



**Ukie response to  
the Department  
for Digital,  
Culture, Media  
and Sport's  
consultation  
"Data: a new  
direction"**

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## **Ukie response to the Department for Digital, Culture, Media and Sport's consultation on Data: a new direction**

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### **About Ukie**

1. Ukie is the trade body for the UK's games and interactive entertainment industry. A not-for-profit, it represents more than 525 games businesses of all sizes from start-ups to multinational developers, publishers and service companies, working across online, mobile, console, PC, esports, virtual reality and augmented reality. We welcome the opportunity to respond to the government's consultation Data: a new direction.

### **About the UK games industry**

2. The video games industry is a forward-facing sector built on innovation and is at the crossroads of art and technology, with highly technical and newly emerging skills in fierce demand. The UK games sector specifically is a world leader in interactive entertainment, attracting at least £1.75bn of inward investment between the period of 2015-2017 and has historically been the birthplace of globally successful games franchises that hold appeal to all types of people, all around the world.
3. The video games industry is also well placed to help build back the economy across the whole of the UK. The sector is an economic powerhouse: it supports 47,620 FTEs and £2.87 billion in gross value added to the UK economy<sup>1</sup>. The games industry is 35% more productive than the UK industrial average and is spread across the country: 55% of games development jobs are based outside of London and the South East <sup>2</sup>. Games businesses are natural exporters, too: over 90% of the UK video games industry export products and services.
4. Video games are widely enjoyed in the United Kingdom: with over 37 million players<sup>3</sup> playing games across mobile, PC and console. Video games are enjoyed by people of all ages and backgrounds - the average person who plays games is a highly-educated female in her 40s who is an active consumer of culture<sup>4</sup>.

### **Guiding principles**

5. Digital industries are global by nature and the video games industry is no exception to that. Our growth heavily relies on an efficient transfer of data between territories which is indispensable for the competitiveness of our sector. We therefore strongly welcome the commitment to maintain and indeed further data adequacy provisions. The goal should be to minimize the fragmentation of the global digital markets by pushing joint standards and promote the sharing of data between trusted countries. Mechanisms for international transfer of personal data are essential to allow our companies to operate their businesses

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<sup>1</sup> <https://www2.bfi.org.uk/sites/bfi.org.uk/files/downloads/screen-business-full-report-2018-10-08.pdf>

<sup>2</sup> <https://ukie.org.uk/resources/think-global-create-local-the-regional-economic-impact-of-the-uk-games-industry>

<sup>3</sup> <https://newzoo.com/insights/infographics/uk-games-market-2018/>

<sup>4</sup> <https://www.nesta.org.uk/press-release/new-research-proves-cultural-value-of-video-gaming/>

worldwide while guaranteeing protection of individuals' data in an effective and comprehensive manner.

6. Even when joint standards for sharing data with third countries cannot be achieved, it is important that the different regulatory approaches are made as transparent as possible for European companies operating on global markets. Legal uncertainty should be prevented by providing guidance on how to overcome issues resulting from potentially conflicting data protection regimes.

### **Games and the role of data**

7. Without data, our industry would not exist. Video games are a form of artistic creation that is driven by data. As players interact with games, data about their activity is generated. This data is fundamental for the development and creation of new video game content and plays an essential role in ensuring good and frictionless gaming experiences in line with consumers' requirements and expectations. Data also plays a crucial role in detecting software errors or bugs, as well as identifying and tackling fraudulent and harmful behaviour by bad actors.
8. Gameplay data is generally analysed in the aggregate. This allows the video game company to identify if there is a large problem being experienced by the majority of the players and learn how such "bottlenecks" need to be fixed.
9. Analysis of gameplay data also helps to match players based on very generalised but relevant information such as time-zones or relative skill in order to set up multiplayer game sessions and to ensure the most competitive gaming experience for the players. Players have a more enjoyable experience if they are matched with other players of similar skill levels while non-precise location data is required to ensure players are placed together on the most appropriately located servers, so that their connections are not interrupted.
10. Our sector therefore understands how important data is for economic development. We welcome the Government's ambitious strategy for data in which the potential of data is used to drive innovation and create wealth for the economy and across society. We very much support its prime goal to give a leading role to the UK in the data economy and to tackle a range of issues in order to increase the amount of quality data and to incentivise data-driven innovation.

### **Guiding principles**

11. Ukie has consistently argued for the achievement of a positive data adequacy decision post Brexit. GDPR and now the UK GDPR provides a consistent and accountable regulatory framework against which business can achieve certainty. We therefore welcome the Government's commitment to maintaining the high standards it currently affords. We also welcome the acknowledgement that data is an area of rapid progression, innovation and development and therefore a regulatory regime which can keep pace with the changes in technology whilst providing this certainty and confidence is essential.
12. Equally important is the role government can play in providing clarity and removing ambiguity, but this must not come at the price of over-simplification which could create the opposite effect.

13. We also welcome the acknowledgement that the key elements underpinning the existing regime, such as its data processing principles, its data rights for citizens, and its mechanisms for supervision and enforcement remain. This continuity will underpin a high level of protection for people's personal data and control for individuals over how their data is used.

#### **Compatibility with privacy and trust**

14. In particular, Ukie supports the objective to create an attractive policy environment that combines fit-for-purpose legislation and governance to ensure availability of data, with investments in standards, tools and infrastructures as well as competences for handling data. To this end, updating regulation and sectoral policies can help increase demand for data-enabled offerings and that the rules for access to and use of data need to be fair, practical and clear.
15. The friction between data protection and maximising the use of data has the potential to introduce uncertainty and contradiction. For example, work on the ICO's Children's Code has revealed the tension in requiring the collection and processing of children's data to be kept to an absolute minimum while also increasing requirements for companies to identify their audience's age. If a contradictory policy is developed, core objectives can never be fully achieved.

#### **Limitations of data interoperability and the concept of data intermediaries**

16. The Data: A new direction proposal outlines areas which could be built upon in the data economy. It finds that data sharing between companies has not taken off at sufficient scale and the potential remains nascent. This holds true, of course, for data that has an economic potential when it is shared between economic actors.
17. On-screen action in a video game is determined by a combination of software operation and user input. The data that is processed by a video games company is based on a specific code format which only has relevance in the context of a specific game. This underlying code is proprietary in nature (and is copyright protected) as well as subject to non-disclosure agreements under the licensing agreements allowing gameplay. The game's code only works in the context of a particular game and cannot be "translated" to other games.
18. It is important - that such data cannot be shared. Revealing the code would allow other companies to copy the game and would weaken the technological protection measures put in place to prevent piracy and keep players safe from hackers. The code is the incentive that justifies the investment in the game and ensures the competitive advantage on the market.
19. It is important therefore that compatible formats and protocols for interoperable data sharing remains totally voluntary. Companies should not be forced into standardisation measures when there are no economic incentives to do so.