ACT | The App Association's
EU Policy Guide

Who We Are

The App Association is a global policy trade association for small and medium-sized technology companies. Our members are entrepreneurs, innovators, and independent developers within the global app ecosystem that engage with verticals across every industry. Many of our members create internet of things (IoT) devices and the software that supports IoT innovations. The IoT ecosystem is expected to generate EUR 12.5 billion for the global economy by 2030, significantly contributing to economic growth and job creation within the European Union (EU)[1]. We work with and for our members to promote a policy environment that rewards and inspires innovation while providing resources that help them raise capital, create jobs, and continue to build incredible technology. Today, the ecosystem the App Association represents—which we call the app economy—is valued at approximately €830 billion globally and is responsible for more than 1.3 million jobs in the EU[2].

Key Policy Issues

This policy guide explores policy areas that are most critical to the success of app developers and the broader app economy in the European Union. Our main policy priorities include:

1. Focus on Innovation
2. Standard-Essential Patents
3. Market Access and Platforms
   a. Platform and App Competition
   b. Mergers and Acquisitions
4. Privacy, Cybersecurity, and Data Protection
5. Intellectual Property
6. Artificial Intelligence
7. Connected Health
8. Accessibility
9. Telecommunications
10. The European Green Deal

1. Focus on Innovation

Small and medium-sized entities (SMEs) are the most innovative actors in today's markets, both established and emerging. They are closely connected to their communities, allowing them to quickly gather feedback, identify unmet needs, and adapt rapidly to changing markets. Their agility and flexibility make them the drivers of change and progress, which is why promoting innovation is at the core of our advocacy efforts. For us and our members, innovation is key to unlocking new opportunities and driving economic growth. Therefore, we advocate for the EU to focus more on supporting SMEs to foster their ingenuity and job creation. Additionally, we hope to see more support for the growth and scale-up of SMEs, so they can thrive in a competitive landscape while delivering new ideas and solutions.

We recognise the need for certain regulatory guidelines and protections, and we have historically advocated for clear and strong frameworks to support privacy, cybersecurity, improved data stewardship, and enhanced competition and consumer protection across markets. However, regulatory burdens tend to disproportionately affect SMEs, as compliance often requires significant resources that smaller businesses lack. One of our main overarching messages to policymakers is that any regulation must be flexible, technology-neutral, and outcome-based, especially in fast-moving digital markets. Such an approach will ensure that regulations are adaptable and able to withstand the test of time, rather than becoming rigid and outdated as markets evolve.

Additionally, we consistently advocate for regulatory frameworks that consider the unique needs of SMEs (including passed-on obligations and costs), offering lessened burdens, exceptions, or additional support to help them navigate new regulatory environments, where appropriate.

Notably, a surge in EU regulations in recent years addressing nascent markets including digital platforms and artificial intelligence (AI) has created additional challenges for SMEs, which are often exacerbated by overlaps and even conflicts with other regulations. Moving forward, we call for the EU to focus more on effective implementation, with clearer guidelines and harmonisation to reduce uncertainties in regulatory overlaps. Further, we generally support the creation of regulatory sandboxes allowing small businesses to experiment and innovate without being overburdened by compliance requirements. We hope to see more SME-specific support in navigating the complex landscape of regulatory obligations, ensuring small businesses have the tools they need to comply and succeed.

2. Standard Essential Patents

Patents serve as a mechanism to protect a novel, non-obvious, and industrially applicable idea or process. Small business innovators both hold and license patents. A fair and consistent patent process is critical to innovation. An emphasis on reviewing the validity of a patent prior to an infringement determination is essential to avoid vague and obvious patents being awarded and to prevent patent trolling.

The app ecosystem's success, reliant on continued innovation and investment in connected devices and interfaces, hinges on the sufficiency of key legal frameworks that underlie them. Patents allow small business innovators to protect their investments in innovation, attract venture capital, and establish and maintain a competitive position in the marketplace. As more devices throughout the consumer and enterprise spheres become connected to the internet— often referred to as the internet of things— App Association members' innovations will remain the interface for communicating with these devices. Small business viability is directly correlated to fairness and predictability in the patent system.

The EU is well-positioned to provide clarity and certainty in patent policy. For example, the EC should examine ways to support implementation of the Directive of the Enforcement of Intellectual Property Rights, which provide that proportionality be considered in the awarding of an injunction. Notably, despite this clear policy being in place, courts in Germany routinely award injunctive relief to patent holders based on the court's determination of infringement before that validity of the patent has properly been assessed by the German Federal Patent Court.

As a further example, the App Association views the proposed EU standard-essential patent (SEP) Regulation as a crucial step towards establishing a transparent and fair SEP licensing framework within the EU. The Regulation aims to address concerns raised by the European Commission in 2017 regarding the SEP licensing landscape and its impact on innovation and competition. The App Association believes that clear guidance and measures to mitigate anticompetitive SEP licensing practices are essential to foster innovation and support SMEs.

To support innovation and competition, EU policy must reflect key SEP licensing consensus principles, including that SEP licences are made available to all willing stakeholders; that injunctions are awarded only in exceptional circumstances, such as when monetary remedies are not available; that the tying of non-essential patents in with SEP licensing requirements is prohibited; and that fair, reasonable, and non-discriminatory (FRAND) royalties are based on the value of the patented technology itself. Where standards development organisation (SDO) patent policies are insufficient to guide a clear and predictable understanding of FRAND, the European Commission (EC) should provide guidance to its stakeholders.

We recognise the significance of SMEs in the EU economy and their challenges in SEP negotiations due to limited resources and support the proposed mechanisms under the EU SEP Regulation to remove their significant barriers to competition. We also support a non-binding FRAND conciliation process, aggregate royalty rate determination, and essentiality assessment process performed under the auspices of the EU Intellectual Property Office (EUIPO) and independent expert conciliators and evaluators. EUIPO competence centre procedures proposed in the EU SEP Regulation will allow SEP licensing parties to amicably conclude fair SEP licences and avoid expensive litigation.

The App Association strongly believes that the implementation of a robust EU SEP Regulation is necessary for a balanced SEP framework and provides necessary modifications that align with the European Commission's goals for transparency and effectiveness. We emphasise the inclusion of necessary definitions in the Regulation, such as for essentiality checks and SMEs. Even where the European Commission provides important definitions elsewhere, there should be explicit reference to those definitions in the Regulation. We also stress the importance of EUIPO conducting consistent essentiality checks for SEPs registered with the competence centre, without allowing their determination of essentiality for one patent to have bearing on the essentiality of another patent in a respective patent family that may have been issued in a different jurisdiction. When one patent in a patent family is declared essential by the competence centre, the SEP holder should bear the burden to prove the essentiality for all other patents that they own in that patent family.

In addition, we believe that the EU SEP Regulation offers loopholes for SEP holders to continue exerting undue pressure on implementing standards users, by allowing for preliminary injunctions based on the vague and undefined element of 'financial nature' and providing exceptions for certain use cases of a standard from undergoing a mandatory aggregate royalty rate determination and FRAND conciliation process. Analysing these exceptions based on use cases, instead of the standard alone, does not address that significant difficulties or inefficiencies affecting the functioning of the internal market are caused by SEP licensing abuses, which impacts many market sectors. Standards that have a negative effect on EU competition and should always be subject to competence centre procedures include wireless communications, cellular, Wi-Fi, and audio/video codec standards.

The EU SEP Regulation, with the recommended modifications, will indisputably establish a transparent, predictable, and efficient SEP licensing framework that fosters innovation, supports SMEs, and creates a competitive environment that benefits both SEP holders and implementers, ultimately serving the interests of the EU economy and consumers. Minor adjustments in SEP policy are slow to provide a balance in the SEP ecosystem. The European Commission should take into consideration the implementation of the proposed changes to the EU SEP Regulation to build an equitable SEP licensing ecosystem that will promote innovation and will be open to new players.

We will continue to remain actively engaged at every development stage of the SEP Regulation to ensure its timely adoption. Our priority is to secure strong protections for innovative SMEs that rely on standards to build new technologies. By advocating for a balanced and fair regulatory framework, we aim to ensure that SMEs can thrive in a competitive environment and continue contributing to technological advancements across industries.

3. Market Access and Platforms

a. Platform and App Competition

Platforms have revolutionised market access for smaller companies in a way that has transformed how these businesses connect with consumers. While the advent of the internet itself was a significant leap forward in enabling global connections, platforms have streamlined this process even further, making it easier for businesses to enter markets and interact with consumers.

There is a symbiotic relationship between app stores, developers, and users. Increased platform traffic attracts more developers, which brings in more consumers who then benefit from a higher quantity of high-quality apps. For SMEs and start-ups, the network effects of this multi-sided market are particularly beneficial. They allow small developers to reach new consumers instantly across borders. This also makes it possible for app stores to invest substantial resources into research and development (R&D). Investment in R&D means app stores can offer a variety of high-quality services and other benefits to developers. Programming and advertising integration tools, ready-to-use payment and billing services are particularly advantageous for the smallest app developers who would not otherwise have the resources to develop such features. The more attractive these offerings are, the more app developers flock to the app stores. Today, the largest app stores compete amongst themselves for app developers' products. All developers pay the same low entry fee to make their products available online. No matter their size, they all have access to the same built-in benefits and compete under the same terms and conditions.
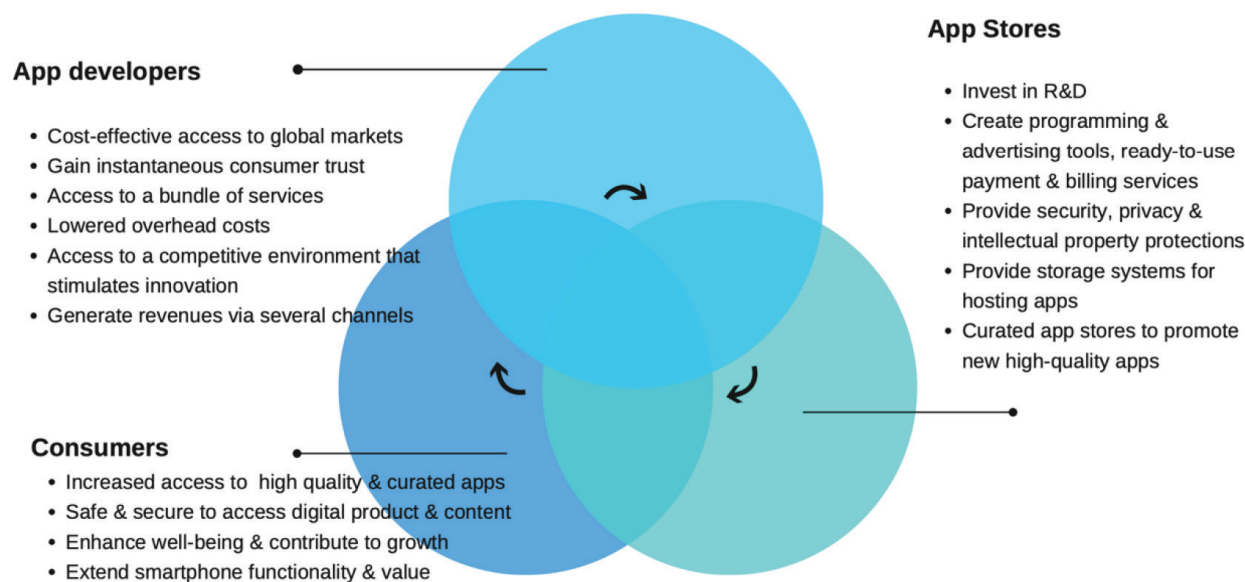
> " App stores facilitate developers' – and especially small business developers' – entrance into markets. The platforms effectively enable fast and inexpensive access to smartphone users around the world. Having low barriers to entry means that even the smallest businesses have access to 3.5 billion smartphone users globally. Facilitating market entrance of small innovative companies increases the sustainability of this dynamic ecosystem[3]. "

[3] p.13. Deloitte Finance, The App Economy in the European Union: A Review of the Mobile App Market and Its Contribution to the European Economy, June 2020. https://actonline.org/wp-content/uploads/Deloitte-The-App-Economy-in-the-EU-2020.pdf

The App Ecosystem[4]

App developers

- Cost-effective access to global markets
- Gain instantaneous consumer trust
- Access to a bundle of services
- Lowered overhead costs
- Access to a competitive environment that stimulates innovation
- Generate revenues via several channels

App Stores

- Invest in R&D
- Create programming & advertising tools, ready-to-use payment & billing services
- Provide security, privacy & intellectual property protections
- Provide storage systems for hosting apps
- Curated app stores to promote new high-quality apps

Consumers

- Increased access to high quality & curated apps
- Safe & secure to access digital product & content
- Enhance well-being & contribute to growth
- Extend smartphone functionality & value

The app economy exemplifies the success of this model. The mobile app sector in the EU reached direct revenues of 86 billion euros in 2019, and the overall contribution of the app economy, factoring in both direct and indirect effects, amounted to 187 billion euros [5]. This staggering figure highlights how competition on digital platforms can drive significant economic growth.

Today, platforms such as app stores offer the easiest entry point for small businesses to reach consumers. The low barriers to entry mean that anyone—from startups to hobbyists—can become app creators. This accessibility fosters competition and innovation, making app development one of the most dynamic and competitive markets.

Consumer Trust

One of the most important aspects of digital markets today is **consumer trust**. While online buying and selling have made transactions more accessible, they've also increased the threat of fraud, scams, and privacy risks. This has made consumers more cautious about protecting their personal data and privacy, driving a growing interest in cybersecurity.

Platforms play a crucial role in fostering consumer trust. By offering consumer protections such as secure payment systems, data privacy guarantees, and vetting processes for products and services, platforms create an environment where users feel more comfortable exploring offerings. This built-in consumer trust benefits all providers on the platform, but it is especially valuable for small businesses, which often lack the brand recognition and established reputation that bigger competitors enjoy.

In digital markets like app marketplaces, one of the largest barriers to entry for small businesses is overcoming the **network effects** and brand loyalty enjoyed by more established players. In these highly competitive markets, platforms help smaller providers by giving them access to the trust and loyalty consumers have in the platform itself. This allows consumers to feel safer exploring products from less-established businesses, leveling the playing field and making it easier for small companies to thrive.

Because consumer trust is so vital to the **competitive capacity of smaller businesses in the app ecosystem**, we caution against regulatory interventions that could disrupt this delicate balance and erode consumer confidence.

Preserving the Competitive Integrity of the App Ecosystem

We advocate for a competitive environment that both inspires and rewards innovation while providing resources to support raising capital, promoting growth, and creating jobs. Policymakers should take great care to avoid disrupting existing competitive dynamics and avoid basing policy changes on edge use cases or theoretical harms, allowing the market to resolve issues on its own unless a demonstrated market failure exists.

Recent regulations in the European Union targeting online platforms, such as the **Digital Markets Act (DMA)**[6] and the **Digital Services Act (DSA)**[7] have introduced new challenges.

In the context of platform regulations, we believe it is important to remind regulators and enforcers to consider the app ecosystem as a whole. Today's online markets are extremely complex and interconnected, and regulatory actions have widespread effects across the entire ecosystem. Platforms, which serve as hosts for many businesses, are integral to the success of countless small companies that rely on their smooth functioning. Any regulatory measures must carefully balance intervention with maintaining the competitive and interconnected nature of these markets, ensuring that the app ecosystem remains robust and accessible.

DMA

In the context of the Digital Markets Act (DMA), the most important point we continue to highlight is the varying developer needs at different levels of the market, in large part depending on the size of the business. While some apps, particularly larger ones, have been vocal in advocating for unbundling the services provided by app stores, it's crucial to recognise that these larger apps stand to benefit the most from this. For example, changes introduced by the DMA, such as the requirements for side-loading and offering unlimited alternative app marketplaces, benefit larger apps with established network effects — such as strong brand recognition, user bases, and reviews. These options, however, offer little utility for micro-sized businesses and startups, which rely heavily on platforms for seamless distribution, reach and visibility; curation by platforms to support privacy, security, and intellectual property needs; and interoperability and accessibility features and tools.

For micro-sized businesses and startups with small teams and limited resources, platforms serve as crucial one-stop shops. It's important to recognise that for these businesses, exploring other app stores or marketplaces is not just a simple switch but a significant business decision. This involves dedicating additional resources to adapt their apps and codes to different platforms, manage updates, and monitor performance across multiple stores.

Moreover, the benefits of accessing alternative app stores are limited for smaller businesses, as their success depends largely on the consumer traction these new platforms can generate, and their ability to foster consumer trust. Without that embedded trust, smaller businesses are unlikely to see significant returns from expanding to less established platforms.

We continue to advocate for implementing the DMA in a way that maintains consumer trust in the app ecosystem, especially in promoting strong data and privacy protections and maintaining robust cybersecurity measures. Additionally, it's essential to promote strong intellectual property (IP) protections for app developers in the evolving digital markets landscape, as these protections not only support small app developers in safeguarding their innovations but also protect consumers from malicious copycat apps, which in turn helps to preserve the integrity and trust of the app ecosystem.

DSA

We have actively advocated for transparency, accountability, and consumer protection in digital markets and understand the role of the Digital Services Act (DSA) in fostering it. We also recognise the role of the DSA in promoting consumer trust in digital markets, which is essential for the competitiveness of small businesses. However, we urge regulators to implement the DSA in a flexible, technically realistic, and proportionate manner, with more clarity on certain expectations and definitions. Moreover, it's important to consider how its provisions may have disproportionate effects on SMEs, and to assess its impacts across the broader digital ecosystem.

The App Association continues to work with policymakers to monitor the implementation of the DMA and DSA and provide guidance to our members on how these new regulations may impact their operations. By staying engaged in this process, we aim to protect the interests of SMEs and ensure that these regulations deliver on their promise of a fair and open digital market.

b. Mergers and Acquisitions

Mergers and acquisitions are crucial to the ecosystem for technology innovation and entrepreneurship. They help entrepreneurs promise returns for investors who take risks in funding early-stage businesses. Acquisitions are a primary pathway for success for small businesses and startups and create significant benefits for consumers and the broader economy. In nearly all cases, a merger or acquisition causes further flourishing of the technology at a new level, offering even more value to a much wider audience.

Success for a startup or small business can take various forms and be accomplished through different means, including being acquired by a larger company with the resources and knowledge to improve the product and/or streamline market entry or an initial public offering (IPO). Acquisitions often offer the most benefits to both business owners and consumers. IPOs are expensive, distracting, and fraught with risk, reducing the likelihood of consumer benefit.

A barrier to exit is a barrier to entry[8]. When entrepreneurs face undue difficulty in getting acquired, it becomes much harder for them to secure the necessary funding from the outset. Excessive government scrutiny of mergers stifles the growth potential of innovative businesses and diminishes the long-term opportunities available to our members.

We encourage policymakers in Europe to move carefully in interpreting, applying, or even updating existing merger rules. We urge that any alteration to existing guidelines be made cautiously and with a narrow scope, rather than a blanket rewrite that would create significant uncertainty in the broader business ecosystem[9]. Any modifications should maintain deference to a thorough economic analysis as a foundation of any merger review or enforcement and avoid making policy-level decisions based on edge cases or hypotheticals that do not reflect the common reality of the business environment. Larger changes will likely have significant long-term, negative effects on our ability to do business, innovate, and successfully compete and succeed.

4. Privacy, Cybersecurity, and Data Protection

The App Association and its members are committed to, and play a key role in, protecting end-user security and privacy. Our SME members, operating across consumer verticals, recognise the ways in which the General Data Protection Regulation (GDPR) shapes privacy rights across Europe and beyond. The GDPR has not only set a global standard for data protection but also influenced privacy policies in other markets around the world, including many EU trading partners like the United States.

Our members care deeply about privacy, understanding that transparency and customer control over data collection and use are essential for building trust and fostering long-term relationships. Our members have made substantial efforts to comply with the GDPR regulation, routinely going beyond its baseline requirements to meet both consumer expectations and competitive market pressures. This includes building in cutting-edge security and privacy features from the earliest stages of product development (privacy-by-design),and using advanced tools such as differential privacy techniques.

The App Association advocates for a pragmatic and scalable approach to privacy regulation that provides SMEs with the ability to appropriately tailor their approaches to the unique requirements of their customers and partners, enabling the most efficient approach to establishing and maintaining consumer confidence. We continue to engage with the European Commission to promote efficient and flexible application of the GDPR that does not hinder the adoption of innovative tools and services, such as those driven by artificial intelligence. We believe that more guidance, tools, workshops, and educational resources are needed to help SMEs navigate the complexities of GDPR compliance effectively. Additionally, we advocate for the development of tools that can assist SMEs in implementing these regulations without compromising their ability to innovate and compete.

International Data Transfers

We highlight the importance of international data transfers, as exemplified by the EU-U.S. Data Privacy Framework (DPF), especially to SMEs. In global markets, the ability to transfer data across borders is vital for SMEs to remain competitive. We support efforts to ensure that frameworks like the DPF facilitate secure and efficient international data flows.

ePrivacy Directive

We are concerned about Member State laws and enforcement actions that may compromise privacy, creating an inconsistent regulatory environment across the EU. The ePrivacy Directive, particularly concerning cookie regulations, is an area where clear and consistent guidelines are crucial to avoid useless burdens that don't provide meaningful consumer protection.

Encryption

Security threats in cyberspace present complex and quickly evolving policy challenges. Our members view the protection of their users' personal information as a core responsibility and an opportunity to earn consumer trust as a competitive advantage in the marketplace. That holds especially true when the personal information at issue involves the contents of users' sensitive communications or other sensitive information. We simply do not believe that undermining encryption —for example, mandating backdoors be built into encryption algorithms—can coexist with this principle.

Encryption is key to the privacy and security of users across the internet, and this is particularly true for members of vulnerable groups. For example, as children and families use the internet to access essential services such as education, healthcare, and even social interaction, screen time has skyrocketed. Weakening encryption undermines the trust individuals place in those services and, ironically, provides child predators and other would-be interlopers a compromised attack vector through which to more easily track and target children.

We are closely monitoring developments related to cybersecurity such as the Child Sexual Abuse Directive[10], digital sovereignty, the Data Act[11], the European Health Data Space[12], and the Data Governance Act[13]. These initiatives have significant implications for how data is managed and accessed within the EU, and it is essential that they strike a balance between protecting privacy and allowing SMEs to operate and innovate freely in a global digital economy.

[10] https://home-affairs.ec.europa.eu/policies/internal-security/child-sexual-abuse_en
[11] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2022%3A68%3AFIN
[12] https://health.ec.europa.eu/ehealth-digital-health-and-care/european-health-data-space_en
[13] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022R0868

5. Intellectual Property

Intellectual property is the creation of the mind: inventions, literary and artistic works, symbols, names and images, and the list goes on. Internationally, there are laws to protect the rights of inventors and creators to control access to and the use of their works. Software or computer programs, such as mobile apps, are literary works protected by these laws. Intellectual property (IP) protections safeguard the creativity and innovation of the App Association members. As the app ecosystem expands globally, our members' ability to create jobs and develop innovative software products and services depends on clear and enforceable copyright protections.

Members of the App Association depend on a strong IP framework to protect their creativity and innovations. We continuously encourage our members to be proactive about copyright and trademark registration and to help them to navigate the process. We also share best practices on how to deal with copyright and other IP infringements, how to avoid costly litigation, and how to resolve the issue within the framework of the platforms' terms of service. We also work with app stores to expedite the removal of pirated content because protecting the integrity of our members' IP is a top priority for us, along with ensuring that app makers can license their content and to appropriately reduce their liability when including user-generated content.

The App Association is the leading industry voice on the app economy for policymakers and provides resources and tools to help app makers and software engineers understand the IP-related rules, regulations, and best practices that are essential for their success. As part of our effort to help our members understand best practices around IP, we also released the App Association IP Licensing Guide[14].

a. Copyright

Copyrights protect original expressions of authorship, in physical form like literary or artistic works (books, music, sound recordings, movies, paintings) and digital forms like software, codes, and databases. Intentional theft or infringement of copyrighted materials is commonly known as piracy.

App developers are both content creators and users. Software and creative content are a valuable part of an intellectual property portfolio. Developers also license software and content for use in their own products and services. Software piracy jeopardises the success of our members and threatens digital content creators' ability to innovate, invest, and hire. Even free, ad-supported applications have their content stolen and new ad networks embedded, making honest developers bear the cost of distributing content while not seeing any ad revenue. Other free apps are pirated to create botnets and commit crimes where the use of the reputation of the legitimate developer lures unsuspecting victims. Like many other industries, the app industry experiences significant loss of revenue each year from piracy and counterfeits. Piracy threatens not only a developer's ability to innovate, invest and hire but also threatens end-user confidence when consumers become victims of illegal distributors who pose as legitimate sellers. Counterfeit software apps can lead to customer data loss, interruption of service, device malfunction, and data privacy risk.

SME software developers are also concerned about the increasing ubiquity that advanced artificial intelligence (AI) systems have introduced around the copyright protection of software developed through both open- and closed-source models. Small business software developers' ability to create competitive products that integrate AI technology across markets is disproportionately harmed by this lack of clarity. Our members and software developers at large play a crucial role in shaping an innovation landscape where strong copyright protections align with the advancement of AI.

b. Trademark

Trademarks protect distinctive signs, symbols, words, names, devices, colors, and more that identify and distinguish one's products or services from the products or services of others. Our members allocate time and resources in developing their business brand, and protection of their logo is integral to building and protecting their reputation.

Trademarks are an essential part of branding and are key to building trust with customers. As cutting-edge creators, our members rely on trademarks to conduct their business every day. Unfortunately, bad actors want to appropriate the success of our members' businesses through brand confusion. The App Association works with our members to advance their understanding of trademark rights and to encourage their trademark registration before a problem arises.

c. Trade Secrets

Trade secrets encompass information, like a formula, program device, method, or technique that: (i) derives independent economic value from being generally unknown and not readily ascertainable by proper means and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Examples of trade secrets include blueprints, customer lists, pricing information, and source code.

Our members also rely on trade secrets, or practices used by businesses that allow them to maintain a competitive advantage. In particular, trade secrets are essential for software that uses machine learning or artificial (or augmented) intelligence. As European policymakers move forward with implementing the AI Act, they should be mindful that trade secrets are integral to the software developer business model, and without trade secrets, the incentive to create is lost.

6. AI

The App Association has actively participated in the ongoing discourse on AI for several years. We advocate for balanced, flexible, and forward-thinking policies that foster innovation while ensuring ethical standards. In 2019, we contributed to the creation of AI policy principles for the EU[15], which have since been updated to reflect the evolving digital landscape and regulatory needs, ensuring they continue to support innovation while maintaining a strong focus on ethical considerations[16].

We share the AI Act's goals of harmonising laws across the EU, promoting the ethical use of AI, and enhancing competition. Our focus is on ensuring that the new law benefits SMEs without imposing excessive burdens, such as added costs and complexities that disrupt smaller businesses. A risk-based approach aligns with our AI policy principles leaving room for innovation while addressing potential harms effectively. Such an approach should ensure the appropriate distribution and mitigation of risk and liability, specifically that those in the value chain with the ability to minimise risks based on their knowledge and ability to mitigate should have appropriate incentives to do so.

Because there are risks in how the AI Act will be implemented, it is crucial that definitions around high-risk AI and general-purpose AI (GPAI) are applied in a way that preserves the flexibility to compete and innovate while avoiding regulatory overreach and unnecessary burdens.

Additionally, while we appreciate the EU AI Act's acknowledgment of copyright issues related to data used for AI training, our members need strong protections to safeguard hard work and creativity. The AI Act aims to ensure that creators are informed when their copyrighted materials are used in training AI systems, helping maintain the integrity of their intellectual property. However, we believe further guidance is needed on how these copyright provisions will be implemented in practice. More precise guidelines will help developers navigate the complexities of compliance, ensuring the balance between protecting creators' rights and discouraging the stifling of competitive technological advancement.

AI Liability

We are also closely following the developments around the proposed AI Liability Directive[17]. In this context, we highlight that the adopted AI Act is already a significant step forward in regulating AI. Therefore, EU's focus should be on ensuring the AI Act's seamless and successful implementation before introducing additional AI-specific rules that could impose further burdens on SMEs in an already complex regulatory landscape and risk stifling innovation. However, if further steps are taken with the AI Liability Directive, we urge policymakers to carefully consider three key issues:

Shared Responsibility
It is vital that any changes made to product liability policy to address AI ensure the appropriate distribution of liability, namely that organisations bear responsibility for risks they have knowledge of and can take reasonable steps to address.

Burden of Proof
Shifting this onto companies and introducing presumptions of liability for AI failures would lead to increased litigation and costs, disproportionately affecting small businesses.

Confidential Information
Requirements forcing AI developers to disclose sensitive information, such as trade secrets, could expose companies to undue legal risks.

The App Association will continue to advocate for policies that help SMEs thrive in creating artificial intelligence, machine learning, and similar technologies, particularly in light of emerging regulations like the AI Act or the upcoming AI Liability Directive, which aims to establish clear accountability and responsibility for the outcomes of these advanced systems.

7. Connected Health

Many of our members combine devices and apps to seamlessly connect patients with caregivers in an affordable manner. Digital tools become increasingly necessary as many EU Member States face a physician shortage and an ageing population. Our members develop solutions that empower patients to receive continuous care and monitoring outside of the doctor's office, to stay engaged with their own health, and to securely share their data with caregivers. Policymakers should craft laws and provide incentives to ensure that patients can effectively use these technologies.

Because health and healthcare are part of a highly regulated policy space, tech-driven tools have been limited in their ability to provide assistance in healthcare management – even if consumers want them to. Laws and regulations are often outdated for the mobile health environment and don't correspond to the connected world we live in now, as it is difficult for regulators to keep up with the pace of innovation.

Educating legislators about new technologies and how they fit into the health ecosystem is an essential step for creating a better environment for mobile health tools and is necessary to effect meaningful policy changes that will enable you to reach new customers and patients. Communicating and illustrating these efforts to policymakers is important to prevent unnecessarily restrictive regulatory action and allows you to continue working to reach your mobile health app's full potential.

Additionally, the App Association welcomes the recent agreement between the Council of the European Union and the European Parliament on the European Health Data Space (EHDS) Regulation[15]. We believe making more health data available and facilitating its exchange are important steps in creating a genuine single market in digital health that protects privacy rights and putting more data and control in the hands of individuals and European care providers.

The EHDS is a crucial step towards creating a single digital health market in Europe. By making more health data available and facilitating secure exchange, it will enhance patient care, drive medical research, and foster innovation while safeguarding privacy rights. We particularly support the regulation's efforts to strengthen individuals' control over their health data and the harmonisation of rules for electronic health record (EHR) systems across the EU.

A true European Health Data Space will empower companies to innovate, improve services, and develop better products. Balancing open data sharing with necessary privacy protections will be key to the success of this legal framework, and we are committed to supporting its efficient implementation in a flexible manner which continues to promote innovation and growth.

Additionally, we believe that fostering collaboration between the public and private sectors is essential to drive innovation and unlock new opportunities in healthcare. By working together, these sectors can accelerate the development of technologies that make health data transfer easier and support a wide range of research and innovation projects. We want to see more collaborative initiatives that leverage shared expertise and resources to advance healthcare solutions and ensure the seamless flow of data for better patient outcomes and more efficient healthcare systems as well as initiatives that maximise the potential of patient- generated health data.

We ask policymakers to support the integration of health technologies into people's everyday lives. By shifting focus towards preventative healthcare, these technologies can empower individuals to take control of their health through tracking, monitoring, and early intervention. This approach not only helps individuals feel more in charge of their well-being but also contributes to addressing EU-wide health issues, alleviating pressures on healthcare systems, and improving the working conditions of healthcare professionals across the continent.

We will continue to closely monitor developments in policy areas related to connected health and ensure we remain actively engaged to represent our members' interests.

8. Accessibility

In today's interconnected world, digital accessibility is more important than ever. At the App Association, we and our SME member companies believe that those with disabilities deserve a fully accessible software experience, and ultimately, way of life. For SMEs, embracing accessibility is not only a matter of compliance, but also about tapping into a broader customer base, enhancing brand reputation, driving innovation, and empowering users of all abilities. Our members have always prioritised accessibility, often exceeding regulatory requirements well before such regulations were in place. And as active advocates for accessibility, we have a history of filing on this issue to better support our SME members.

The European Accessibility Act (EAA), adopted in 2019, sets important standards for making products and services across the EU accessible to all. This legislation is key for developers of websites, mobile apps, and digital services as it mandates accessibility features for a wide range of technologies, including e-commerce platforms, digital content, and self-service terminals like ATMs.
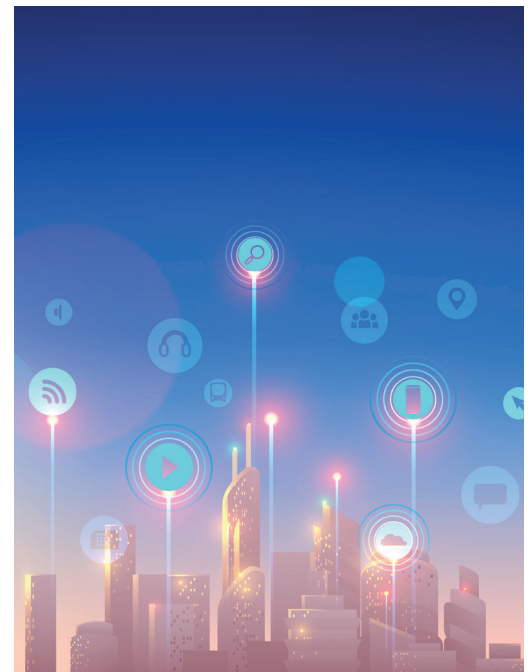
We believe the EAA's 'accessibility by design' approach is critical for ensuring that accessibility is not an afterthought but an integral part of the development process. Incorporating accessibility from the outset ensures that digital products and services are usable by all, including people with disabilities, thereby reaching a wider audience and driving greater adoption. Compliance with the EAA is not just a legal necessity; it opens the door to millions of users who may otherwise be excluded from the benefits of the digital age.

Complementing the EAA, the Web Accessibility Directive (Directive (EU) 2016/2102) has been instrumental in ensuring that public sector bodies' websites and mobile applications are accessible to everyone. The Directive harmonises accessibility standards across the EU, making sure that public services are available to all citizens, including those with disabilities. At the App Association, we have actively supported this Directive and welcomed the European Commission's ongoing review of its application.

As advocates for SMEs in the digital economy, we remain dedicated to advancing accessibility. We believe that the inclusion of accessibility features across all digital platforms is essential for the growth of the app economy. Accessible technology increases the number of users who can benefit from an app or digital service and strengthens the developer's position in the market by expanding their potential audience.

9. Broadband Connectivity

The App Association has long advocated for an open, competitive digital ecosystem where innovation can thrive, particularly for SMEs. A key component of this ecosystem is a robust and accessible telecommunications infrastructure that allows app developers to deliver services seamlessly to consumers throughout Europe. However, recent discussions[19] around the Fair Share proposal pose significant risks to this dynamic.

Proponents of the Fair Share initiative suggest that large content and application providers (CAPs) should be required to pay additional fees to support telecom operators' network infrastructure. While we acknowledge the need for continued investment in Europe's digital infrastructure, we oppose any approach that undermines the EU's existing Net Neutrality regulatory framework and mandates cost sharing with edge providers. Such fees would raise costs for all parts of the ecosystem, and those costs would weigh disproportionately on small app companies. This would not only distort competition but also restrict access for many app developers who rely on open and fair networks to innovate and grow[20].

The expansion of high-speed internet across Europe remains a critical priority. As we look toward the future of connectivity, particularly with the rollout of 5G and future wireless standards, we believe that internet access must be equitable and available to all — especially in underserved and rural areas. Many app developers operate in diverse regions across Europe, and ensuring widespread connectivity will allow them to deliver their services to consumers everywhere. Bridging this digital divide is crucial not just for the success of individual businesses, but for the digital economy as a whole.

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[19]ACT | The App Association response to European Commission consultation 'How to Master Europe's Infrastructure needs?'
[19] May 2023. The future of electronic communications sector and its infrastructure needs. https://digital-strategy.ec.europa.eu/en/consultations/future-electronic-communications-sector-and-its-infrastructure
[20]ACT | The App Association response to European Commission consultation 'How to Master Europe's Infrastructure needs?'

The app economy is built on the ingenuity and creativity of developers from all corners of the European Union. These developers, often SMEs, depend on a reliable, affordable, and open digital infrastructure to provide services that enhance the everyday lives of millions of EU residents. Whether it's healthcare, education, or commerce, apps are powering new solutions in every industry. For this ecosystem to thrive, however, policymakers must prioritise fair access to the internet and resist efforts that would disproportionately benefit larger players at the expense of smaller innovators.

As we look ahead, the future of Europe's digital economy relies on a strong, accessible, and open telecommunications infrastructure. It is essential that telecom operators continue to invest in their networks, but this should not come at the cost of SMEs and app developers who rely on fair and equitable access to these networks. The Fair Share proposal, if reintroduced, risks creating unnecessary barriers for innovation, hindering the growth of the EU app economy, and ultimately, limiting consumer choice.

At the App Association, we remain committed to advocating for policies that foster competition, encourage innovation, and ensure that Europe remains a leader in the global digital economy. By working together, we can create an environment where all developers—big or small—have the opportunity to succeed, and where everyone has access to the internet, regardless of where they are.

10. The European Green Deal

The App Association has long been dedicated to promoting sustainability across the tech sector, recognising both the existing challenges and the powerful opportunities that arise at the intersection of technology and environmental stewardship. We support and engage in cooperation across the industry to make new technologies such as AI more energy efficient in data centers and on user devices. Technology, when harnessed responsibly, is a critical tool for addressing environmental issues, and we believe in the power of innovation to drive transformative solutions.

In particular, SMEs are often at the forefront of this innovative drive. Their close connections to local communities and dynamic approach to problem-solving enable them to respond effectively to emerging environmental challenges. Many of our members are passionate about tackling some of the biggest questions surrounding climate and environmental sustainability. For example, IoT solutions offer game-changing opportunities in this space, with products like smart metres helping reduce energy consumption, smart grids optimising energy distribution, and environmental monitoring devices tracking pollution and natural resource usage in real time.

We believe that continued innovation in these areas is essential, and we encourage the industry to come together to prioritise finding new solutions to ongoing climate challenges. Moreover, to achieve this, we call on policymakers to actively support the industry in its efforts. This includes not only fostering the development of industry standards that promote sustainability but also providing investment and practical guidance to ensure SMEs have the resources and tools they need to participate in this green transition. By working together, we can ensure that the tech sector continues to be a driving force in building a more sustainable future for all.