

Corporate Digital Responsibility

1. Data: key issues

Synthesis

Businesses in the light of digital transformations

The extent of technological transformations, the massification of data and their consideration at all levels of the company are transforming the landscape in which the company evolve. At the same time a technical transformation, a strategic challenge and a human upheaval, digital technology generates new risks to be apprehended and new opportunities to be explored. Considered as one of the assets of the economic recovery plans following the Covid-19 health crisis, it must be part of companies' CSR strategy.

Faced with the amount of data generated by the digital transition, companies today have a fourfold responsibility in the control of this data and its protection, legal, managerial and ethical. The CSR Platform has noted that while legal responsibility is framed by the law, all the risks and responsibilities raised by digital technology are not covered by CSR practices, while its use raises significant questions about its social, environmental and societal impacts.

This is why the CSR Platform proposes a definition of Corporate Digital Responsibility (CDR), which reads as follows:

CDR is a new and unavoidable extension of CSR, which is based on the same principles of trust, accountability, ethics and exchanges with companies stakeholders. The cross-cutting nature of digital technology and its omnipresence mean that the value creation it generates must be understood and shared by all, with regard to democratic, social and societal issues. It is a question of trust, a trust that needs to be renewed in view of the constant changes in technology.

The CDR operates in many fields related to the use of computer and digital resources available to companies. A digitally responsible company should thus respond to several major challenges, in line with the objectives of sustainable development:

- regulatory responsibility, linked to data protection and compliance with the GDPR and sectoral regulations;
- ethical responsibility, linked to artificial intelligence (AI) software;
- societal responsibility, related to data management, the transformation of working methods, the type of data sharing and the inclusion of all;
- environmental responsibility, related to the use of data in considering the environmental impacts of business activities.

The CSR Platform first focused on identifying the responsibility of companies with regard to the data they collect, manage, store and process. This report is the first in a series of reports dedicated to the digital responsibility of companies, so the profound changes concerning work, the relationships between employees, managers and stakeholders, and the notorious increase of the environmental footprint by digital technology will be studied later.

Digital and CSR, two sectors that must be applied together in the company

The notion of "corporate digital responsibility" (CDR) is still underdeveloped in France and is proving to be fundamental. Data protection, which is highly regulated by law, is a major issue for companies in terms of competition and the protection of human rights, corporate value and the evolution of business models, and is part of a responsible approach to employees, stakeholders, customers and users.

However, it is clear that, even if the digital transition is now impacting all companies, digital issues are not integrated into CSR strategies, and vice versa. The hearings conducted within the framework of the CSR Platform working group and the analysis of the legislative texts in force show the regrettable lack of coordination between digital and CSR. The members of the CSR Platform can therefore only recommend coordination between these two policies and liaison between the departments responsible for them.

Businesses faced with the massification of data

Since 1970, international treaties, European directives and French legislation have succeeded one another in order to regulate the use of data by companies and ensure the protection of all users' data.

In addition to personal data, companies possess a multitude of data with which they interact daily and in all sectors of their activities - marketing, customer relations, stakeholder relations, commercial data, accounting and financial data, research data, exploitation, etc - and which they use to manage their business.

Nevertheless, the creation, possession or manipulation of data exposes companies to various risks and threats.

Furthermore, the increasing digitization of companies is contributing to the construction of a global digital horizon that must include values of respect for human rights and collective interest. Artificial intelligence (AI), by paving the way for new services and increasing the productive capacities of companies, has rapidly emerged

as a strategic technology. It makes it possible to strengthen the competitiveness of companies and its implementation can have an impact on the well-being of citizens and the environment.

In view of the impact of digital technology on their activities, the CSR Platform believes that it is fundamental for companies to ensure the ethical use of processes and the accountability of AI actors.

Data governance within the company

The management of data by companies today is a driving force for development and innovation, and is a key to their strategy. Data governance is fundamental to the sustainable digital transformation of companies. It enables the effective definition of the policies, functions and procedures required to process corporate information. It must ensure effective protection of personal and operational data, and falls under several aspects of CSR. Within the framework of The PACTE legislation (Plan d'Action pour la Croissance et la Transformation des Entreprises – Action Plan for Business Growth and Transformation), management is invited to take into account the ethical issues related to data in the definition of their *raison d'être*, particularly in companies whose business model is data-driven.

Data governance is a collegial decision, planned and implemented by Data Protection Officers (DPOs), with the operational support of the Information Systems Department (ISD) and the strategic support of the management bodies.

The European Data Protection Council (EDPS, ex G29) recommends that the DPO should be involved at an early stage in all data protection issues, and the GDPR provides that the DPO should report directly to the highest level of the management. However, it has to be noted that in most companies, data governance is still perceived as a compliance issue and not an accountability issue. Compliance is the minimum responsibility of organizations and is not sufficient to meet public expectations of corporate responsibility, manage risk, or meet stakeholder expectations.

At the same time, it appears that despite the beneficial effects of regulation, companies, especially micro and SMEs, still have a long way to go to go beyond compliance and link it to their overall societal commitment.

Improving access to data can maximize their societal and economic usefulness, provided that all stakeholders (data controllers and processors) respect the various mechanisms that govern data transfer: Binding Corporate Rules, standard contractual clauses or Privacy Shield.

Thus, to really integrate digital responsibility at the heart of their strategy, some large companies are setting up a Data Protection Committee. By involving a multitude of stakeholders, the role of this committee can be to integrate ethical issues into data governance. Moreover, the volume and complexity of the ethical issues that future developers will face makes it necessary to train them to fight against discriminatory biases.

Data protection practices

Threats to cybersecurity are multiplying: companies are increasingly exposed to data breaches. A security breach is characterized by the accidental or unlawful destruction, loss, alteration, unauthorized disclosure or access to data transmitted, stored or otherwise processed. In the face of this threat, the importance of corporate social responsibility is increased due to the personal or strategic nature of the impacted data.

Data processors must anticipate and implement processes to detect a breach, contain it, understand the risks involved, and determine who notifies the breach. They must set up a data breach log; for example, anonymization of data, although fallible, prevents identification: it therefore secures the exploitation of personal data and respects the rights of the individuals whose data are processed.

Many companies have an information systems security policy. But within micro and SMEs, the lack of resources and often the lack of in-house expertise makes it difficult to implement efficient policies. The CSR Platform has been attentive to their need for support to ensure a sufficient level of protection. Micro and SMEs must therefore be attentive to digital responsibility, which is essential in the relationships they build with customers and consumers, particularly as players in value chains.

As the use of external service providers to store and manage their data increases, businesses must ensure that they retain control of their data.

During its hearings, the CSR Platform reviewed the methods of data management by companies

Many companies use an Enterprise Resource Planning (ERP) system, which allows the management of all the processes of a company by integrating into a single database all of its functions, including human resources management, accounting and financial management, decision support, but also sales, distribution, procurement and e-commerce. This centralization facilitates compliance with the GDPR. Tools such as "Electronic Data Interchange" allow for standardization of data and therefore better interoperability. However, such solutions are costly and complex, which can be a barrier to their implementation in micro and SMEs.

Outsourcing of data management and storage is becoming widespread and crucial in the development of the data economy. It opens up access to future and emerging technologies such as AI, and makes a major contribution to competitiveness, the conquest of adjacent markets and the development of new markets. On this subject, France lags behind other European Union countries.

However, the emergence of this paradigm raises two major issues: the loss of control over data and a loss of control over data security. In order to implement this IT outsourcing, companies are increasingly using tools to transfer data to third parties, as part of a contract that includes data obligations. This raises the question of the delegation of responsibilities, specific to CSR, which applies between a company and its subcontractor providing digital services - certain obligations of which are set out in

the GDPR and the Privacy Shield. However, digital solution providers can go further than simply complying with regulations in data processing by implementing a CSR approach based on best practices.

Reconciling CSR tools and digital challenges

In a process of reconciling their effects, digital and CSR can enrich companies. Corporate Digital Responsibility (CDR) involves the protection of data held by economic players with a view to protecting company assets, respecting rights, freedoms and privacy but also the well-being of employees, consumers and stakeholders.

In a context of constant digital change, data protection and respect for human rights are fundamental and constitute a responsible approach by companies. CSR offers perspectives that can - and must - be the vectors of increased responsibility for companies in their approach to digital technology.

Voluntary standards, reference frameworks, self-diagnostic tools, charters and company networks are all ways of reconciling the digital challenges of today and tomorrow with the societal and ethical requirements of CSR.

Recommendations of the CSR Platform

The CSR Platform believes that it is necessary to strengthen the management of data held by companies, whether on human rights grounds or the impact on business models. It encourages new models while respecting legal frameworks.

To this end, the CSR Platform believes it is essential to provide training, from an early age, in the use of new technologies and their potential impact on privacy and rights in general. Companies must be part of a dynamic of training in digital issues for everyone - public institutions, managers, employees or trade unions - in order to engage a global responsibility.

Starting from the observation that CSR and digital strategies remain far apart in the vast majority of companies, the CSR Platform considers it essential to adopt common strategies and to adopt stronger and more sustainable societal, social, environmental and ethical ambitions.

It affirms that the new field of CSR is also numerical in nature and that future European texts must provide the perspectives and frameworks for it. In view of this state of affairs, the CSR Platform recommends that the definition of Corporate Digital Responsibility that it proposes be made operational, and makes recommendations to public authorities, companies, trade unions, researchers and those involved in extra-financial evaluation in order to make all companies take responsibility for issues related to digital technology.

In a report adopted on 6 July 2020, the CSR Platform proposes a definition of the digital responsibility of companies, formulates a diagnosis of the data challenge and addresses 34 recommendations to the various stakeholders.

The emergence of new technological possibilities - Artificial Intelligence, connected objects, the cloud, big data, robotics, etc. - is a major factor in the development of new technologies - is transforming the landscape in which companies operate. Faced with issues related to ethics, respect for the environment, digital heritage and its protection, human resources management and legal risks, digital technology is becoming more and more important in the definition of a company's strategy.

To address the issues raised by the digital transition, the CSR Platform set up a working group in 2019 on "Corporate Digital Responsibility" led by Bettina Laville (Comité 21), Ghislaine Hierso (4D) and Geoffroy de Vienne (CFTC). This group conducted eighteen hearings in order to draw-up a diagnosis and proposals.

In this first opinion, adopted at the plenary assembly on 6 July 2020, the CSR Platform focused on the data collected or generated by companies in the course of their activities. It sought to give a clear and precise definition of what it means for a company to be digitally responsible. The consideration of social and environmental challenges by companies will be examined later in a second report.

By analysing the digital context in which companies operate and drawing on their practices, the CSR Platform addresses 34 recommendations to public authorities, companies, trade unions, researchers and those involved in the extra-financial evaluation of companies.