

Data Governance Act

Availability of data in the EU



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1 Executive summary

Objective and content of the Data Governance Act

In May 2022, the Data Governance Act was adopted with the aim of facilitating the re-use of protected data held by public sector bodies, increasing the trust in in data intermediation services and promoting their altruistic use

Content of the Regulation

- 1 Conditions for the **re-use**, within the Union, of certain categories of data
- 2 Requirements applicable to **data intermediation services**
- 3 Framework for the establishment of a **European Data Innovation Board**
- 4 Framework for registration of entities which collect and process data made available for **altruistic purposes**



Data covered by the Regulation

Data held by public sector bodies which are protected on grounds of:

- **commercial confidentiality**, including business, professional and company secrets
- **statistical confidentiality**
- protection of **intellectual property rights** of third parties
- protection of **personal data**, insofar as such data fall outside the scope of **Directive on open data** (complements this Directive which did not include this type of data)



Data excluded from the scope of the Regulation

1. Data held by:
 - **public undertakings**
 - **public service broadcasters**
 - **cultural and educational establishments;**
 - public sector bodies which are protected for reasons of **public security, defence or national security**
2. Data the supply of which is an activity falling **outside the scope** of the public task of the public sector bodies

Next steps

- ❖ This Regulation shall enter into force on **23 June 2022** and shall apply from **September 2023**.
- ❖ **Entities providing the data intermediation services** shall comply with the obligations set out in this Regulation by **September 2025**.



2 Re-use of protected data held by public sector bodies

Prohibitions of exclusive arrangements and conditions for re-use

The Regulation generally prohibits exclusivity agreements pertaining the re-use of data and provides exceptions to this general rule. In addition, it sets the conditions for the re-use of data and the request process

 The following are prohibited:


Agreements or other practices pertaining the **re-use of data held by public bodies**, to which the Regulation applies...

.... which grant **exclusive rights** or restrict the **availability of data** for re-use by entities other than the parties to such agreements or other practices.



 2- Exceptions:

Exclusivity agreements shall be permitted when required for the provision of a service or the supply of a product in the **general interest**.

-  The duration of an exclusive right to re-use data shall not exceed **12 months**.
- The grant shall be **transparent** and made publicly available online.

 Re-use of protected data held by public sector bodies



Use of data by **natural or legal persons** for commercial or non-commercial purposes other than the purpose for which the data were produced.

Publication by public sector bodies:



Conditions for re-use

- ✓ Assurance that data has been **anonymised** (personal data) or modified, aggregated or treated (commercially confidential information).
- ✓ Access and re-use of data remotely within a **secure processing** environment with conditions to **preserve the integrity** of the functioning of the technical systems of the secure processing environment used.
- ✓ **Confidentiality obligation**.
- ✓ Technical and operational measures to prevent **re-identification** of the data subjects to whom the anonymous data refer to.
- ✓ Comply with **intellectual property rights**.
- ✓ Specific requirements for **transferring data to third countries**, if applicable.
- ✓ Payment of **fees**, where applicable and limited to a number of specific costs.

Request process



Sending an application to the **single information point**. All available data resources (format and size of data and conditions for re-use) will be published here.



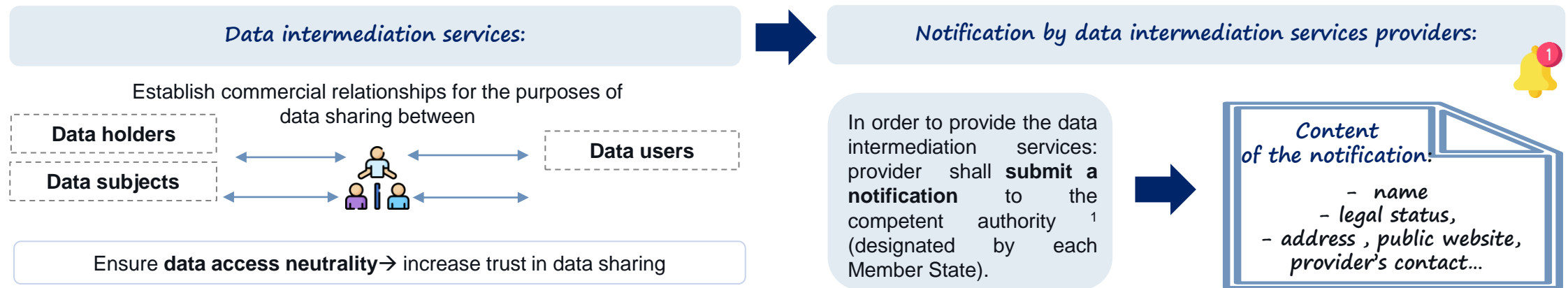
Time limit to adopt the application **2 months** from the date of receipt of the request (may be extended by up to 30 days).

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Requirements applicable to data intermediation services

Conditions and monitoring of compliance

It lays down the requirements applicable to data intermediation services and the monitoring and supervision of compliance with these requirements by the competent authorities.



Conditions for providing data intermediation services by the providers

- Not use the data for which it provides data intermediation services for **purposes other than** to put them at the disposal of data users.
- Have in place procedures and measures to impose penalties for **fraudulent or abusive practices**.
- Ensure a reasonable **continuity of the provision** of its data intermediation services.
- Inform data holders in the event of an **unauthorised transfer**.
- Maintain a log **record** of the data intermediation activity.

Monitoring of compliance

Competent authorities for data intermediation services shall monitor and supervise compliance of data intermediation services providers:

- Shall have the power to **request all the information** that is necessary.
- **Notify** the provider of its observations in the event of non-compliance.
- **Require the cessation of the infringement** within a reasonable time limit or immediately in the case of a serious infringement and shall take appropriate and proportionate measures:
 - i) Administrative penalties
 - ii) Suspension
 - iii) Cessation

(1) Requirements relating to competent authorities : i) To be legally distinct from, and functionally independent of, any data intermediation services provider or recognised data altruism organisation; ii) The top-level management and personnel responsible for carrying out the relevant tasks of the competent authorities shall not be the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of the services which they evaluate, nor the authorised representative of any of those parties.

The EC shall establish a European Data Innovation Board to advise and assist the Commission in handling requests for the re-use of data, among other tasks

Tasks of the Board



Advise the EC:

With regard to developing a consistent practice of the **competent authorities** for data intermediation services and for the registration of data altruism organisations across the Union, in **handling requests for the re-use** of data.

With regard to developing consistent **guidelines** on how to best protect commercially sensitive **non-personal data** and for **cybersecurity** requirements.

On the **prioritisation of cross-sector standards** to be used and developed: i) for data use and cross-sector data sharing between emerging common European data space: ii) cross-sectoral comparison and exchange of best practices with regard to sectoral requirements for **security and access procedures**.



Propose guidelines:

For **common European data spaces**, interoperable frameworks of common standards and practices, **to share or jointly process data** for the development of new products and services, scientific research or civil society initiatives.

Such common standards and practices taking into account existing standards, **complying with the competition** rules and ensuring **non-discriminatory** access to all participant.



Assist in the implementation of the DGA:

By assisting the EC in addressing fragmentation of the internal market and the data economy in the internal market by enhancing **cross-border interoperability** of data.

By facilitating cooperation between Member States with regard to setting **harmonised conditions** allowing the re-use of the categories of across the internal market.

Composition and organisation

The Commission shall **chair the meetings** of the European Data Innovation Board



The European Data Innovation Board shall consist of **at least the following three subgroups**:



- a subgroup composed of the **competent authorities** for data intermediation services and the competent authorities for the registration of data altruism organisations
- a subgroup for **technical discussions** on standardisation, portability and interoperability.
- a subgroup for **stakeholder involvement** composed of relevant representatives from industry, research, academia, civil society, standardisation organisations, relevant common European data spaces and other relevant stakeholders.

5 Data altruism y International access and transfer

General conditions and monitoring

Each competent authority shall keep a public national register of recognised data altruism organisations and monitor compliance with the requirements they shall meet.

Data altruism

-  **Voluntary sharing** of data on the basis of the consent of data subjects to process **personal data** pertaining to them, or permissions of data holders to allow the use of their **non-personal data** without seeking or receiving a reward and for objectives of **general interest**.
-  Member States shall notify the Commission of their **national policies** for **data altruism**.

Public registers

- Each competent authority for the **registration of data altruism organisations** shall keep a public register of recognised data altruism organisations.
- In order to qualify for the register altruism organisations, an entity shall **fullfill some requirements**:
 - **Legal person**, to meet objectives of general interest.
 - Operate on a **not-for-profit basis**.
 - **Separate structure** to carry out its data altruism.

Transparency requirements:

- Complete register of :**
 - ✓ **Persons** who have been allowed to process data
 - ✓ **Date or duration** of data processing
 - ✓ **Purpose** of data processing
 - ✓ **Payment of fees**
- Regular annual reports** on the organisation's activities

Information requirements for data subjects and data holders:

- Objectives of **general interest**
- Location** of any processing activity carried out in a **third country**

International access and transfer

- The public sector body, data intermediation services provider or the recognised data altruism organisation shall take all **reasonable technical, legal and organisational measures**, in order to prevent international transfer to non-personal data where such transfer or access would create a conflict with Union law or the national law.
- In **decisions and judgments** of **third-country** courts requiring the transfer of data to these bodies:

① Shall be recognised or enforceable in any manner only if based on an **international agreement** (e.g. mutual legal assistance treaty).

② **In the absence of an international agreement**, transfer to or access to such data country authority shall take place only where specific conditions are met¹. In this case, the **minimum amount** of data allowed in response to the request will be provided.

(1) For more information see Article 32.

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Why Management Solutions

Experience in Governance and Quality

Management Solutions has carried out different type of projects in the field of Data Governance, supporting many of our clients since the birth of their Data Office / CDO function

Type of Projects Developed in the field of Data Governance

- ✓ **Strategic Data Plan:** Preparation of Strategic Data Plans, focused on the definition, development and implementation of the Data Governance Model and the actions necessary for its implementation, subsequently managing the implementation PMO.
- ✓ **Design and roll out of the entity's Data Office:** participation in the design and implementation of functions, definition of the organizational structure and sizing of the office, definition of the relationship model and definition and monitoring of performance measurement KPIs.
- ✓ **Definition of data governance policies and procedures:** preparation of the entity's Data Governance Framework, including the identification of the different roles to be implemented, the design and implementation of the data governance committees, the specific procedures to implement (data dictionary, traceability, data quality, etc.) and the necessary tools for implementation.
- ✓ **Preparation of the data ontology of the entity:** preparation of a map of domains and subdomains of the entity, making a first assignment of owners, reviewing the data processes and analyzing the architecture of main systems.
- ✓ **Implementation of use cases:** list of relevant concepts and its definition, traceability analysis, documentation of information flows and data interfaces from the original applications to the exploitation repositories, definition of the quality control model, execution of quality rules , identification and monitoring of action plans, etc.
- ✓ **Definition of the comprehensive data quality model:** definition of quality measurement criteria, identification of those responsible for data quality, design of controls to be carried out on the concepts (e.g. completeness, format, consistency) and establishment of data quality control and monitoring methodologies.
- ✓ **Governance tool implementation processes:** supporting in requirements gathering processes, selection and assessment of market tools, execution of PoCs and implementation of different types of Data Governance tools. Testing, detection, reporting and monitoring of incidents, and execution of use cases (eg: health provisions, etc.).
- ✓ **Availability of quality tools:** prototype and support for the construction of data quality control and monitoring tools (dashboards), subsequently executing quality management use cases.
- ✓ **New requirements:** Definition of a new management process for data projects, defining and executing the project step by step, from the requirement to development.
- ✓ **Definition of requirements and new architectures for data environments:** Corporate Data Lakes, Prototyping Environments (Sandbox), in Cloud-based repositories, etc.
- ✓ **Elaboration of corporate data architecture maps for the organization**

A Definitions

Data holder

“A legal person, including public sector bodies and international organisations, or a natural person who is not a data subject with respect to the specific data in question, which, in accordance with applicable Union or national law, has the right to grant access to or to share certain personal data or non-personal data”

Data user

“A natural or legal person who has lawful access to certain personal or non-personal data and has the right, in the case of personal data, to use that data for commercial or non-commercial purposes”

Data sharing

“The provision of data by a data subject or a data holder to a data user for the purpose of the joint or individual use of such data, based on voluntary agreements or Union or national law, directly or through an intermediary, for example under open or commercial licences subject to a fee or free of charge”

Data intermediation service

“A service which aims to establish commercial relationships for the purposes of data sharing between an undetermined number of data subjects and data holders on the one hand and data users on the other, through technical, legal or other means, including for the purpose of exercising the rights of data subjects in relation to personal data, excluding at least the following:

- a) services that obtain data from data holders and aggregate, enrich or transform the data for the purpose of adding substantial value to it and license the use of the resulting data to data users, without establishing a commercial relationship between data holders and data users;
- b) services that focus on the intermediation of copyright-protected content;
- c) services that are exclusively used by one data holder in order to enable the use of the data held by that data holder, or that are used by multiple legal persons in a closed group, including supplier or customer relationships or collaborations established by contract, in particular those that have as a main objective to ensure the functionalities of objects and devices connected to the Internet of Things;
- d) data sharing services offered by public sector bodies that do not aim to establish commercial relationships”

Services of data cooperatives

“Data intermediation services offered by an organisational structure constituted by data subjects, one-person undertakings or SMEs who are members of that structure, having as its main objectives to support its members in the exercise of their rights with respect to certain data, including with regard to making informed choices before they consent to data processing, to exchange views on data processing purposes and conditions that would best represent the interests of its members in relation to their data, and to negotiate terms and conditions for data processing on behalf of its members before giving permission to the processing of non-personal data or before they consent to the processing of personal data”



International
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Multiscope
Team



Best Practice
Know-How



Proven
Experience



Maximum
Commitment



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