

Data Act – new rules for using machine data

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Summary

The Commission presented in February 2022 a proposal for a Regulation on harmonised rules on fair access to and use of data. An aim of this proposal - also known as the Data Act - is that users of connected devices will be granted a right to access the usage data.

“We want to give consumers and companies even more control over what can be done with their data, clarifying who can access data and on what terms.”

Margrethe Vestager, Commission Executive Vice-President for a Europe fit for the digital age

Content

The proposal consists of four main elements. First, it establishes measures to allow users of connected devices to gain access to data generated by them and to share such data with third parties. Second, it consists of a so-called EU fairness test to prevent abuse of contractual imbalances in data sharing contracts with SMEs under certain circumstances. Third, there are means for public sector bodies to access and use data held by the private sector that is necessary for exceptional circumstances. Fourth, there are new rules that enable customers to switch between different cloud data-processing services providers and that put in place safeguards against unlawful data transfers.

Pro

VDMA welcomes that the Commission wants to facilitate a European data market, and will, therefore, develop contractual terms on data access. VDMA also welcomes that micro and small enterprises are exempted from data sharing obligations.

Contra

Data is defined in a generic way, which might lead to uncertainty. The intervention in business relations is deep, which is in our view not justified because we have not identified general imbalances that hamper the exchange of data between a manufacturer and its customer. If there are any, they should be addressed by EU competition law or by sectoral legislation. And the EU fairness test will lead to legal uncertainty. Overall, the risk of disturbing data markets outweighs the chances to boost the data economy.

Our Evaluation



The proposal needs to be improved by the European Parliament and Council in the ongoing trilogue negotiations. We call upon to respect freedom of contract and entrepreneurial freedom. We also believe that the bureaucracy due to new information obligations must be reduced and that IPR rights and trade secrets must be better protected.

€ 270 billion

Expected additional GDP by 2028 thanks to new Data rules

Source: European Commission

You can find more information [here](#)

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