

Data Act

Main messages

- The aim of the EU data strategy is to unleash the potential of use and re-use of data and to build open, competitive and human-centric ecosystems around data in Europe.
- Voluntary data-sharing partnerships are supported by investments in common European data spaces and legislative rules on data intermediaries via the Data Governance Act.
- Such data intermediaries would have to, as their main function, bring supply and demand for data together, but would be limited to the role of a facilitator of the exchange (no own use of the data by the intermediary). They could be used by individuals to better digitise their online lives and by businesses to manage their data assets better.
- The Data Act aims to make the markets for data-driven services for cloud services more dynamic by giving users of the growing class of connected (IoT) objects a right to access and use the data that such objects create. This would lead to a fairer distribution of the value that economic operators can take from data, both users of such objects and third party service providers. Any sharing of personal data must comply with the General Data Protection Regulation.
- Giving users of cloud services a right to switch such services is a measure that we hope makes that market more competitive.

Defensive

Why does the Data Act explicitly exclude Digital Markets Act (DMA) gatekeepers from the beneficiary third parties that can receive data from connected objects via the user (consumer, professional)?

- The Data Act brings legal clarity that users (consumers and professionals) can use data from their connected objects and make such data available to third parties. This intervention is meant to redress a current imbalance in the market that often makes it hard for innovative companies to arrange contractually for such data access.
- For companies of the size and market power of a DMA gatekeeper, we do not see such a need. It remains possible under the Data Act to obtain data access contractually in partnerships with manufacturers of connected objects.

Background

Data strategy and Data Act

The Commission adopted a data strategy in February 2020. The Data Governance Act, the first legislative deliverable under this strategy, has been agreed upon by Parliament and Council (political agreement end of November 2021; expected to be signed – after linguistic revision and translation – in May or June 2022). The second deliverable under the strategy, the proposal for a Data Act, was adopted on 23 February 2022 and is now discussed by the co-legislators.

The Data Act introduces minimum regulatory requirements of contractual and commercial nature to enable cloud switching and improved open interoperability standards. The Data Act defines a minimum timeframe for switching. It also abolishes fees that may be charged for the switching process. To stimulate interoperability between cloud services, the Data Act builds on a standardisation approach, making open standards and ‘open interoperability specifications’ for cloud switching mandatory where these exist.

The Data Act also introduces new criteria on cloud services to shield EU non-personal data from unlawful access by non-EU/EEA public authorities. [redacted]

The establishment of common European data spaces is supported through the Digital Europe programme. Currently, we are awarding funding for preparatory projects to develop the data governance principles and architectures for the different data spaces.

In the Council, discussions have already started under the Council Working Party on Telecommunications. The French Presidency aims for one full reading of the proposal and possibly starting with drafting work.

In the Parliament, the assignment to a relevant committee has started. ITRE committee is most likely to be in the lead (the provisional assignment can be contested at this moment). According to the information available, S&D might be able to nominate the rapporteur, two contestants are known to date ([redacted]).

EU cloud security certification scheme

ENISA is currently preparing a candidate scheme, which it plans to bring to all Member States for an opinion in April 2022. After ENISA has reached a mature draft candidate scheme, the Commission will draft an implementing act to establish the scheme.

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