Digital Omnibus

November 2026

We are European SMEs, including start-ups and scale-ups, from across Europe's industrial and manufacturing base. Industrial data streaming from our components, equipment and control systems, at the heart of Europe's machines and industrial installations, reveals the setpoints, tolerances, and control parameters that took decades of R&D to develop. Whoever receives the raw data receives the know-how.

We support data sharing that drives innovation, competition, and new services. But we must be able to prevent our industrial know-how from ending up with parties that have the scale to turn raw data into competing products, or that operate under jurisdictions where trade secrets are hard to enforce. Under the current Omnibus text, the protection of trade secrets mainly benefits parties with the legal capacity to invoke it. It does not work for most start-ups, scale-ups, or SMEs.

Two gaps

*The burden is too heavy for SME*s. An SME that wants to refuse a data request must demonstrate, case by case and in writing, a high likelihood of serious economic damage or a significant risk of unlawful disclosure to third-country entities or entities under their control. All refusals must be notified to the competent authority every three months. Most SMEs would need to hire external lawyers who do not know the technology, which turns protecting their own know-how into an investment decision.

Suppliers are not covered. Only the data holder can refuse. Suppliers whose know-how sits in someone else's product have no standing to protect it, even though it is the one holding the trade secret.

Our call to the European Parliament:

1. **Protect trade secrets by default in industrial B2B data sharing.** Between professional parties, data arrangements are already made by contract, and this works. Trade secrets should be shared only where the parties explicitly agree. The Data Act would remain fully in force for consumer protection, repair and the aftermarket.
2. **If the current approach is kept, make it workable for SMEs**, by:
    - No obligation to assess third-country protection or requesters' ownership;
    - A presumption of risk for sensitive technical data, with the burden of proof on the requester;
    - Periodic aggregated reporting instead of notifying every refusal;
    - Protection for trade secret holders along the supply chain;
    - Coverage of all SMEs, including medium-sized enterprises.

Europe's technology industry drives much of its innovation, exports and productivity growth, and SMEs like ours are at its core. Simplification that leaves our know-how exposed would weaken precisely the companies the Omnibus sets out to help.