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## PEIF comments on the EU Commission's consultation on the European data economy

Munich, 26 April 2017

Dear Commissioner,

Data localization restrictions for storage and/or processing purposes are real obstacles for global (re)insurance companies and may create unnecessary obstacles for efficient cross-border transactions. Therefore, we welcome the EU Commission's consultation on the European data economy and would like to make the following key observations:

1. PEIF believes that a liberal data economy fostering fair access to and free flow of data whilst protecting investments enhances innovation and thus leads to better services and products. **Europe should continue to ensure fair competition in the market to avoid inappropriate concentration at a certain point of the value chain (e.g. through platforms providers) that could therefore unduly prevent consumers from engaging directly and freely with their insurance coverage providers.** In our view, a set of minimum requirements within the European Union regarding access to and portability of non-personal data would be helpful (but not sufficient) to enhance the free flow of data. Such access and portability right should, however, only apply to raw data, i.e. data which has either been provided or generated by a device user but not data which has been enhanced, enriched or aggregated by the device producer/data collector (e.g. by applying data analytics). We therefore encourage the EU Commission to take a broader approach by including competition law aspects into their analysis.
2. Existing Intellectual Property rights regimes around data leave lots of space for interpretation regarding data processing. Therefore, we think that **Intellectual Property rights for data should be harmonised at the EU level** as this would reduce uncertainties that exist both from a data owner's and data user's perspective.
3. The EU Commission's consultation on the European data economy is of importance for the insurance sector, in particular with regards to its liability part. **The current combination of contractual and non-contractual liability instruments or the co-existence of specific liability regimes (e.g. Product Liability Directive) and general civil liability regimes, either based on strict or fault based liability, have proved to work efficiently and have not left the consumer uncompensated for losses suffered.** However, even though the systems in place already protect citizens against accidents that might be caused by new developing technologies, the regulatory framework should further specify liability schemes and will need to evolve with the disruptions to come. As per driverless cars and other autonomous vehicles, the existing legal framework has the potential to deal with the development of automated driving. If the owner or user of the vehicle is considered liable for any damage or injury in the "first instance", it will ensure that the injured party is compensated promptly and spare the customer from the claim liability research process. At the same time, the party ultimately responsible for the damage can be pursued through subrogation. Insurers remain "frontline players" to their customers, protecting them in advance to any recourse to other stakeholders such as car manufacturers. However, given the disruption in the liability chain from those emerging technologies, a more precise identification of respective parties'

liabilities (from car manufacturers to device and sensors makers and in different driving modes) will be necessary with access to data being critical in this context.

4. Lastly, we think that **additional mandatory financial security instruments (i.e. mandatory insurance, bank guarantee or a specific compensation fund) aiming to compensate for losses related to the use of the new technologies are not necessary** and would, on the contrary, negatively impact the development of insurance solutions on a voluntary basis. There are standard insurance solutions for product liability which are easily available at affordable prices in all the EU Member States and have been designed to cover liability costs for defective products including the risks stemming from the Internet of Things technologies and autonomous systems.

As outlined above, we are very supportive of the EU Commission's efforts to create a clear policy framework for the data economy. While the current liability legislation framework works well, we think that more could be done to harmonise Intellectual Property rights for data and to reduce data localization restrictions for storage and/or processing purposes at the European level.

We would welcome the opportunity to discuss these issues in more detail with you.

Best regards,

Oliver Bäte  
Chairman of the Pan-European Insurance Forum

#### **About the Pan-European Insurance Forum (PEIF)**

PEIF is an informal forum for the CEOs of major European insurers (Aegon, Allianz, AVIVA, AXA, Generali, MAPFRE, Munich Re, Prudential Plc, RSA, Swiss Re, UNIQA, and Zurich) to exchange and present views on policy and regulatory issues amongst themselves and with others. PEIF companies represent around two-thirds of the STOXX® Europe Insurance.

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