

Towards data regulation: what are the implications for data spaces participants?

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Legislation and regulations for data spaces: an environment for the development of a European Data Market

(Some) Key legal frameworks

AI Act

Data
Governance Act

Data Act

Data Governance Act

Mandatory regime for data intermediation service providers (DISP)

Criteria for a DIS (Art.2(11)): **Service** which aims to establish commercial relationships for the purposes of data sharing between undetermined numbers of both [data subjects / data holders] + [data users] through technical, legal, or other means.

→ Likely be very relevant for data space participants

(Some) Obligations of a DIS

Notification Obligation (Art. 11): Mandatory reporting to competent authority

Neutrality of Service: Intermediation services must remain neutral

Fair, transparent, and non-discriminatory access (Art. 12(f)): Access to intermediation services must be fair and transparent, without discrimination

Ensure continuity in case of insolvency (Art. 12(h)): Entities must ensure continued intermediation services in insolvency

Ensure interoperability (Art. 12(i)): Implement measures for data and Data Intermediation Service interoperability

Measures against unlawful non-personal data transfer or access (Art. 12(j)): Implement technical, legal, and organizational measures to prevent unlawful non-personal data transfer or access

Security of data; highest security for competitively-sensitive information: Ensure data security, especially for competitively-sensitive information

Fiduciary duty to data subjects (Art. 12(m) and Recital 33): Entities have a fiduciary duty to act in the best interests of individual data subjects

Implications for data space participants?



To be seen



Rules for DISP to ensure that they function as trustworthy organisers of data sharing or pooling

→ Increase trust in data sharing: basing the model on neutrality and transparency



Potential costs associated with meeting these obligations

→ Need innovative business models to support



Depends on the configuration of the data space

→ Case by case assessment required

Looking ahead

DGA also anticipates complementary Union or national legislation enabling sector specific requirements e.g. Regulation to set up a European Health Data Space

Role of EDIB in standard setting and providing further guidance on interpretation of DGA

Opportunity to participate in standard setting: interface with EDIB's stakeholder subgroup (see: Art. 29(2)(c) and Art. 30(e)-(h) DGA)

→ There is more to be seen in terms of the future impact on participants

Data Act

Data transactions (Chap. IV) - Provisions on unfair contractual terms

Interoperability (Art. 33) - Requirements for data space participants

- **Dataset parameters:** A sufficient description of dataset content, use restrictions, data collection methodology, data quality and uncertainty in a machine-readable format
- **Technical data:** Public availability of descriptions of data structures, data formats, vocabularies, classification schemes, taxonomies, and where available, code lists
- **Technical means:** A sufficient description of the technical means to access the data, such as APIs, and their terms of use and quality of service, to enable automatic access and transmission of data between parties
- **Data sharing agreements:** Provision of the means, where applicable, to enable the interoperability of tools for automating the execution of data sharing agreements, such as **smart contracts**.

Artificial Intelligence Act



The AI Act underscores the importance of data spaces for generating **high-quality training data** for AI systems (Rec. 45)

- Article 10(2), outlines "appropriate data governance and management practices" to ensure compliance and address specified criteria for data quality



Providers of high-risk AI systems are mandated to adhere to:



specific quality criteria for their data, including annotation, labeling, cleaning, enrichment and aggregation



meet criteria such as relevance, representativeness, error-free status and completeness,



ensure data should possess characteristics specific to geographical, behavioral, or functional settings

Implications for data space participants?

In order for data spaces to facilitate the development of AI systems, they will need to provide the infrastructure and practices to enable data access while complying with the provisions of the AI Act



→ Leveraging data spaces for high-quality datasets:

Robust data governance practices, including comprehensive metadata and labelling, can be established through the use of data spaces

This approach ensures the widespread availability of high-quality datasets, which helps AI system providers train and develop effective models

To conclude...



Data space participants have a unique opportunity to proactively shape the future of common European data spaces and data economy



The legal framework provided by the new regulations serves as a foundation for building and strengthening common European data spaces



Many of these regulations are horizontal, fostering a collaborative environment where mutual learning and shared insights can enhance our collective understanding within this community

Aim: To support the creation of common data spaces that collectively provide a data sovereign, interoperable and trustworthy environment for data sharing to enable data re-use within and across sectors, fully respecting EU values and supporting the European economy and society.



**DATA SPACES
SUPPORT CENTRE**

Further reading

- Baloup et al, White Paper on the Data Governance Act (June 23, 2021). Available at SSRN: <https://ssrn.com/abstract=3872703>
- Bobev, et al, White Paper on the Definition of Data Intermediation Services (Oct 2, 2023). Available at SSRN: <https://ssrn.com/abstract=4589987>
- Curry et al, Data Sharing Spaces: The BDVA Perspective, 2022, https://link.springer.com/chapter/10.1007/978-3-030-93975-5_22
- Ducuing, Margoni and Schirru, White Paper on the Data Act Proposal (Oct 26, 2022). Available at <https://www.law.kuleuven.be/citip/en/Publications/citip-whitepaperdataact.pdf>
- DSSC, [Blueprint V0.5 Data Spaces Blueprint | Version 0.5 | September 2023 - Blueprint - Data Spaces Support Centre \(dssc.eu\)](https://dssc.eu)
- Margoni, et al, Data property, data governance and Common European Data Spaces, forthcoming in *Computerrecht: Tijdschrift voor Informatica, Telecommunicatie en Recht*; 2023, <https://zenodo.org/record/7906945>

Thank you!

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