



Attn: Mr Thierry Breton, Commissioner for Internal Market  
[cab-breton-contact@ec.europa.eu](mailto:cab-breton-contact@ec.europa.eu)

Attn: Ms Vera Jourová, Vice President and Commissioner for Values & Transparency  
[cab-jourova-contact@ec.europa.eu](mailto:cab-jourova-contact@ec.europa.eu)

CC: Mr Yvo Volman, Head of Unit, Data Policy and Innovation  
[Yvo.VOLMAN@ec.europa.eu](mailto:Yvo.VOLMAN@ec.europa.eu)

20 September 2021

### **Re: Adoption of the Implementing Act for the Open Data Directive**

Dear Commissioners Breton and Jourová,

As a group of leading transparency organisations from across Europe, we are writing to voice our concerns about the lack of progress with, and transparency around, the Implementing Act to be adopted as required by the Open Data Directive.

We previously wrote to you on this issue on 9 December 2021, with a letter signed by over 100 organisations, which was answered on your behalf by Mr Yvo Volman of DG CNECT on 7 January 2021.

Since January, no progress on the Implementing Act has been reported publically. The delay is of particular concern given that the deadline of 17 June 2021 for Member States to transpose the Open Data Directive has passed, with the risk of creating legal uncertainty in those Member States that have transposed it and/or delays in transposition in those that have not.

It is essential that there be the mandatory one-month public consultation on the Implementing Act to ensure a broad and inclusive public debate, particularly on the question of full

publication of company ownership data as a High-Value Dataset under the Directive. It is vital that potential users, including journalists, businesses, research organisations and universities, civil society organisations and, of course, citizens, are able to put forward arguments as to democratic value for fighting corruption, ensuring a level playing field for business, and stimulating entrepreneurship.

In your letter of 7 January, you indicated data protection concerns. At that point you would have been aware that the *Impact Assessment study on the list of High Value Datasets to be made available by the Member States under the Open Data Directive* prepared for the Commission by various consultancy firms did not identify significant data protection concerns. Rather, the main obstacle for full publication seems to be either the revenue loss from ceasing to sell the data, particularly in a few wealthy countries such as Germany, Italy, and the Netherlands, along with the cost of transforming company registers into open data in a handful of Member States. The Impact Assessment therefore refrained from recommending fully opening company data at this juncture.

Whilst sympathetic to any cost implications for Member States, we note that the Impact Assessment itself highlights that full opening of company data delivers both economic value and additional benefits that supersede the economic costs of opening the data. Specifically, the potential savings for Member States that flow from the use of company data in exposing and combatting corruption far outweigh any, relatively modest, investment in making it public.

There is clearly a pressing need to debate the findings of the Impact Assessment. We are concerned that we only obtained the Impact Assessment pursuant to an access to documents request; it is not a published document and we understand that (at least as of June 2021) it has not even been shared with the Committee on open data and the re-use of public sector information. If true, this would mean that not even Member State representatives involved in discussions on the Implementing Act have been fully informed.

We kindly ask you to provide clarity about both the progress made since our previous communication and the timeline from hereon, in particular regarding the initiation of the public consultation phase. We also ask that you inform us about which information has been provided to Member States with regard to the delays with the Implementing Act, and how this might affect the transposition and implementation of the Directive.

Yours sincerely,



Helen Darbishire, Executive Director of Access Info Europe

For and on behalf of the signatories of previous communication: Access Info Europe, One, Open Contracting Partnership, Open State Foundation (NL), OpenCorporates, OpenOwnership, Organized Crime and Corruption Reporting Project OCCRP, The B Team, Transparency International, Transparency International EU.