



## Data sharing by private actors as an avenue for more sustainability

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# Introduction – Context





# Introduction – Example of sharing for sustainability purposes





# Introduction – Two important distinctions



# Existing or proposed European legal framework

1. *Voluntary* data sharing: the “data altruism” example (Data Governance Act)
  
2. *Compulsory* data sharing
  - A. Initial reflections on compulsory **B2G** data sharing
  - B. Compulsory **B2G** data sharing for “exceptional needs” (Data Act Proposal)
  - C. Compulsory **B2B** data sharing

# 1. *Voluntary* data sharing: the “data altruism” example (Data Governance Act Proposal)

## Contractual agreements

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, “Towards a common European data space”, Brussels, 25 April 2018, COM(2018) 232 final.

## “Data altruism” (Arts. 16 to 25 of the DGA)

European Parliament legislative resolution of 6 April 2022 on the proposal for a regulation of the European Parliament and of the Council on European data governance (Data Governance Act), P9\_TA(2022)0111.

- Voluntary mechanism through which data subjects (individuals) can decide to share their personal data, and data holders (private actors) can decide to share their non-personal data, for objectives of general interest, without seeking or receiving a reward (although the direct costs incurred by the sharing can be recovered) (Art. 2(16))

# 1. *Voluntary* data sharing: the “data altruism” example (Data Governance Act Proposal)

## “Data altruism” (Arts. 16 to 25 of the DGA)

- Data pools managed by a “data altruism organisation” (Art. 18)
  - Only public or private non-for-profit entities that pursue a general interest objective through a legally independent and functionally separate structure
- Request to the authority that is competent for registrations for the territory where it is established (Art. 19)
  - Must determine in advance for which objectives of general interest it will manage a data pool and which data it will need to do so
  - If registered, may use the “data altruism organisation” label in its written and spoken communication and the common DAO logo designed by the Commission (Art. 17.2)
- Transparency and safeguards requirements + compliance with “rulebook” (Arts. 20 to 22)

## 2.A. Initial reflections on *compulsory* B2G data sharing

### 2017: public consultation on PSI Directive recast

European Commission, “Consultation on PSI Directive review – Synopsis report”, 25 April 2018, available at <https://ec.europa.eu/digital-single-market/en/news/synopsis-report-public-consultation-revision-directive-reuse-public-sector-information>.

- 88% of the 205 respondents supported the proposition to impose B2G data sharing for “public interests”
- Eventually not included
  - Unclear objectives, scope and definition of “public interests”

### High-Level Expert Group (HLEG) on B2G Data Sharing

High-Level Expert Group on Business-to-Government Data Sharing, “Towards a European strategy on business-to-government data sharing for public interests – Final report”, 2020, available at <https://ec.europa.eu/digital-single-market/en/news/experts-say-privately-held-data-available-european-union-should-be-used-better-and-more>.

- 4 core principles for B2G data sharing in the public interest: proportionality; data-use limitation; risk mitigation and safeguards; and compensation



# 2.B. Compulsory B2G data sharing for “exceptional needs” (Data Act Proposal)

## Principle

Proposal for a Regulation of the European Parliament and of the Council on harmonised rules on fair access to and use of data (Data Act), 23 February 2022, COM(2022) 68 final.

- “Upon request, a data holder shall make data available to a public sector body or to a Union institution, agency or body demonstrating an exceptional need to use the data requested” (Art. 14.1)
  - Micro and small undertakings exempted (Art. 14.2)

## Exceptional needs

- Respond to, prevent or assist recovery from a public emergency (Art. 15.a) and b))
- Lack of available data prevents the public sector body from fulfilling a specific task in the public interest and cannot get the data elsewhere and through other means in a timely manner (Art. 15.c)
- **Data sharing for environmental or sustainability purpose = exceptional need?**

## 2.B. *Compulsory B2G* data sharing for “exceptional needs” (Data Act Proposal)

### **B2G data sharing framework (Arts. 17 to 22)**

- Transparency and proportionality obligations (Arts. 15 and 17)
  - Echoes HLEG proportionality principle
- Obligations regarding the data use (Art. 19)
  - Echoes HLEG data-use limitation principle
- Data obtained by the public sector body may not be made available for further re-use in open data (Art. 17.3)
  - Echoes HLEG risk mitigation and safeguards principle
- Remuneration (Art. 20)
  - Echoes HLEG compensation principle



## 2.C. *Compulsory* B2B data sharing

### Context

- Have received less interest from European legislator than B2G data sharing
- Might be justified in specific circumstances (ex: “smart farming”)

### Embryo in the Data Act Proposal

- IoT data access right (Arts. 3 to 7)
- Mainly included for innovation and competition purposes but could also support sustainability objectives
  - More competitive aftermarket services, such as repair and maintenance services
  - In line with EU’s “Circular Economy Action Plan”
    - Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, “*A new Circular Economy Action Plan For a cleaner and more competitive Europe*”, 11 March 2020, COM(2020) 98 final





Thank you for your attention!

Questions?

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