



THE DATA ACT

Wednesday 26 October 2022
17h00 – 18h30
Virtual Meeting

WELCOME & INTRODUCTION BY THE CHAIR

Prof. Maria da Graça CARVALHO, MEP (EPP, Portugal), Industry, Research & Energy Committee; Internal Market & Consumer Protection Committee

I thank the European Forum for Manufacturing for organising this very timely event and welcome all the speakers, our member of the Commission, my colleague MEPs and members of the business sector to this evening's Forum discussion.

The Data Act is an important part of the Data Strategy. It will be a crucial Regulation and high on the Parliamentary Agenda. It is a very horizontal holistic Regulation and very complex.



There are legal, economic and technical issues which are addressed – including to whom data belongs, can be shared and used.

It is crucial as data is growing substantially in volume. This Act therefore aims to ensure that we have harmonised rules on who can use and access data generated in the EU across all economic sectors. So far, until now, only a small part of industrial data is used. This is a great shame because it has a considerable economic value.

The Data Act addresses the legal, the economic and the technical issues that needs to be solved exactly on these issues:

- to whom does the data belong?
- under which conditions can the data be shared?
- in which conditions can the data be used?

So, it is a very important for the citizens, for the customers.

The European Parliament and Council of Ministers are currently working on it, the European Commission having published its proposal in February this year.

ITRE is the lead European Parliament Committee with IMCO, JURI and LIBE also making input. Some Committees have exclusive competence in some areas such as cloud switching. We are very near the end of the amendments and most of the ITRE Report is available. The IMCO Opinion is also available and I am one of the Shadow Rapporteurs. For ITRE and LIBE, 9 November is the amendment deadline.

In parallel, the Council is also working through it Chapter by Chapter and advancing quite well. Committee votes will be in January and it will go to Plenary either February or March next year.

We are doing everything we can to fulfil this very ambitious calendar and have a good Data Act that will be afterwards complemented by sectorial regulations for some areas.

We have already health and automotive industry and there will be more sectoral regulations that will come afterwards to complement this horizontal one.

There are no big disagreements – only slightly different views.



Yvo VOLMAN, EUROPEAN COMMISSION, DG CNECT, Director, Data Directorate

First of all, thank you Mme Chair and also many thanks to Antony for organising this meeting. It is very timely because things are in full swing at the moment around the Data Act.

This is a perfect moment to take your views still into account.

Everything started with the Data Strategy in 2020. Perhaps I will say a few words on the Data Strategy first. There is a vision behind the Data Strategy. It is about Europe becoming a real player in data economy.

And behind this vision there are actually four principles:

- We would like data to flow between countries, Members States and between sectors.
- We would like ample data to be available for use, because that is a key condition to make the data economy work.
- We would like data use to be in line with our European values including data protection rules
- There must be clear rules on who can access and use what data and under which conditions, because that is a problem at the moment.

Now, the Data Act gets, and rightly so, a lot of political attention. But if you talked about data twenty years ago you were normally in a company of geeks, now that really has changed completely. There is a very good reason for that because data has this enormous potential economically.

It is the basis for new services, for new products. Data is going to be part of that everywhere. But also, it has an enormous societal potential and the health sector was mentioned. Data will help us to get personalised medicine that will help us to live longer and healthier lives. It will also help us to reduce our energy consumption or to simply move around better in a city.

So, it has this enormous potential.

On the Data Strategy, just an important point: this is not just about legislation, legislation, legislation.

It is part of a broader programme where we actually put also money on the table as European Commission from the programmes: Horizon Europe but also the Digital Europe Programme to make sure that the data technologies that are needed are in place, but also for the development of common European data spaces.

I would like to say that the legislation goes hand in hand with these more practical measures. And really it should be seen as a package. That is important.

So, this brings me to the Data Act – the second main instrument under the Data Strategy legislative instrument.

And there what we have tried to do is to have a balanced approach where, on the one hand we made more data available to use, but at the same time we keep the incentives for investment, for people who actually make the data technologies.

What the Data Act is trying to do is to create a fair allocation of the value of data in a situation where there is not clarity at the moment. One part of this picture is actually also consideration of where there is currently exclusive use of data of IoT (Internet of Things) objects.

And that is really the focus of this event.

The problems that we see around these IoT objects, we see them in many different sectors, and the problems are more or less the same everywhere.

But then some of the detailed solutions may be slightly different in one sector or the other. I will come back to that in a moment.

We will focus on the IoT objects, but the Data Act is doing more than regulate Data access in the IoT context, it also looks at contractual fairness in B2B (Business to Business) constellations.

It looks at Business to Government data sharing, it also facilitates cloud switching – switching for one cloud service to the other – and it aims in general at improving interoperability to make data use much more easily.

I will focus on the connected objects, because I think that what you are more concerned with.

Now, things used to be so simple in life. You bought an object and it was yours. And everything that came from that object was yours. How does that work with connected objects? It produces data, so is that yours? Or you should at least get part of the value of the data? It is simply not clear, how it would work.

In practice, we see that manufacturers have, in many cases, use the data already and de facto think they own the data. Now, that is slightly problematic, because as user of an object you bought it, the data is also yours. We find this in the Data Act constellation, where more data use is possible, but at the same time we keep the possibility for the manufacturers to actually also use the data.

Now, on the solutions that we have found: we have talked of course before, but also after the publication of the Data Act proposals, with a very wide range of stakeholders.

And again, we would really like to get the balance right in the final instrument.

We see that many points require clarification.

For example, is this only about raw data or is it also about added value data? Is that still covered by the Data Act? So, this is being clarified in the discussions and this important point is not fully clear in the Commission proposals – I have to admit that.

And what we want, is that this instrument works in practice otherwise it will not fulfil its aim.

Now, already the point about horizontal legislation versus vertical legislation was raised and we often get questions: how will that work in practice?

The Data Act is the principles' based legislation. That sets the framework for all the different sectors where there are data sharing obligations.

Now, there is room to come on top of the Data Act with sectorial legislation to actually fill in some of the details and some of the technical details. That may be different in the cars' sector or in the broader manufacturing industry. Our colleagues in DG GROW are looking at the type approval legislation and see whether it is necessary to actually complement the Data Act with sector specific legislation for cars.

A last point I would like to make because all of you are going to raise it, it is about trade secrets. What did we do with trade secrets in the proposal? What we want to avoid is that by excluding data that can be seen as trade secrets that we create a gigantic loophole in the Data Act.

Because how do trade secrets work? They are unilaterally declared by a company. So, if you say we exclude anything that is a trade secret from the scope, then a company could say, yes but I consider the data coming from all these IoT objects as trade secrets and actually you would make the Data Act empty.

So, that is not a good solution. That is not the way we went.

But what we did do, is actually provide a number of safeguards in terms of the protection of the trade secrets if there are trade secrets at stake according to a company and also there are a number of remedies, if things go wrong and if the data are at the end of the day used for the wrong purposes.

In Article 11 there is a very strong remedy that actually the companies can rely on.

I will leave it at that and am very happy to have this discussion and looking forward to the questions and the comments.



Alin MITUȚA, MEP (Renew Europe, Romania), Shadow Rapporteur, Industry, Research & Energy Committee

Thank you very much for the invitation to speak tonight: it has been already said this discussion comes at a very timely moment.

We just had this morning the public Hearing in the ITRE Committee and we have heard from the industry, and on areas that we can improve and I believe this event is also another good opportunity to further expand on the issue and find the right solutions.

In my view the Data Act is a ground-breaking piece of legislation.

It is the first of its kind in the world.

It has a great potential to create a fair and competitive data economy, to also allow a huge amount of personal data to be shared and harnessed. That is very important.

As mentioned by Mr Volman, from the European Commission, the Data Act also builds upon the idea of data portability and will finally eliminate the barriers and allow the users to switch from one cloud service provider to another. It also improves the interoperability between different data spaces that are currently under development through sectorial regulations as we all know.

One of my key priorities is to place the user more at the centre of the data ecosystem.

The data holder is currently seen as the party entitled for compensation but let us look at it from a different perspective and place data holders and users, let us say in a more balanced position in which both are co-owners of the data.

Because if you look closely, if a user were to directly share the non-personal data he or she generates with the data recipients - why would not the user be entitled to compensation?

In order to fully benefit from the data economy, I believe there are certain key areas that we need to focus on.

This is a horizontal piece of legislation that covers a multitude of areas. So, we should have a very clear scope in regards to the type of data and the types of devices.

At the same time, we need to have a closer look, especially on those who will be affected by the Data Act. We must clarify the role and interdependencies between the actors involved, of data holder users and gatekeepers.

Our ambition will be to foster innovation and not to hamper it. That is our objective.

Therefore, a big focus should be placed on the protection and tracking of intellectual property rights – this has been already mentioned by the Commission – and this is a top priority for us in the Parliament as well.

The data sharing between private entities and the public sector, the so called B2G is of course an important addition. We have seen during the pandemic that this is very useful.

We have also seen the shortcomings.

So, that is why, I believe, we should aim to make these data transfers more efficient and fair.

The designation of one single authority to manage all the requests from the private sector and avoidance of additional burden for the private entities could be a possible solution that I support.

In addition, we should also work on developing stronger safeguards, on how data is managed by public authorities and in what circumstances it can be requested.

Finally, as in my introduction, I said there is also the privacy concern. Most of the devices besides the non-personal data are also collecting some personal data, therefore developing harmonised rules and practices on how data is anonymised should be an underpinning requirement for secure and privacy complying data sharing.

I am also curious to hear the views of the other speakers, and I am also here to reply to any questions.

Niklas GUSTAFSSON, VOLVO Group, Vice President Public Policy & Regulatory Affairs

Thank you for your invitation. It is excellent to be here and listen to you and share with you.

I represent the Volvo Group, that is trucks, buses and construction equipment, marine equipment and industrial applications. We are one of the largest truck manufacturers in the world. We are present in 190 different countries, based in Sweden and we are B2B. I want to start with that we are not consumer products like passengers' cars, we are B2B, actually maybe more comparable to machines in a factory than anything else. We put some €2 billion a year in R&D, and most of it, more than 60%, in Europe.



We welcome the European Commission's proposal to assign users wider rights to oversee third parties' access to data generated by their products. In particular, users will be empowered to decide on how data generated by the use of products should be shared with and used by stakeholders of their choice.

We do understand that the European Commission aims to promote fair, reasonable, and non-discriminatory access to data across all sectors of the data economy. However, that aim should not be pursued by restricting manufacturers' technical choices.

The manufacturers' sharing of data from commercial products should first and foremost serve the business and the productivity in the customer ecosystem. This ecosystem includes customers' own applications, their service providers, and other manufacturers in the system. It is therefore important to find solutions that are beneficial and sustainable for all stakeholders in the ecosystem.

As Volvo Group we are already providing customer data on request to customers and third parties of their choice, and engage in voluntary agreements to share data. This contributes to making data widely accessible for the creation of improved products and services, also facilitating the emergence of new business models. And this is happening as we speak.

The Data Act is a horizontal type of regulation setting out basic rules on data access and use for all sectors and industries, making no differentiation between consumer and commercial products. Contrary to consumer products which are generally purchased for domestic use, commercial products are purchased by companies to operate their businesses.

The Data Act, as it is currently drafted, does not take into account the complexity of commercial vehicles and machines where there often are multiple solution providers that cooperate to fit the customer's application.

I give an example: the fire-fighting truck for instance, is certainly not built solely by Volvo trucks or Renault trucks, or Mercedes trucks. It is a lot of different stakeholders on the way from the end of line of the Volvo truck to actually becoming a fire-fighter truck at the end. Many different companies are involved and a lot of data sharing and services in between there.

So, current contractual agreements will be overridden by the Data Act and new business relationships, with the Data Act definition of users, needs to be established. Therefore, the relation

between manufacturer, data holders, owners and renter and lessee must be clarified, specifically with respect to who is accountable for what and to whom.

Much of the data generated by the internal components of a product is functional data, not intended to be extracted. From a technical point of view, transferring additional data would often require deep modifications of the physical architecture and the software of a product, which in turn will require oversizing its computing power. Such measures would have a significant negative impact on the total cost, resources and optimization of the product and, through the use of materials and energy, on the environment.

Rather, it needs to be clarified that users' right to data is limited to what the manufacturer of the product can reasonably easily make available. For products that are not intended to have data easily available to users, the added time to make product internal data accessible may make implementation time longer. This in turn can lead to delayed implementation of important technologies to the market, such as modern communication or green transition technologies.

Finally, I would like you to consider two specific issues:

- From Volvo Group side we recommend to not cover existing products in related services in the Data Act, but rather limited it to the new products yet to be put on the market.
- Advanced products such as vehicles and machines are planned many years in advance. Therefore, the implementation period of 12 months provided by the Data Act should be extended to 36 months.

The Volvo Group, is not just a manufacturer of trucks and buses. We are committed to drive prosperity through transport and infrastructures solutions.

We are doing so and we will always support our customers' needs, also in the area of data and services.

Dr. Sicco LEHMANN-BRAUNS, SIEMENS, Senior Director Innovation Policy

The industrial data economy is just about to start: huge potential for IoT data usage for the digital and green transformation of Europe. In order to grow and scale industrial data economy and to achieve the sustainability gains possible, companies need freedom and legal certainty to invest, to build partnerships and to try out new innovative solutions. And we want Europe to take advantage in that, especially in the industrial applications that are our undisputed strength in the EU.



We share the goal of leveraging European data economy. But we are worried about the approach the Data Act takes, as it does not reflect how data in industrial applications are shared and how industrial value chains work.

The Data Act has to be made fit for purpose also for industrial applications. Rebalancing is needed as well as clarification of key terms in order to create legal certainty and to avoid unproportionate legal restrictions for industrial B2B. To be precise is more important than to be fast.

Three important topics:

- Data holder definition needs to be opened up to include data control. Access rights for manufacturers need to be included.
- The data definition has to exclude IP relevant processed data and should clearly focus on data that is in use.
- Regarding data processing services, the enabling of easier cloud switching should be distinguished from software as a service-offering (SaaS), that is customer specific.



Malte LOHAN, ORGALIM – Europe's Technology Industries, Director General

I think Orgalim is known to most of those joining tonight.

We are the European organisation that represents high tech manufacturing from industrial robots to advanced machinery, equipment for smart energy grids, clean technology solutions, electric & eco charging infrastructure, you name it.....

So, not surprisingly I will build on the comments of Niklas Gustafsson from the Volvo Group, and of Sicco Lehmann-Brauns from Siemens., which of course are also very important companies from our industries.

We are the manufacturers of the connected objects that are at the heart of the data economy.

In total this is about 770,000 companies, mainly small. There are a few big ones like those who are joining us tonight. But mainly small ones representing a third of industry in Europe. Very importantly, these companies are both manufacturers and users of data.

We are very concerned that we may be getting the future data rules wrong and accidentally damage our industries future data competitiveness rather than invigorating it.

You will forgive me for speaking very bluntly because we are among friends here, and I think it is important that we are frank with each other.

We have developed extensive input into the legislation to ensure that we get it right.

I want to mention 3 fundamentals points:

- the specific nature of B2B and industrial settings;
- the role of contracts and contractual freedom; and
- the protection of trade secrets.

I just want to mention those examples with a few specific Articles and amendments that are difficult, but are actually very important.

- The Nature of B2B and Industrial Settings

Sicco from Siemens already outlined it very clearly, and I do not want to duplicate what he said. I want to mention Article 3 – the obligations that are introduced to make data accessible to users. When we are in a situation, where the user is actually the data holder the rule as it is drafted does not make sense.

What we are proposing in Article 3 introduces a new paragraph that states clearly that in a B2B setting – which is different from other settings – the manufacturer has the right of access to the data which is generated by the use of the product.

Unless we clarify that, we may get the opposite effect that we want of incentivising the Data to flow along the value chain.

- Contractual freedom

This was already mentioned and I think everyone is aware of how it is important for our companies.

Article 4. 6: this is setting the rights of users. The way it is drafted, the first sentence of 4.6 would effectively require a manufacturer to obtain permission to use its own data. So, that creates as many new obstacles to the data economy as it aims to remove.

Such a requirement should not be set in law. It should be left to contractors to decide. Sometimes it may make sense sometimes it doesn't.

So, our proposal is to delete the first sentence of the Article 4.6. Instantly you get a better balance into this article.

- Trade Secrets

And yes, this is really important and the industry is extremely nervous, especially because we are seeing how vulnerable we are already to cybersecurity attacks which are often costing our companies millions if not billions.

The example I want to mention is in Article 4.3: it creates a rule that would potentially force companies to share their trade secrets, not just their own but also those of their suppliers.

These trade secrets are protected by Union law for good reasons.

So, what we propose is that in Article 4 .3, we introduce a new text that clearly states that trade secrets must not be disclosed without the consent of the trade secret holder.

I understand these points are complicated politically but for the manufacturers of the myriad of connected objects, which are the data economy, and these represent one third of the total industry in Europe, we have to get this right.

I am afraid that we are still a long way from a Regulation that works. We have done a lot of work on these amendments together with the companies and our partners. We are putting these at the disposal of the decision makers.

So, I am looking forward working with the Parliament. We need your help on this. Of course, we continue to work very closely with the Commission and the Member States.

So, we are at your disposal to find the right balance in this important new Regulation.



Paolo FALCIONI, APPLiA – Home Appliance Europe, Director General

Legislation must not be used to force data disclosure. This is the golden rule of a well-functioning Single Market. If companies are required, by law, to share data, this could end up in a loss of competitiveness for the European industry and ultimately, halt Europe's technological race.

The draft Act mandated businesses to make data available to the public sector and government institutions, in cases of "exceptional need" but failed to define what classifies as one, making room for potentially generous interpretations or abuse of data sharing, ultimately threatening the safety of commercially sensitive information. To counter these risks, Business to Government (B2G) data sharing shall be based on voluntary agreements, with strict and clear rules regulating exceptional circumstances. This, as a safeguard against any possible use of stretched definitions aimed at gathering data when convenient for other purposes. In all other cases, foreseeing a "reasonable compensation" for making data available calls for the clear definition of contract terms. If there is a value in data, this entails a commercial transaction, which shall not be regulated by law.

Data sharing with third parties clearly has a potential value creation. Yet, it could also open the door to a possible breach of trade secrets and of intellectual property rights, possibly leading to reverse engineering of products. The research and design of appliances takes years, and money. Under any circumstances a law can depower that effort.

The Data Act's core objective is to ultimately put users and providers on more equal footing when it comes to accessing data. Concretely, this means that consumers, service providers and public authorities will get standard access to the generated data on any of their connected devices. While it is not clear what type of data will need to be made available, manufacturers are being asked to inform consumers about the nature and amount of data applications will generate, at the time of purchase. If the nature of information is, once defined, easily predictable, the volume instead is hardly foreseeable, as it heavily relies on consumer behaviour. From here, the need for information requirements on products to be feasible for manufacturers to implement.

Digital transformation is imperative for Europe, at all levels of all sectors. A key pillar of the new industrial strategy, it is also central to the twin transition, which the European Commission adopted as a defining element of its agenda for future sustainable growth.

Against this background and as a complement to the prior Data Governance Act, intended to increase trust and facilitate data sharing across sectors, the EU's proposed Data Act would like to be a key enabler towards the implementation of a data-driven economy. Yet, in absence of a careful assessment accounting for the specificities of each sector, it risks stagnating innovation.

Tsvetelina PENKOVA MEP

(S&D, Bulgaria), Industry Research & Energy Committee, Internal Market & Consumer Protection Committee



A data-driven single market will allow European businesses, researchers, public services, and industry to flourish in a fair and competitive data market.

The Data Act strives to ensure fairness in the allocation of value from data among actors in the data economy and to foster access to and use of data for the benefit of all actors on the market. As a horizontal legislation with a broad scope, the Data Act is imposing obligations on a wide range of industries, based on perceived issues in specific sectors.

The EU is still in the very early stage of developing its data economy, thus it is yet to be seen to what extent the obligations could hinder or would boost us along the way of achieving our Digital Decade goals.

Digitalisation in general and data in particular, are critical for the competitiveness of our economy and especially for our industry.

Data is a key pillar of the European digital economy and data collaboration within, and across Europe's industries, will be key to future innovation and economic growth. However, while the volume of data is expected to increase dramatically in the coming years, data re-use is hampered by low trust in data-sharing, conflicting economic incentives and technological obstacles. An unfortunate forecast taking into account that Europe, beyond its outstanding global competitive position in manufacturing, also holds large amounts of industrial data, with a potential that is yet under-used.

Consequently, the Data Act can be an absolute gamechanger if it can create a data-agile ecosystem that enables easy access to an almost infinite amount of high-quality industrial data by specially focusing on IoT data.

Data sovereignty is now more important than ever before. Especially with the view of the current global political situation. Consumers as well as companies must be able to benefit from the vast opportunities that would be offered by more data being exchanged.

The European Parliament [EP] is looking forward towards ensuring high standards of consumer protection and resilience. At the EP, we aim to create flexible policy framework in order to enable successful deployment of broader data sharing. We want to create a working mechanism that covers the entire spectrum of risks as well as potential harm that might be caused by more data flowing the market. At the Parliament we will support to the objectives of the proposal, and remain committed to further enhance the potential of the Regulation to improve the Union's competitiveness.

On this positive background, there are also a few challenges that we recognise:

- A lot of different legislation touching upon data will create a lot of stress on the compliance side.
- A lot of the legislative initiatives overlap so business and consumers will have to be familiar with different legislation.
- Greater access to and use of data create a wide array of impacts and policy challenges, ranging from privacy and consumer protection, trade secrets and cybersecurity.

More sharing of data means also bigger challenges in protecting company trade secrets.

Frank SCHLEHUBER, CLEPA – European Association of Automotive Supplier, Senior Consultant for Market Affairs

The common use and sharing of data is crucial for automotive suppliers. Potential use cases relevant for suppliers are for example, the monitoring of component behaviour in vehicles or new services for the purpose of improved product design or new services for repair and maintenance to consumers and fleets.



CLEPA therefore welcomes the Data Act as horizontal regulation providing general guidance on principles for the sharing of data and gives at least for SMEs an indication on costs involved, by limiting the price for data to the cost of making data available. Such guidance on a fair, reasonable, and non-discriminatory pricing CLEPA would appreciate also in other regulations, e.g., licensing of standard essential patents, RMI legislation or MVBBER.

With the user in the centre, the Data Act puts obligations on data holders to make data available to third parties. Although this reflects exactly the situation in the automotive sector with vehicle manufacturers as data holders, CLEPA sees the Data Act alone as not effective for the use of in-vehicle generated data by third parties since it does not cover aspects relevant for fair competition.

About 44 million vehicles in Europe are already connected. Most data generated in a vehicle remain in the vehicle and only a fraction of available data points defined by the vehicle manufacturers is collected at their backend servers. Vehicle manufacturers have started actively offering all kind of services to users. According to the definitions in Article 2 of the Data Act vehicle manufacturers are data holders since they control the technical design while in parallel, they act as service providers.

By design, all other competing service providers depend on data from the data holder. According to Article 5.1 of the Data Act a user or a party acting on behalf of a user can request that all data accessible to a data holder are made available. CLEPA appreciates this approach and strongly supports all amendments from the Council Czech presidency but is concerned about the practical deployment to the automotive sector.

In connected vehicles, the number and type of generated data are not transparent to any other party than the data holder which leaves users and third-party service providers in the dilemma not to know what to ask for. The very wide definition of all accessible data has technical limitations. Some data is available at the vehicle manufacturer backends, and others can be made available with certain efforts. Currently there is no information on accessible data by individual vehicle available. This means that users cannot enforce the rights given in the Data Act.

CLEPA strongly supports to complement the Data Act with a sector specific regulation which focuses on the competitive situation and the pre-requisites to ensure a fast deployment of data-based services in a level playing field. This shall also include a common mandatory set of data, access to the vehicle display and audio and the release of apps to operate in the vehicle's API environment. We urgently expect that a proposal for such a regulation is available latest in Q1.2023 to ensure adoption in this term of the Commission.



Gabriele FAVARO, CECIMO – European Association of the Machine Tool Industries & Related Manufacturing Technologies, Policy & Projects Officer

As the European Association of machine tool builders, we are closely following the developments related to the proposal for a Data Act. Data-sharing is one of the key priorities for the companies in our associations' networks, and we want to guarantee that the upcoming piece of legislation will improve the current data environment, generating trust among different players and defending the interests of our companies.

Data is a key element of the digital and green transition. In our sector, for instance, data is the ground on which Artificial Intelligence applications can be exploited to the fullest to increase the level of accuracy of predictive maintenance, improve process efficiency and foster functional connections with suppliers and customers. For these reasons, our industry welcomes the proposal for a Data Act and believes that enhancing data-sharing practices is vital to reaching the goals of industry 4.0, i.e., zero-defect manufacturing.

CECIMO has been collaborating with different industry stakeholders, social partners, and academia to understand and address the most relevant challenges of the Act for our sector. Even though we welcome the objectives, and we agree on the necessity of creating a trustworthy environment, we still have several concerns: on the one hand formal and linguistic coherence; on the other hand, technical aspects, and implementation details.

We have been pleased to see some initial modifications in the compromise text by the Czech Presidency presented in July. However, we advocate for more lexical clarity and harmonisation of definitions such as data user, data operator, and operator of data space. This lack of clarity can also be identified in how the text defines the type of data it covers. We collected several concerns on the inconsistency and difficulty in understanding if the text refers only to operational data, mixed datasets with personal and private data, or exclusively business data. Furthermore, we believe that the exclusion of derivative data from the provisions of the Act should be clearly stated in Chapter I.

In the second place, guidelines or similar initiatives, with the direct contribution of industrial stakeholders, are needed to help companies implement the new provisions. It is of fundamental importance to understand that most SMEs are not confident with new technologies and their applications, and they often see the legislation as a limit or burden rather than an opportunity to be guaranteed. For this reason, we have been raising awareness on this topic. In addition, we recommend investigating and clarifying more on the trade secrets protection provisions which is one of the most sensitive issues for companies.

Today, data is fundamental to fostering the diffusion of industrial ecosystems, improving the interconnections among builders and end-users, analysing the performances of machines, and many other purposes. A European industry that will not take advantage of data-sharing practices would certainly lose its leadership and competitiveness in the global market. For this reason, it is crucial to link this piece of legislation with all the applicable provisions currently existing at the European and national level, generating alignment with other texts such as the AI Act, Digital Markets Act, and the upcoming Data Spaces. Indeed, accelerating vertical legislation on data could help take away the fears that are arising from different sectors.

To conclude, we can certainly affirm that data is and will be the enabler of the digital transition. Therefore, we need a clear, harmonised, and flexible legislative framework that takes into account the fast-evolving pace of digital technologies using huge amounts of data. Without an unambiguous strategy that considers also parallel legislation, the risk is to create confusion, limitations, and more business barriers for the majority of small European economic players.

Maria GRAPINI, (S&D, Romania), Vice Chair Internal Market Committee
(Absent due to recently broken arm – requested presentation inclusion)

This is a current and very important topic because data ensures the digital transition.

As Vice-Chair of IMCO Committee, I believe it is essential to have a Single Market that allows the free flow of data within the EU and between sectors, for the benefit of businesses, consumers and society in general, but which at the same time respects the GDPR. I also believe that there must be harmonization between this regulation and Digital Services Act and Digital Markets Act.



I am glad that the Commission's proposal provides measures to rebalance negotiation power for SMEs by preventing abuse of contractual imbalances in data sharing contracts. The Data Act will shield them from unfair contractual terms imposed by a party with a significantly stronger bargaining position.

In order to prevent unlawful access to non-personal data, providers of data processing services subject to this instrument, such as cloud services, should take all reasonable measures to prevent access to the systems, where non-personal data is stored, including, where relevant, through the encryption of data, the frequent submission to audits, the verified adherence to relevant security reassurance certification schemes, and the modification of corporate policies.

In my view, it is necessary for businesses and industrial actors to have greater access to data and a competitive data market, but the main objective of this Act must remain consumer protection.

We also discussed this in the IMCO committee and it was concluded that the Commission's proposal on the Data Act contains fair principles, but a number of changes are needed. There is a need for a clearer definition of cloud computing services and not to exclude SMEs from this regulation. There is also a need for greater consumer protection, but at the same time an easy sharing of data is needed, more clarity is also needed in terms of B2B and B2C (Business to Customer). Also, the definition of functional equivalence must be balanced and the relationship between consumers and gatekeepers is important. Without functional equivalence, the consumer cannot understand data.

CONCLUDING REMARKS

Antony Fell, EUROPEAN FORUM FOR MANUFACTURING, Secretary General

We have heard excellent presentations this evening. I would like to thank European Commission Director Yvo Volman for his very clear statement on the Data Act and his very helpful response.

Equally I would like to thank each of the European manufacturers for their informative presentations and the MEPs for their timely interventions.

I formally close this European Forum for Manufacturing virtual meeting.


