

Data act and digital policies

Draft legislation on digital files

This will be a busy period in terms of the legislative negotiations on digital files and, depending on the progress under the French and Czech Presidencies, the following files could be expected to be on the table of the Telecom Council during their Presidency term:

- *e-Privacy Regulation (trilogue process)*
- *Artificial Intelligence (possibly trilogue process)*
- *European Digital Identity (possibly trilogue process)*
- *Data Act (possibly trilogue process)*
- *Cyber Resilience Act (negotiations on the Council position and trilogue process)*
- *The review of the Broadband Cost Reduction Directive / The new Connectivity Infrastructure Act (negotiations on the Council position and trilogue process)*

For the proposals on the AI regulation, Digital Identity regulation and the e-Privacy regulation, the Swedish Presidency will have high chances for finalising the negotiations under their term.

Moreover, if rapid progress could be ensured both on the Council and the EP side in the negotiations on the Data Act and the review of the Broadband Cost Reduction Directive, the Swedish Presidency would have a chance to conclude the trilogue negotiations.

Data act

The College adopted the proposal for a data act on 23 February 2022. Negotiations in the Council are ongoing. The French Presidency seeks to table the first compromise proposal. In the European Parliament. The leading committee is the Committee on Industry, Research and Energy with the rapporteur Pilar del Castillo Vera (EPP, ES).

The data act is the last major legislative initiative announced under the European data strategy adopted in February 2020. The strategy describes the vision to create a single European data space – a genuine internal market for data, where data flows freely across sectors and countries, in line with European rules and values, and data-driven innovation is embraced by society.

Main messages

- As announced in the European strategy for data, the Commission's objective is to enable the EU to become the most attractive, most secure and most dynamic data-agile economy in the world.
- With our European way for handling data, we want to ensure that more data becomes available and that it is used for the benefit of the European economy and society.
- We want to create a thriving ecosystem for the development of innovative business models, products and services, where European champions can become tomorrow's business and industrial leaders. To do this, we are proposing ambitious legislative proposals, such as the data act as well as investments for e.g. building common European data spaces and increase digital skills.
- The key objective of the data act is to ensure fairness in the allocation of data value among various actors of the data economy, especially in the context of internet of things (IoT). The proposal will be an instrument to the benefit of SMEs.
- It will enable innovation around IoT objects by third parties on the request of the user. Rules on IoT data access and use will clarify rights for other sectors.

- The data act will facilitate the use of business data for public institutions in exceptional situations such as emergencies. The framework will facilitate the cooperation between the public and private sector where it is exceptionally necessary.
- On cloud services, the proposal will enable the switching between services, addressing existing lock-in effects.
- We will also improve interoperability with regard to the building of common European data spaces where necessary.
- We count on the Swedish Presidency to swiftly continue the negotiation process on this important file for the EU, if not concluded by the Czech Presidency.

Defensives

Does the data act proposal add further complexity to the corpus of legislation in the digital field?

- We are working on major initiatives on parallel to achieve the ultimate goal of creating a genuine single market for data.
- It is important to move forward now and use the window of opportunity with regard to the next big wave of industrial data. We already have made progress on various instances (e.g. the Digital Markets Act, the Digital Services Act and the Digital the Data Governance Act)
- The consistency of the proposal for a data act with other proposals has been carefully considered.

Is the proposal leading to lower investments in IoT objects?

- Manufacturers always maintain a structural advantage in relation to the exploitation of data from connected objects, since
 - they are the first to know the existence of such data, which allows them to design services; and
 - they can establish a data pool of data resulting from these objects easily, having the first contact with users of these objects.
- There will continue to be competition in the object market and the characteristics of an object play a major role, including the presence of sensors.
- I am convinced that we have struck the right balance of interests, inter alia through remuneration.

Background

Overview data act

The proposal covers the following situations:

- Business-to-business (B2B) data-sharing on a contractual basis, and data access obligations under certain circumstances where data is generated using a connected object such as an Internet-of-Things device;
- Business-to-consumer (B2C), where a consumer generates data through using a product or related service, and will be further empowered to more easily share data with third parties of their choosing, while remaining fully in control, and;
- Business-to-government (B2G) sharing of data in the public interest in “exceptional circumstances”, such as in case of public emergencies.

The data act will lay down horizontal rules for data access across sectors, which may be complemented by sectoral legislation where necessary (e.g. with regard to data formats, cybersecurity, technical access requirements).

In addition, the data act proposes measures to allow cloud users in the EU to switch more easily between different providers of data processing services, for free or against reasonable costs, as well as a framework for efficient data interoperability.