Data Act

The Data Act is a key measure for making more data available for use in line with EU rules and values.

The proposed Regulation on harmonised rules on fair access to and use of data — also known as the Data Act — was adopted by the Commission on 23 February 2022. The Data Act is a key pillar of the European strategy for data. It will make an important contribution to the digital transformation objective of the Digital Decade.

The new measures complement the Data Governance Regulation proposed in November 2020, the first deliverable of the European strategy for data. While the Data Governance Regulation creates the processes and structures to facilitate data, the Data Act clarifies who can create value from data and under which conditions.

The Data Act will ensure fairness by setting up rules regarding the use of data generated by Internet of Things (IoT) devices.

Users of objects or devices generally believe that they should have full rights of the data they generate. However, these rights are often unclear. And, manufacturers do not always design their products in a way that allows users, both professionals and consumers, to take full advantage of the digital data they create when using IoT objects. This leads to a situation where there is no fair distribution of the capacity to build on such important digital data, holding back digitisation and value creation.

Furthermore, the Data Act aims to ensure consistency between data access rights, which are often developed for specific situations and with varying rules and conditions. While the Data Act is without
prejudice to existing data access obligations, any future rules should be consistent with it. Existing rules should be assessed and, if relevant, aligned to the Data Act when their review is due.

How will this work in practice?

The Data Act will make more data available for the benefit of companies, citizens and public administrations through a set of measures such as:

- Measures to **increase legal certainty** for companies and consumers who generate data on who can use what such data and under which conditions, and incentives for manufacturers to continue investing in high-quality data generation. These measures will make it easier to transfer data between service providers and will encourage more actors, regardless of their size, to participate in the data economy.
- Measures to **prevent abuse of contractual imbalances** that hinder fair data sharing. SMEs will be protected against unfair contractual terms imposed by a party enjoying a significantly stronger market position. The Commission will also develop model contract clauses in order to help such market participants draft and negotiate fair data-sharing contracts.
- Means for **public sector bodies to access and use data** held by the private sector that is necessary for specific public interest purposes. For instance, to develop insights to respond quickly and securely to a public emergency, while minimising the burden on businesses.
- New rules setting the right **framework conditions for customers to effectively switch** between different providers of data-processing services to unlock the EU cloud market. These will also contribute to an overall framework for efficient data interoperability.

In addition, the Data Act reviews certain aspects of the Database Directive. Notably, it clarifies the role of the sui generis database right (i.e. the right to protect the content of certain databases) and its application to databases resulting from data generated or obtained by IoT devices. This will ensure that the balance between the interests of data holders and users is in line with the broader objectives of the EU data policy.

Impact across the EU

The Data Act will be a powerful engine for innovation and new jobs. It will allow the EU to ensure that it is at the forefront of the second wave of innovation based on data.

- When you buy a ‘traditional’ product, you acquire all parts and accessories of that product. However, when you buy a connected product that generates data, it is often not clear who can do what with the data. By empowering users to transfer (‘port’) their data more easily, the Data Act will give both individuals and businesses more control over the data they generate through their use of smart objects, machines and devices, thereby allowing them to enjoy the advantages of the digitisation of products.
- By having access to the relevant data, aftermarket services providers will be able to improve and innovate their services and compete on an equal footing with comparable services offered by manufacturers. Therefore, users of connected products could opt for a cheaper repair and maintenance provider – or maintain and repair it themselves. This way, they would benefit from lower prices on that market. This could extend the lifespan of connected products, thus contributing to the Green Deal objectives.
- Availability of data about the functioning of industrial equipment will allow for factory shop-floor optimisation: factories, farms and construction companies will be able to optimise operational cycles, production lines and supply chain management, including based on machine learning.
- In precision agriculture, IoT analytics of data from connected equipment can help farmers
analyse real-time data like weather, temperature, moisture, prices or GPS signals and provide insights on how to optimise and increase yield. This will improve farm planning and help farmers make decisions about the level of resources needed.

- EU businesses, especially SMEs, will have more possibilities to compete and innovate on the basis of data they generate thanks to data access and portability rights. It will be easier to transfer data to and between service providers and this will encourage more actors, regardless of their size, to participate in the data economy.

**Open consultation**

The open public consultation on the Data Act ran from 3 June to 3 September 2021. The summary report takes stock of the contributions and presents stakeholder views that helped shape the proposal, focusing on quantitative aspects.

The proposal for a Data Act was open for feedback from stakeholders from 14 March to 11 May 2022. This feedback will be presented to the European Parliament and Council with the aim of feeding into the legislative debate.

Data Act - Press release
Impact Assessment
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Related Content

Big Picture

A European Strategy for data

The strategy for data focuses on putting people first in developing technology, and defending and promoting European values and rights in the digital world.

See Also

Free flow of non-personal data
The EU wants to ensure a free flow of data in Europe, allowing companies and public administrations to store and process non-personal data wherever they choose.

European Data Governance Act

A European Data Governance Act, which is fully in line with EU values and principles, will bring significant benefits to EU citizens and companies.

Big data

Data has become a key asset for the economy and our societies and the need to make sense of ‘big data’ is leading to innovations in technology.

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