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NOTE

From:	Presidency
To:	Delegations
No. Cion doc.:	6596/22
Subject:	Proposal for a Regulation of the European Parliament and of the Council on harmonised rules on fair assess tot and use of data (Data Act) - Preparation ahead of the trilogue

I. INTRODUCTION

1. The Commission adopted the proposal for a Regulation on harmonised rules on fair access to and use of data (Data Act) on 23 February 2022[1].

2. The mandate for opening negotiations with the European Parliament on the Data Act was granted by Coreper on 24 March 2023. After the opening trilogue on 29 March, during which the technical level was mandated to work on the entire proposal, the Swedish Presidency has held 18 technical meetings and would like to present the progress achieved so far.

[1] Doc. 6596/22.

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II. STATE OF PLAY

3. In the ANNEX below, the amendments made to the text by the EP and the Council, compared to the Commission's proposal, are found in the fourth column ("Draft Agreement") and marked as ***bold italics*** (additions) and ~~strikethrough~~ (deletions).

4. The rows marked as green have been provisionally agreed with the European Parliament at the technical level. The Presidency considers these changes to fall within the Coreper mandate from 24 March. In cases where the parties have found a provisional agreement, with the only exception of the relevant reference to issues requiring discussion at political level, delegations will find some text between [square brackets] in the fourth column: lines 193, 211e, 263, 264, 266, 276, 282, 285d, 290, 294, 295, 295a, 313, 314, 377. In few cases, square brackets indicate that the exact cross-references may need to be adjusted (lines 298, 320b, 321 and 401).

5. The rows to be further discussed are marked as yellow.

III. MAIN CHANGES COMPARED TO THE COREPER MANDATE

6. The second trilogue discussed of four issues related to the scope of Chapter V (lines 237 – 295d), where delegations had indicated their flexibilities:

- the EU institutions and/or bodies in scope (e.g. line 237);
- the limitation of the Chapter to non-personal data (Article 15(1), line 242);
- the exemption for small and micro enterprises (Article 14(2), line 240); and
- the mitigation of public emergency as part of task of the public interest (Article 15(1)(b) and (c), lines 244-245).

7. As a result of the political discussion, the technical level was tasked to find a possible compromise package, subject to the general agreement. The provisional agreement on this package is marked in green and is based on the Council's position with regard to EU institutions and the inclusion of micro and small enterprises, including the right to compensation; it also foresees that sharing of personal data would be limited to emergency cases (line 243) and that mitigation of and recovery from public emergencies are assimilated to tasks in the public interest, with the safeguards requested by the Council and the specific

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mentioning of official statistics**.** Moreover, the package includes a new task for the Commission as part of the "Evaluation and review", with specific mentioning of personal data in the context of Article 15 (line 429a).

III. OUTSTANDING POLITICAL ISSUES

8. During the technical meetings, some areas were identified that would require discussion at the political level and the relevant rows are marked in red. These are related to the following issues:

- **trade secrets** and the introduction of the concept of the 'trade secret holder' (line 150c, 165a and 134f);
- the **governance model** (line 372, linked to other lines with tasks for the competent authorities/data coordinator);
- the **date of application** (line 437).

9. With regard to trade secrets, there is agreement on the main elements and a merger of the positions of the two institutions has been made. The Presidency is asking Member States for flexibility on the following:

a) introducing the concept of 'trade secret holder' (line 134f), as a complement to that of 'data holder' in cases these are not the same legal person;

b) limiting the data holder's right to withhold data sharing in exceptional circumstances only to cases related to the difficulties of enforcement in third countries.

10. Regarding the governance model, there is in principle agreement between the institutions about the tasks assigned to the competent authorities, but a different approach regarding the coordination mechanism. The European Parliament advocates a single Data Coordinator taking on the application and enforcement of the Data Act as well as acting as a single contact point with regard to all tasks related to the Regulation. The Council mandate stipulates that in Member States where more than one competent authority is designated, a coordinating competent authority shall be designated.

The Presidency is asking the Member States for flexibility on the following:

a) Give one competent authority the competence related to all disputes on trade secrets;

b) Give one competent authority the task of implementing and enforcing Chapter V;

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c) Give the coordinating authority, appointed in accordance with Article 31(4), the task of single point of contact;

11. Regarding the date of application, the Presidency is asking Member States to indicate their flexibility.

IV. NEXT STEPS

12. The draft agreement on the lines that are currently open and additional political topics, if any, discussed at the Working Party on 19 June.

13. The third trilogue will be held at the Council's premises on 27 June. In preparation for the political trilogue, the Presidency will seek a revision of the mandate at the Coreper I meeting on 23 June.

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ANNEX

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) (Text with EEA relevance)

2022/0047(COD)

Non-versioned [LATEST TEXT]

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Formula				
1	2022/0047 (COD)	2022/0047 (COD)	2022/0047 (COD)	2022/0047 (COD) Text Origin: Commission Proposal
Proposal Title				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
2	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) (Text with EEA relevance)	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) (Text with EEA relevance)	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) (Text with EEA relevance)	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on ***[fair data sharing practices and on]*** harmonised rules on fair access to and use of data ***and amending Regulation (EU) 2017 /2394 and Directive (EU) 2020/1828*** (Data Act) (Text with EEA relevance) Text Origin: Commission Proposal

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Formula				
3	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Text Origin: Commission Proposal
Citation 1				
4	Having regard to the Treaty on the Functioning of the European	Having regard to the Treaty on the Functioning of the European	Having regard to the Treaty on the Functioning of the European	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Union, and in particular Article 114 thereof,	Union, and in particular Article 114 thereof,	Union, and in particular Article 114 thereof,	Text Origin: Commission Proposal
Citation 2				
G 5	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission, Text Origin: Commission Proposal
Citation 3				
G 6				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments, Text Origin: Commission Proposal
Citation 4				
7	Having regard to the opinion of the European Economic and Social Committee[1], _____ 1. OJ C , , p. .	Having regard to the opinion of the European Economic and Social Committee[1], _____ 1. OJ C ***365, 23.9.2022***, , p. ***18***.	Having regard to the opinion of the European Economic and Social Committee[1], _____ 1. OJ C , , p. .	Having regard to the opinion of the European Economic and Social Committee[1], _____ 1. OJ C ***365, 23.9.2022***, , p. ***18***.

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: EP Mandate
Citation 5				
8	Having regard to the opinion of the Committee of the Regions[1], _____ 1. OJ C , , p. .	Having regard to the opinion of the Committee of the Regions~~1~~[2], _____ ~~1. OJ C , , p. .~~ ***2. OJ C 375, 30.9.2022, , p. 112,.***	Having regard to the opinion of the Committee of the Regions[1], _____ 1. OJ C , , p. .	Having regard to the opinion of the Committee of the Regions~~1~~[2], _____ ~~1. OJ C , , p. .~~ ***2. OJ C 375, 30.9.2022, , p. 112,.*** Text Origin: EP Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Citation 6				
9	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure, Text Origin: Commission Proposal
Formula				
10	Whereas:	Whereas:	Whereas:	Whereas: Text Origin: Commission Proposal

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Recital 1				
11	(1) In recent years, data-driven technologies have had transformative effects on all sectors of the economy. The proliferation in products connected to the Internet of Things in particular has increased the volume and potential value of data for consumers, businesses and society. High quality and interoperable data from different domains increase competitiveness and innovation and ensure sustainable economic growth. The same dataset may potentially be used and reused for a variety of purposes and to an	(1) In recent years, data-driven technologies have had transformative effects on all sectors of the economy. The proliferation in products connected to the Internet ~~*of Things*~~ in particular has increased the volume and potential value of data for consumers, businesses and society. High quality and interoperable data from different domains increase competitiveness and innovation and ensure sustainable economic growth. The same dataset may potentially be used and reused for a variety of purposes and to an	(1) In recent years, data-driven technologies have had transformative effects on all sectors of the economy. The proliferation in products connected to the Internet of Things in particular has increased the volume and potential value of data for consumers, businesses and society. High quality and interoperable data from different domains increase competitiveness and innovation and ensure sustainable economic growth. The same dataset may potentially be used and reused for a variety of purposes and to an	

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	unlimited degree, without any loss in its quality or quantity.	unlimited degree, without any loss in its quality or quantity.	unlimited degree, without any loss in its quality or quantity.	
Recital 2				
12	(2) Barriers to data sharing prevent an optimal allocation of data to the benefit of society. These barriers include a lack of incentives for data holders to enter voluntarily into data sharing agreements, uncertainty about rights and obligations in relation to data, costs of contracting and implementing technical interfaces, the high level of fragmentation of information in data silos, poor metadata	(2) ***In a context where the European Union holds a global competitive position in manufacturing and is leader in industrial software and robotics,*** barriers to data sharing prevent an optimal allocation of data to the benefit of society. These barriers include a lack of incentives for data holders to enter voluntarily into data sharing agreements, uncertainty about rights and	(2) Barriers to data sharing prevent an optimal allocation of data to the benefit of society. These barriers include a lack of incentives for data holders to enter voluntarily into data sharing agreements, uncertainty about rights and obligations in relation to data, costs of contracting and implementing technical interfaces, the high level of fragmentation of information in data silos, poor metadata	

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	management, the absence of standards for semantic and technical interoperability, bottlenecks impeding data access, a lack of common data sharing practices and abuse of contractual imbalances with regards to data access and use.	obligations in relation to data, ***the economic value of data sets, the*** costs of contracting and implementing technical interfaces, the high level of fragmentation of information in data silos, poor metadata management, the absence of standards for semantic and technical interoperability, bottlenecks impeding data access, a lack of common data sharing practices and abuse of contractual imbalances with regards to data access and use.	management, the absence of standards for semantic and technical interoperability, bottlenecks impeding data access, a lack of common data sharing practices and abuse of contractual imbalances with regards to data access and use.	
Recital 3				
13				

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	(3) In sectors characterised by the presence of micro, small and medium-sized enterprises, there is often a lack of digital capacities and skills to collect, analyse and use data, and access is frequently restricted where one actor holds it in the system or due to a lack of interoperability between data, between data services or across borders.	(3) In sectors characterised by the presence of micro, small and medium-sized enterprises ***(SMEs)***, there is often a lack of digital capacities and skills to collect, analyse and use data, and access is frequently restricted where one actor holds it in the system or due to a lack of interoperability between data, between data services or across borders.	(3) In sectors characterised by the presence of micro, small and medium-sized enterprises, there is often a lack of digital capacities and skills to collect, analyse and use data, and access is frequently restricted where one actor holds it in the system or due to a lack of interoperability between data, between data services or across borders.	
Recital 4				
14	(4) In order to respond to the needs of the digital economy and to remove barriers to a	(4) In order to respond to the needs of the digital economy, ***avoid the fragmentation of the***	(4) In order to respond to the needs of the digital economy and to remove barriers to a	

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	well-functioning internal market for data, it is necessary to lay down a harmonised framework specifying who, other than the manufacturer or other data holder is entitled to access the data generated by products or related services, under which conditions and on what basis. Accordingly, Member States should not adopt or maintain additional national requirements on those matters falling within the scope of this Regulation, unless explicitly provided for in this Regulation, since this would affect the direct and uniform application of this Regulation.	***internal market that could emerge from national legislation*** and to remove barriers to a well-functioning internal market for data, it is necessary to lay down a harmonised framework specifying who, ~~*other than the manufacturer or other data holder is entitled to access the data*~~***is entitled to use accessible data collected, obtained or otherwise*** generated by ***connected*** products or related services, under which conditions and on what basis. Accordingly, Member States should not adopt or maintain additional national requirements on those matters falling within the scope of this Regulation, unless explicitly provided for in this	well-functioning internal market for data, it is necessary to lay down a harmonised framework specifying who, other than the manufacturer or other data holder is entitled to access the data generated by products or related services, under which conditions and on what basis. Accordingly, Member States should not adopt or maintain additional national requirements on those matters falling within the scope of this Regulation, unless explicitly provided for in this Regulation, since this would affect the direct and uniform application of this Regulation. ***Moreover, action at Union level should be without prejudice to obligations and***	

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		Regulation, since this would affect the direct and uniform application of this Regulation.	***commitments in the international trade agreements concluded by the Union.***	
Recital 5				
15	(5) This Regulation ensures that users of a product or related service in the Union can access, in a timely manner, the data generated by the use of that product or related service and that those users can use the data, including by sharing them with third parties of their choice. It imposes the obligation on the data holder to make data available to users and third parties nominated	(5) This Regulation ensures that ***manufacturers of connected products and providers of related services must design the products and services in a way that*** users of a ***connected*** product or related service in the Union can access, in a timely manner, the data ***accessible from the product or*** generated ~~*by the use of that product or*~~***during the provision of***	(5) This Regulation ensures that users of a product or related service in the Union can access, in a timely manner, the data generated by the use of that product or related service and that those users can use the data, including by sharing them with third parties of their choice. It imposes the obligation on the data holder to make data available to users and third parties nominated	(5) This Regulation ensures that users of a product or related service in the Union can access, in a timely manner, the data generated by the use of that product or related service and that those users can use the data, including by sharing them with third parties of their choice. It imposes the obligation on the data holder to make data available to users and third parties nominated

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	by the users in certain circumstances. It also ensures that data holders make data available to data recipients in the Union under fair, reasonable and non-discriminatory terms and in a transparent manner. Private law rules are key in the overall framework of data sharing. Therefore, this Regulation adapts rules of contract law and prevents the exploitation of contractual imbalances that hinder fair data access and use for micro, small or medium-sized enterprises within the meaning of Recommendation 2003/361/EC. This Regulation also ensures that data holders make available to public sector bodies of the Member States and to Union	***a*** related service and that those users can use the data, including by sharing them with third parties of their choice. It imposes the obligation on ~~*the data holder*~~***data holders*** to make data available to users and ~~*third parties*~~***data recipients*** nominated by the users ~~*in certain circumstances*~~ . It also ensures that data holders make data available to data recipients in the Union under fair, reasonable and non-discriminatory terms and in a transparent manner. Private law rules are key in the overall framework of data sharing. Therefore, this Regulation adapts rules of contract law and prevents the exploitation of contractual imbalances that hinder fair data	by the users in certain circumstances. It also ensures that data holders make data available to data recipients in the Union under fair, reasonable and non-discriminatory terms and in a transparent manner. Private law rules are key in the overall framework of data sharing. Therefore, this Regulation adapts rules of contract law and prevents the exploitation of contractual imbalances that hinder fair data access and use ~~*for micro, small or medium-sized enterprises within the meaning of Recommendation 2003/361/EC*~~. This Regulation also ensures that data holders make available to public sector bodies of the Member States and to ~~*Union*~~	by the users in certain circumstances. It also ensures that data holders make data available to data recipients in the Union under fair, reasonable and non-discriminatory terms and in a transparent manner. Private law rules are key in the overall framework of data sharing. Therefore, this Regulation adapts rules of contract law and prevents the exploitation of contractual imbalances that hinder fair data access and use ~~*for micro, small or medium-sized enterprises within the meaning of Recommendation 2003/361/EC*~~. This Regulation also ensures that data holders make available to public sector bodies of the Member States and to ~~*Union*~~

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	institutions, agencies or bodies, where there is an exceptional need, the data that are necessary for the performance of tasks carried out in the public interest. In addition, this Regulation seeks to facilitate switching between data processing services and to enhance the interoperability of data and data sharing mechanisms and services in the Union. This Regulation should not be interpreted as recognising or creating any legal basis for the data holder to hold, have access to or process data, or as conferring any new right on the data holder to use data generated by the use of a product or related service. Instead, it takes as its starting point the control that the	access and use ~~*for micro, small or medium-sized enterprises within the meaning of Recommendation 2003/361/EC*~~ . This Regulation also ensures that data holders make ***data*** available to public sector bodies of the Member States and to Union institutions, agencies or bodies, where there is an exceptional need~~*, the data that are necessary for the performance of tasks carried out in the public interest*~~ . In addition, this Regulation seeks to facilitate switching between data processing services and to enhance the interoperability of data and data sharing mechanisms and services in the Union. This Regulation should not be interpreted as	~~*institutions, agencies or*~~ ***the Commission, the European Central Bank or Union*** bodies, where there is an exceptional need, the data that are necessary for the performance of tasks carried out in the public interest. In addition, this Regulation seeks to facilitate switching between data processing services and to enhance the interoperability of data and data sharing mechanisms and services in the Union. This Regulation ***does not recognise or create any legal basis in accordance with Article 6(1)(c) and 6(3) of Regulation (EU) 2016/679 for the purpose of allowing*** ~~*should not be interpreted as recognising or creating any legal basis for*~~ the data holder to	~~*institutions, agencies or*~~ ***the Commission, the European Central Bank or Union*** bodies, where there is an exceptional need, the data that are necessary for the performance of tasks carried out in the public interest. In addition, this Regulation seeks to facilitate switching between data processing services and to enhance the interoperability of data and data sharing mechanisms and services in the Union. This Regulation should not be interpreted as recognising or ~~*creating any legal basis for the data holder to hold, have access to or process data, or*~~ as conferring any new right on the data holder to use data generated by the use of a product or related

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	data holder effectively enjoys, de facto or de jure, over data generated by products or related services.	recognising or creating any legal basis for ~~*the data holder*~~***data holders*** to hold, have access to or process data, or as conferring any new right on ~~*the*~~***a*** data holder to use data ***accessed from a connected product or*** generated ~~*by the use of a product or*~~ ***during the provision of a*** related service. Instead, it ~~*takes as its starting point the control that the data holder effectively enjoys, de facto or de jure, over data generated by products or*~~***recognises that users may agree to grant access and use permissions over data accessed from connected products or generated during the provision of related services to data holders, which may often be***	hold, have access to or process data, or as conferring any new right on the data holder to use data generated by the use of a product or related service. Instead, it takes as its starting point the control that the data holder effectively enjoys, de facto or de jure, over data generated by products or related services.	service. ***[***Instead, it takes as its starting point the control that the data holder effectively enjoys, de facto or de jure, over data generated by products or related services.***]*** Text Origin: Council Mandate

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		manufacturers, and which may contractually agree with the user to perform one or more related services.		
Recital 6				
16	(6) Data generation is the result of the actions of at least two actors, the designer or manufacturer of a product and the user of that product. It gives rise to questions of fairness in the digital economy, because the data recorded by such products or related services are an important input for aftermarket, ancillary and other services. In	(6) Data generation is ***a function of the manufacturer's design of a connected product, in particular the inclusion of sensors and processing software within the device,*** ~~*the result*~~ of the actions of ~~*at least two actors, the designer or manufacturer of a product and*~~***the user and, depending on the operating modalities, of the***	(6) Data generation is the result of the actions of at least two actors, the designer or manufacturer of a product and the user of that product. It gives rise to questions of fairness in the digital economy, because the data recorded by such products or related services are an important input for aftermarket, ancillary and other services. In	

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	order to realise the important economic benefits of data as a non-rival good for the economy and society, a general approach to assigning access and usage rights on data is preferable to awarding exclusive rights of access and use.	***provision of one or more related service. Many connected products, for example in the civil infrastructure, energy generation or transport sectors, are recording data about their environment or interaction with other elements of that infrastructure without any actions by the user or any third party. Such data may often be non-personal in nature and valuable for*** the user ***or third parties, which may use it to improve their operations, the overall functioning of a network or system or by making it available to others. This*** ~~*of that product. It*~~ gives rise to questions of fairness in the digital economy, because the data ~~*recorded by*~~	order to realise the important economic benefits of data as a non-rival good for the economy and society, a general approach to assigning access and usage rights on data is preferable to awarding exclusive rights of access and use.	

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		~~such~~***accessed from connected*** products or ***generated during the provision of*** related services are an important input for aftermarket, ancillary and other services. In order to realise the important economic benefits of data ~~*as a non-rival good*~~ for the economy and society, a general approach to assigning access and usage rights on data is preferable to awarding exclusive rights of access and use. ***However, it is also important that data sharing based on voluntary agreements continues to develop in order to facilitate the development of data-driven value growth of European companies.***		

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Recital 7				
17	(7) The fundamental right to the protection of personal data is safeguarded in particular under Regulation (EU) 2016/679 and Regulation (EU) 2018/1725. Directive 2002/58/EC additionally protects private life and the confidentiality of communications, including providing conditions to any personal and non-personal data storing in and access from terminal equipment. These instruments provide the basis for sustainable and responsible data processing, including where datasets include a mix of personal and non-personal	(7) The fundamental right to the protection of personal data is safeguarded in particular under ~~Regulation~~***Regulations*** (EU) 2016/679[1] ***and*** ~~and Regulation~~ (EU) 2018/1725[2] ***of the European Parliament and of the Council***. Directive 2002/58/EC ***of the European Parliament and of the Council***[3] additionally protects private life and the confidentiality of communications, including providing conditions to any personal and non-personal data storing in and access from terminal equipment. These instruments	(7) The fundamental right to the protection of personal data is safeguarded in particular under Regulation (EU) 2016/679 and Regulation (EU) 2018/1725. Directive 2002/58/EC additionally protects private life and the confidentiality of communications, including providing conditions to any personal and non-personal data storing in and access from terminal equipment. These instruments provide the basis for sustainable and responsible data processing, including where datasets include a mix of personal and non-personal	(7) The fundamental right to the protection of personal data is safeguarded in particular under Regulation (EU) 2016/679 and Regulation (EU) 2018/1725. Directive 2002/58/EC additionally protects private life and the confidentiality of communications, including providing conditions to any personal and non-personal data storing in and access from terminal equipment. These instruments provide the basis for sustainable and responsible data processing, including where datasets include a mix of personal and non-personal data. This

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	data. This Regulation complements and is without prejudice to Union law on data protection and privacy, in particular Regulation (EU) 2016/679 and Directive 2002/58/EC. No provision of this Regulation should be applied or interpreted in such a way as to diminish or limit the right to the protection of personal data or the right to privacy and confidentiality of communications.	provide the basis for sustainable and responsible data processing, including where datasets include a mix of personal and non-personal data. This Regulation complements and is without prejudice to Union law on data protection and privacy, in particular Regulation (EU) 2016/679 and Directive 2002/58/EC. No provision of this Regulation should be applied or interpreted in such a way as to diminish or limit the right to the protection of personal data or the right to privacy and confidentiality of communications. ***This Regulation should not be read as creating a new legal basis for the processing of personal data for any of the regulated activities, or***	data. This Regulation complements and is without prejudice to Union law on data protection and privacy, in particular Regulation (EU) 2016/679 and Directive 2002/58/EC. No provision of this Regulation should be applied or interpreted in such a way as to diminish or limit the right to the protection of personal data or the right to privacy and confidentiality of communications. ***Any processing of personal data in accordance with this Regulation should comply with all conditions and rules provided by data protection legislation, including but not limited to the need for a valid legal basis under Article 6 of Regulation (EU) 2016/679, where***	Regulation complements and is without prejudice to Union law on data protection and privacy, in particular Regulation (EU) 2016/679 and Directive 2002/58/EC. No provision of this Regulation should be applied or interpreted in such a way as to diminish or limit the right to the protection of personal data or the right to privacy and confidentiality of communications. ***Any processing of personal data in accordance with this Regulation should comply with all conditions and rules provided by data protection legislation, including but not limited to the need for a valid legal basis under Article 6 of Regulation (EU) 2016/679, where***

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		as amending the information requirements laid down in Regulation (EU) 2016/679. In the event of a conflict between this Regulation and Union law on the protection of personal data or national law adopted in accordance with such Union law, the relevant Union or national law on the protection of personal data should prevail. _____ *1. Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data*	*relevant the conditions of Article 9 of Regulation (EU) 2016/679 and Article 5(3) of Directive 2002/58/EC.*	*relevant the conditions of Article 9 of Regulation (EU) 2016/679 and Article 5(3) of Directive 2002/58/EC. This Regulation does not constitute a legal basis for the collection or generation of personal data by the data holder. However, in certain circumstances this Regulation imposes the obligation on data holders to make data available by providing that, where users are data subjects, data holders should be obliged to provide them access to their data and to make the data available to third parties of the user's choice. Where the user is not the data subject, this Regulation does not create a legal basis to provide access to personal*

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		and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1). ***2. Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001***		***data or make it available to a third party and should not be understood as conferring any new right on the data holder to use personal data generated by the use of a product or related service. In these cases, it could be in the interest of the user to facilitate meeting the requirements of Article 6 of Regulation (EU) 2016/679. As this Regulation should not adversely affect the data protection rights of others, including the data subject, the data holder can comply with requests inter alia by anonymizing personal data or transferring only personal data relating to the user.***

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		and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39). ***3. Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).***		
Recital 8				
G 18				G

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	(8) The principles of data minimisation and data protection by design and by default are essential when processing involves significant risks to the fundamental rights of individuals. Taking into account the state of the art, all parties to data sharing, including where within scope of this Regulation, should implement technical and organisational measures to protect these rights. Such measures include not only pseudonymisation and encryption, but also the use of increasingly available technology that permits algorithms to be brought to the data and allow valuable insights to be derived without the transmission between parties or	(8) The principles of data minimisation and data protection by design and by default are essential when processing involves significant risks to the fundamental rights of individuals. Taking into account the state of the art, all parties to data sharing, including where within scope of this Regulation, should implement technical and organisational measures to protect these rights. Such measures include not only pseudonymisation and encryption, but also the use of increasingly available technology that permits algorithms to be brought to the data and allow valuable insights to be derived without the transmission between parties or	(8) The principles of data minimisation and data protection by design and by default are essential when processing involves significant risks to the fundamental rights of individuals. Taking into account the state of the art, all parties to data sharing, including where within scope of this Regulation, should implement technical and organisational measures to protect these rights. Such measures include not only pseudonymisation and encryption, but also the use of increasingly available technology that permits algorithms to be brought to the data and allow valuable insights to be derived without the transmission between parties or	(8) The principles of data minimisation and data protection by design and by default are essential when processing involves significant risks to the fundamental rights of individuals. Taking into account the state of the art, all parties to data sharing, including where within scope of this Regulation, should implement technical and organisational measures to protect these rights. Such measures include not only pseudonymisation and encryption, but also the use of increasingly available technology that permits algorithms to be brought to the data and allow valuable insights to be derived without the transmission between parties or

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	unnecessary copying of the raw or structured data themselves.	unnecessary copying of the raw or structured data themselves.	unnecessary copying of the raw or structured data themselves.	unnecessary copying of the raw or structured data themselves. Text Origin: Commission Proposal
Recital 9				
19	(9) This Regulation complements and is without prejudice to Union law aiming to promote the interests of consumers and to ensure a high level of consumer protection, to protect their health, safety and economic interests, in particular Directive 2005/29/EC of the European Parliament and of the	(9) This Regulation complements and is without prejudice to Union law aiming to promote the interests of consumers and to ensure a high level of consumer protection, to protect their health, safety and economic interests, in particular Directive 2005/29/EC of the European Parliament and of the	(9) ***In so far as not regulated in this Regulation, this Regulation should not affect national contract laws such as rules on formation, the validity or effects of contracts, including the consequences of the termination of a contract.*** This Regulation complements and is without	

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	Council[1], Directive 2011/83/EU of the European Parliament and of the Council[2] and Directive 93/13/EEC of the European Parliament and of the Council[3]. _____ 1. Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC)	Council[1], Directive 2011/83/EU of the European Parliament and of the Council[2] and Directive 93/13/EEC of the European Parliament and of the Council[3]. _____ 1. Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC)	prejudice to Union law aiming to promote the interests of consumers and to ensure a high level of consumer protection, to protect their health, safety and economic interests, in particular Directive 2005/29/EC of the European Parliament and of the Council[1], Directive 2011/83/EU of the European Parliament and of the Council[2] and Directive 93/13/EEC of the European Parliament and of the Council[3]. _____ 1. Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer	

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	No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ L 149, 11.6.2005, p. 22). 2. Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council.	No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ L 149, 11.6.2005, p. 22). 2. Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council.	commercial practices in the internal market and amending Council Directive ~~*84/450/EEC*~~***8 4/450/EEC***, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the ~~-~~ Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ L 149, 11.6.2005, p. 22). 2. Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC	

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	3. Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts. Directive (EU) 2019/2161 of the European Parliament and of the Council of 27 November 2019 amending Council Directive 93/13/EEC and Directives 98/6/EC, 2005/29/EC and 2011/83/EU of the European Parliament and of the Council as regards the better enforcement and modernisation of Union consumer protection rules.	3. Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts. Directive (EU) 2019/2161 of the European Parliament and of the Council of 27 November 2019 amending Council Directive 93/13/EEC and Directives 98/6/EC, 2005/29/EC and 2011/83/EU of the European Parliament and of the Council as regards the better enforcement and modernisation of Union consumer protection rules.	and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council. 3. Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts. Directive (EU) 2019/2161 of the European Parliament and of the Council of 27 November 2019 amending Council Directive 93/13/EEC and Directives 98/6/EC, 2005/29/EC and 2011/83/EU of the European Parliament and of the Council	

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			as regards the better enforcement and modernisation of Union consumer protection rules.	
Recital 10				
20	(10) This Regulation is without prejudice to Union legal acts providing for the sharing of, the access to and the use of data for the purpose of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, or for customs and taxation purposes, irrespective of the legal	(10) This Regulation is without prejudice to Union legal acts providing for the sharing of, the access to and the use of data for the purpose of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, or for customs and taxation purposes, irrespective of the legal	(10) This Regulation is without prejudice to Union legal acts providing for the sharing of, the access to and the use of data for the purpose of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, or for customs and taxation purposes, irrespective of the legal	

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	basis under the Treaty on the Functioning of the European Union on which basis they were adopted. Such acts include Regulation (EU) 2021/784 of the European Parliament and of the Council of 29 April 2021 on addressing the dissemination of terrorist content online, the [e-evidence proposals [COM(2018) 225 and 226] once adopted], the [Proposal for] a Regulation of the European Parliament and of the Council on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC, as well as international cooperation in this context in particular on the basis of the Council of Europe 2001 Convention on Cybercrime	basis under the Treaty on the Functioning of the European Union on which basis they were adopted. Such acts include Regulation (EU) 2021/784 of the European Parliament and of the Council of 29 April 2021 on addressing the dissemination of terrorist content online, the [e-evidence proposals [COM(2018) 225 and 226] once adopted], the [Proposal for] a Regulation of the European Parliament and of the Council on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC, as well as international cooperation in this context in particular on the basis of the Council of Europe 2001 Convention on Cybercrime	basis under the Treaty on the Functioning of the European Union on which basis they were adopted. Such acts include Regulation (EU) 2021/784 of the European Parliament and of the Council of 29 April 2021 on addressing the dissemination of terrorist content online, the [e-evidence proposals [COM(2018) 225 and 226] once adopted], the [Proposal for] a Regulation of the European Parliament and of the Council on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC, as well as international cooperation in this context in particular on the basis of the Council of Europe 2001 Convention on Cybercrime	

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	(“Budapest Convention”). This Regulation is without prejudice to the competences of the Member States regarding activities concerning public security, defence and national security in accordance with Union law, and activities from customs on risk management and in general, verification of compliance with the Customs Code by economic operators.	(“”Budapest Convention””). This Regulation is without prejudice to the competences of the Member States regarding activities concerning public security, defence and national security in accordance with Union law, and activities from customs on risk management and in general, verification of compliance with the Customs Code by economic operators.	("Budapest Convention"). This Regulation ***does not apply to activities or data in areas that fall outside the scope of Union law and in any event*** is without prejudice to the competences of the Member States regarding activities ***or data*** concerning public security, defence ~~*and*~~, national security ~~*in accordance with Union law, and activities from customs on risk management and in general, verification of compliance with the Customs Code by economic operators*~~, ***customs and tax administration and the health and safety of citizens, regardless of the type of entity carrying out the activities or processing the data***.	

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Recital 11				
Y 21	(11) Union law setting physical design and data requirements for products to be placed on the Union market should not be affected by this Regulation.	(11) Union law setting physical design and data requirements for products to be placed on the Union market should not be affected ~~by~~***beyond the obligations of Article 3(1) of*** this Regulation.	(11) Union law setting physical design and data requirements for products to be placed on the Union market should not be affected by this Regulation.	Y
Recital 12				
G 22	(12) This Regulation complements and is without prejudice to Union law aiming at setting accessibility	(12) This Regulation complements and is without prejudice to Union law aiming at setting accessibility	(12) This Regulation complements and is without prejudice to Union law aiming at setting accessibility	(12) This Regulation complements and is without prejudice to Union law aiming at G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	requirements on certain products and services, in particular Directive 2019/882[1]. _____ 1. Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services OJ L 151, 7.6.2019	requirements on certain products and services, in particular Directive 2019/882[1]. _____ 1. Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services OJ L 151, 7.6.2019	requirements on certain products and services, in particular Directive 2019/882[1]. _____ 1. Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services OJ L 151, 7.6.2019	setting accessibility requirements on certain products and services, in particular Directive 2019/882[1]. _____ 1. Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services OJ L 151, 7.6.2019 Text Origin: Commission Proposal
Recital 13				

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23	(13) This Regulation is without prejudice to the competences of the Member States regarding activities concerning public security, defence and national security in accordance with Union law, and activities from customs on risk management and in general, verification of compliance with the Customs Code by economic operators.	(13) This Regulation is without prejudice to the competences of the Member States regarding activities concerning public security, defence and national security in accordance with Union law, and activities from customs on risk management and in general, verification of compliance with the Customs Code by economic operators.	(13) This Regulation is without prejudice to ~~*the competences of the Member States regarding activities concerning public security, defence and national security in accordance with Union law, and activities from customs on risk management and in general, verification of compliance with the Customs Code by economic operators*~~***Union and national legal acts providing for the protection of intellectual property, including 2001/29/EC, 2004/48/EC, and (EU) 2019/790 of the European Parliament and of the Council***.	

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23a		***(13a) This Regulation also aims at strengthening the position and business models of third parties, for example suppliers, through a horizontal approach. To account for the specific situation and complexity of the respective sector, this Regulation should be followed by sectoral legislation, for example the mobility data space. That legislation could set out further rules for the right for suppliers to improved or direct access to data from their own smart components for issues such as quality monitoring, product***		

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		development or safety improvements and clarifies the role of providers of components in relation to connected products.		
	23b	***(13b) This Regulation is without prejudice to Union and national legal acts providing for the protection of intellectual property rights, including Directives 2001/29/EC[1], 2004/48/EC[2], and (EU) 2019/790[3] of the European Parliament and of the Council.***		

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		1. Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ L 167, 22.6.2001, p. 10). *2. Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights (OJ L 157, 30.4.2004, p. 45).* *3. Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019*		

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		on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC (OJ L 130, 17.5.2019, p. 92).		
Recital 14				
24	(14) Physical products that obtain, generate or collect, by means of their components, data concerning their performance, use or environment and that are able to communicate that data via a publicly available electronic communications service (often referred to as the Internet of	(14) Physical products that obtain, generate or collect, by means of their components, data concerning their performance, use or environment and that are able to communicate that data via ~~a publicly available~~***an*** electronic communications service***, a physical connection, or on-device***	(14) Physical products that obtain, generate or collect, by means of their components ***or operating system***, data concerning their performance, use or environment and that are able to communicate that data via a publicly available electronic communications service (often referred to as the Internet of	

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	Things) should be covered by this Regulation. Electronic communications services include land-based telephone networks, television cable networks, satellite-based networks and near-field communication networks. Such products may include vehicles, home equipment and consumer goods, medical and health devices or agricultural and industrial machinery. The data represent the digitalisation of user actions and events and should accordingly be accessible to the user, while information derived or inferred from this data, where lawfully held, should not be considered within scope of this Regulation. Such data are	(often referred to as the Internet of Things) should be covered by this Regulation ***with the exception of prototypes***. Electronic communications services include land-based telephone networks, television cable networks, satellite-based networks and near-field communication networks. Such ***connected*** products ~~*may include*~~***are found in all aspects of the economy and society, including in private, civil or commercial infrastructure,*** vehicles, ***ships, aircraft,*** home equipment and consumer goods, medical and health devices or agricultural and industrial machinery ***or energy production and transmission facilities. Data***	Things) should be covered by this Regulation. ***Examples of such*** electronic communications services include ***in particular*** land-based telephone networks, television cable networks, satellite-based networks and near-field communication networks. Such products may include vehicles, home equipment and consumer goods, medical ***health and lifestyle equipment,*** ~~*and health devices*~~ or agricultural and industrial machinery. ~~*The data represent the digitalisation of user actions and events and should accordingly be accessible to the user, while information derived or inferred from this data, where lawfully held, should not be*~~	

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	potentially valuable to the user and support innovation and the development of digital and other services protecting the environment, health and the circular economy, in particular though facilitating the maintenance and repair of the products in question.	***obtained, generated or collected by a connected product that is accessible to any data holders or data recipients***~~. The data represent the digitalisation of user actions and events and~~ should ~~accordingly~~***always*** be accessible to the ~~user, while information derived or inferred from this data, where lawfully held,~~***owner of the product, or a third party to whom the owner of the product has transferred certain rights to the product based on a rental or lease contract. The owner or such third party*** should ~~not be considered within scope~~***be referred to as the user for the purpose*** of this Regulation. ~~Such data are potentially valuable to the user and~~	~~considered within scope of this Regulation. Such data are potentially valuable to the user and support innovation and the development of digital and other services protecting the environment, health and the circular economy, in particular though facilitating the maintenance and repair of the products in question.~~	

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		~~*support innovation and the development of digital and other services protecting the environment, health and the circular economy, in particular though facilitating the maintenance and repair of the*~~***Those access rights should in no way alter or interfere with the fundamental rights of data subjects, who may be interacting with connected product, to personal data generated by the product. Manufacturers' design choices, the users' demands and, where relevant, sectoral legislation to address sector-specific needs and objectives, or antitrust decisions, should determine which data a connected product is capable of***		

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		making accessible to any data holders or data recipients at the point of sale. This Regulation applies to products placed on the market in the Union and thus does not apply to products in ~~*question*~~***development stage such as prototypes***.		
Y	24a		***(14a) The data represent the digitalisation of user actions and events and should accordingly be accessible to the user. Data generated by the use of a product or related service should be***	Y

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			understood to cover data recorded intentionally or indirectly resulting from the user's action. This should include data on the use of a product generated by the use of a user interface or via a related service, and not be limited to the information that such action happened, but all data that the product generates as a result of such action such as data generated automatically by sensors and data recorded by embedded applications, including applications indicating hardware status and malfunctions . This should also include data generated by the product or related service during times of inaction by the user, such as when	

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			the user chooses to not use a product for a given period of time and keep it in stand-by or even switched off, as the status of a product or its components, e.g. batteries, can vary when the product is in stand-by or switched off. In scope are data which are not substantially modified, meaning data in raw form (also known as source or primary data, which refers to data points that are automatically generated without any form of processing) as well as data having been pre-processed for the purpose of making it understandable and useable prior to further processing and analysis. The term 'pre-processed data' should not	

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			be interpreted in such a manner to impose an obligation on the data holder to make substantial investments in cleaning and transforming the data and shall not refer to insights derived or inferred from the data . Pre-processed data may include data enriched with metadata, including basic context and timestamp to make the data usable, combined with other data (e.g. sorted and classified with other data points relating to it) or re-formatted into a commonly-used format. Such data are potentially valuable to the user and support innovation and the development of digital and other services protecting the	

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			environment, health and the circular economy, in particular though facilitating the maintenance and repair of the products in question. By contrast, the results of processing that substantially modifies the data, i.e. information derived from this data, or information inferred from theoriginal data, should not be considered within scope of this Regulation. Such data is not generated by the use of the product, but is the outcome of additional investments into taking insights from the data in terms of characterisation, assessment, recommendation, categorisation or similar systematic processes that assign values or insights and	

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			may be subject to intellectual property rights of the data holder.	
Recital 15				
25	(15) In contrast, certain products that are primarily designed to display or play content, or to record and transmit content, amongst others for the use by an online service should not be covered by this Regulation. Such products include, for example, personal computers, servers, tablets and smart phones, cameras, webcams, sound recording systems	(15) In contrast, ~~*certain products that are primarily designed to display or play content, or to record and transmit content, amongst others*~~***content, or data obtained, generated or accessed from the connected product or transmitted to it*** for the ~~*use by an online service should not be covered by this Regulation. Such products include, for example,*~~	(15) ~~*In contrast, certain*~~***This Regulation enables users of connected*** products ~~*that are primarily designed to display or play content, or to record and transmit content, amongst others for the use by an online service should not be covered by this Regulation. Such*~~***to benefit from aftermarket, ancillary and other services based on data collected by***	

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	and text scanners. They require human input to produce various forms of content, such as text documents, sound files, video files, games, digital maps.	~~personal computers,~~ ***purpose of storage or processing on behalf of third parties, such as in the case of*** servers~~, tablets and smart phones, cameras, webcams, sound recording systems and text scanners. They require human input to produce various forms of content, such as text documents, sound files, video files, games, digital maps~~ ***or cloud infrastructure, amongst others for the use by an online service should not be covered by this Regulation***.	***sensors embedded in such products the collection of these data being of potential value in improving the performance of the connected products. It is important to delineate between markets for the provision of such sensor-equipped connected*** products ~~*include, for example, personal computers, servers, tablets and smart phones, cameras, webcams, sound recording systems and text scanners. They require human input to produce various forms of content, such as text documents, sound files*~~***and related services on the one hand and on the other hand markets for other software and content such as textual, audio or audiovisual***	

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			content often covered by intellectual property rights. As a result, data that such products generate when the user records, transmits, displays or plays content, as well as the content itself, often covered by intellectual property rights ~~*video files, games*~~, ***amongst others for the use by an online service should not be covered by this Regulation*** ~~*digital maps*~~.	
Recital 16				
26	(16) It is necessary to lay down rules applying to connected	(16) It is ***also*** necessary to lay down rules applying to ~~*connected*~~	(16) It is necessary to lay down rules applying to connected	

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	products that incorporate or are interconnected with a service in such a way that the absence of the service would prevent the product from performing its functions. Such related services can be part of the sale, rent or lease agreement, or such services are normally provided for products of the same type and the user could reasonably expect them to be provided given the nature of the product and taking into account any public statement made by or on behalf of the seller, renter, lessor or other persons in previous links of the chain of transactions, including the manufacturer. These related services may themselves generate data of value to the user	~~products that incorporate~~***related services that are incorporated*** or are interconnected with a ~~service~~***connected product*** in such a way that the absence of the service would prevent the product from performing ***one or more of*** its functions~~. Such related services can be part of the sale, rent or lease agreement, or such~~***, and which involve the transfer of data between the connected product and the provider of the related*** services ~~are normally provided for products of the same type and the user could reasonably expect them to be provided given the nature~~***Where a provider of a related service accesses data from a connected product or has access***	products that ~~incorporate or~~ ***at the time of the purchase, rent or lease agreement*** are interconnected with a service in such a way that the absence of the service would prevent the product from performing ***one of*** its functions***, without being incorporated into the product***. Such related services can be part of the sale, rent or lease agreement, or such services are normally provided for products of the same type and the user could reasonably expect them to be provided given the nature of the product and taking into account any public statement made by or on behalf of the seller, renter, lessor or other persons in previous links of the chain of transactions,	

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	independently of the data collection capabilities of the product with which they are interconnected. This Regulation should also apply to a related service that is not supplied by the seller, renter or lessor itself, but is supplied, under the sales, rental or lease contract, by a third party. In the event of doubt as to whether the supply of service forms part of the sale, rent or lease contract, this Regulation should apply.	***to data generated during the provision*** of the ~~*product and taking into account any public statement made by or on behalf of the seller, renter, lessor or other persons in previous links*~~***related service and has the right to use non-personal data, in accordance with Article 4(6), it should be considered a data holder for the data it accessed from the product or generated during the provision*** of the ~~*chain of transactions, including the manufacturer*~~***related service. Such related services can be part of the sale***. These related services may themselves generate data of value to the user independently of the data collection capabilities of the ***connected*** product with which	including the manufacturer. These related services may themselves generate data of value to the user independently of the data collection capabilities of the product with which they are interconnected. This Regulation should also apply to a related service that is not supplied by the seller, renter or lessor itself, but is supplied, under the sales, rental or lease contract, by a third party. In the event of doubt as to whether the supply of service forms part of the sale, rent or lease contract, this Regulation should apply.	

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		they are interconnected. ***Such data may represent the digitalisation of user actions and events and should accordingly be accessible to the user. Such data are potentially valuable to the user and support innovation and the development of digital and other services protecting the environment, health and the circular economy, including particular through facilitating the maintenance and repair of the products in question or the development of products or services. Information derived or inferred from non-personal data by a data holder or a data recipient after it has been accessed from the connected***		

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		product, other than in those generated during the provision of a related service, should not be considered to fall within scope of this Regulation. This Regulation should also apply to a related service that is not supplied by the seller, renter or lessor itself, but is supplied, under the sales, rental or lease contract, by a third party. In the event of doubt as to whether the ***provision of a related service is necessary to maintain the functional operation of the connected product,*** supply of service forms part of the sale, rent or lease contract, this Regulation should apply. ***Neither the power supply nor the supply of the connectivity are to be interpreted***		

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		as related services under this Regulation.		
Recital 17				
27	(17) Data generated by the use of a product or related service include data recorded intentionally by the user. Such data include also data generated as a by-product of the user's action, such as diagnostics data, and without any action by the user, such as when the product is in 'standby mode', and data recorded during periods when the product is switched off. Such data should include data in the form and format	(17) Data ***accessed from a connected product or*** generated ~~*by the use of a product or*~~***during the provision of a*** related service include data recorded intentionally by the user. Such data include also data generated as a by-product of the user's action, such as diagnostics data, and without any action by the user, such as ***data about the connected product's environment or interactions,***	~~*(17) Data generated by the use of a product or related service include data recorded intentionally by the user. Such data include also data generated as a by-product of the user's action, such as diagnostics data, and without any action by the user, such as when the product is in 'standby mode', and data recorded during periods when the product is switched off. Such data should include data in*~~	

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	in which they are generated by the product, but not pertain to data resulting from any software process that calculates derivative data from such data as such software process may be subject to intellectual property rights.	***including*** when the product is in 'standby mode', and data recorded during periods when the product is switched off. Such data should include data in the form and format in which they are ~~*generated by*~~***accessed from*** the product, ***and be compiled in a comprehensible, structured, commonly used and machine-readable format and including the relevant metadata,*** but not pertain to data resulting from ~~*any*~~***value-add via a*** software process that calculates derivative data ~~*from such data as*~~***where*** such software process ~~*may*~~***is*** be subject to ***trade secrets and*** intellectual property rights. ***Where data is accessed in an encrypted format, the user should be provided with***	~~*the form and format in which they are generated by the product, but not pertain to data resulting from any software process that calculates derivative data from such data as such software process may be subject to intellectual property rights.*~~	

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		all necessary means to decrypt such data and make it accessible.		
27a		***(17a) Further efforts must be made to consolidate the data economy and data governance. In particular, increasing and supporting data literacy is essential so that users and businesses are aware and motivated to offer and provide access to their data in compliance with the relevant legal rules. This is on the basis of a sustainable data society. The spread of data***		

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		literacy measures would imply the reduction of digital inequalities, contribute to improving working conditions, and ultimately sustain the consolidation and the innovation path of the data economy in the Union. In order to deliver high-quality job opportunities, the acquisition and development of data literacy skills, enabling the acquisition of digital competences by citizens and workers, should be ensured especially in the case of employees from start-ups and SMEs.		
Recital 18				

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28	(18) The user of a product should be understood as the legal or natural person, such as a business or consumer, which has purchased, rented or leased the product. Depending on the legal title under which he uses it, such a user bears the risks and enjoys the benefits of using the connected product and should enjoy also the access to the data it generates. The user should therefore be entitled to derive benefit from data generated by that product and any related service.	(18) The user of a ***connected*** product should be understood as the legal or natural person, such as a business***, consumer or public sector body*** ~~*or consumer,*~~ which has ~~*purchased, rented or leased the*~~ ***acquired the connected product or receives related services, or to whom the owner of the connected*** product~~*. Depending*~~ ***has transferred,*** on the ~~*legal title under which he uses it,*~~ ***basis of a rental or lease agreement, temporary rights to use the connected product or receive related services.*** Such a user bears the risks and enjoys the benefits of using the connected product and should	(18) ***(***The user of a product should be understood as the legal or natural person, such as a business or consumer, ~~*which has purchased, rented or leased*~~ ***but also a public sector body, that owns, rents or leases*** the product***.*** . Depending on the legal title under which he uses it, such a user bears the risks and enjoys the benefits of using the connected product and should enjoy also the access to the data it generates. The user should therefore be entitled to derive benefit from data generated by that product and any related service. ***An owner, renter or lessee should equally be considered as user,***	

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		~~*enjoy also the access to the data it generates. The user should*~~ therefore be entitled to derive benefit from data ~~*generated by that*~~*accessed from the connected* product and *generated during the provision of* any related service.	*including when several entities can be considered as users. In the context of multiple users, each user may contribute in a different manner to the data generation and can have an interest in several forms of use, e.g. fleet management for a leasing company, or mobility solutions for individuals using a car sharing service.*	
Recital 18a				
28a		*(18a) 'Data literacy' refers to skills, knowledge and understanding that allows users,*		*(18a) 'Data literacy' refers to skills, knowledge and understanding that allows users, consumers and businesses, in*

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		consumers and businesses, in particular medium, small and micro companies, to gain awareness on the potential value of the data they generated, produce and share, in the context of their rights and obligations set out in this Regulation and in other Union data related Regulations. Data literacy should go beyond learning about tools and technologies and aiming to equip citizens and businesses with the ability to benefit from a fair data market. It is therefore necessary that the Commission and the Member States, in cooperation with all relevant stakeholders, promote the development of data literacy, in all		***particular medium, small and micro companies falling under the scope of this regulation, to gain awareness on the potential value of the data they generated, produce and share and motivated to offer and provide access to their data in compliance with the relevant legal rules. Data literacy should go beyond learning about tools and technologies and aiming to equip and empower citizens and businesses with the ability to benefit from an inclusive and fair data market. The spread of data literacy measures and the introduction of appropriate follow-up actions could contribute to improving working conditions, and ultimately sustain***

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		sectors of society, for citizens of all ages, including women and girls. Consequently, the Union and its Member states should allocate more investments in education and training to spread data literacy, and that progress in that regard is closely followed Accordingly businesses should also promote tools and take measures to ensure data literacy skills of their staff dealing with data access and use and data transfers, and where applicable, of other persons processing data on their behalf, taking into account their technical knowledge, experience, education and training and considering the users or groups of users from		***the consolidation and the innovation path of the data economy in the Union. [Data coordinator/competent authority] should promote tools and take measures to advance data literacy and awareness among users and entities falling within the scope of this Regulation of the rights and obligations under this Regulation.*** Brackets related to coordinator/competent authority Remaining brackets

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		which data is produced or generated.		
Recital 19				
29	(19) In practice, not all data generated by products or related services are easily accessible to their users, and there are often limited possibilities for the portability of data generated by products connected to the Internet of Things. Users are unable to obtain data necessary to make use of providers of repair and other services, and businesses are unable to launch innovative, more	(19) In practice, not all data generated by ***connected*** products or related services are easily accessible to their users, and there are often limited possibilities for the portability of data generated by products connected to the Internet ~~*of Things*~~. Users are unable to obtain data necessary to make use of providers of repair and other services, and businesses are unable to launch innovative, more	(19) In practice, not all data generated by products or related services are easily accessible to their users, and there are often limited possibilities for the portability of data generated by products connected to the Internet of Things. Users are unable to obtain data necessary to make use of providers of repair and other services, and businesses are unable to launch innovative, more	

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	efficient and convenient services. In many sectors, manufacturers are often able to determine, through their control of the technical design of the product or related services, what data are generated and how they can be accessed, even though they have no legal right to the data. It is therefore necessary to ensure that products are designed and manufactured and related services are provided in such a manner that data generated by their use are always easily accessible to the user.	efficient and convenient services. In many sectors, manufacturers are often able to determine, through their control of the technical design of the product or related services, what data are generated and how they can be accessed, even though they have no legal right to the data. It is therefore necessary to ensure that ***connected*** products are designed and manufactured and related services are provided in such a manner that data generated by their use are always easily accessible to the user***, free of charge in a comprehensive, structured, commonly used and machine-readable format, including for the purpose of retrieving, using or sharing the***	efficient and convenient services. In many sectors, manufacturers are ~~*often*~~ able to determine, through their control of the technical design of the product or related services, what data are generated and how they can be accessed, even though they have no legal right to the data. It is therefore necessary to ensure that products are designed and manufactured and related services are provided in such a manner that ***the data that are*** ~~*data*~~ generated by their use ***and that are readily available to the manufacturer or a party of his choice,*** are always easily accessible ***also*** to the user***, including users with special needs. This excludes data generated by the use of a product***	

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		data. Unless specified otherwise by Union or Member State law or relevant antitrust rulings, such data should be accessible at the level of processing, including by means of software contained in the connected product, which the manufacturer's design choice permit ahead of the sale to the user. Data should be available in the form in which they are accessible from the product with only the minimal adaptations necessary to make them useable by a third party, including related metadata necessary to interpret and use the data. This requires the removal of technical barriers to ensure that users, where it is technically possible, will have	***where the design of the product does not foresee such data to be stored or transmitted outside the component in which they are generated or the product as a whole. This Regulation should thus not be understood as an obligation to store data additionally on the central computing unit of a product where this would be disproportionate in relation to the expected use. This should not prevent the manufacturer or data holder to voluntarily agree with the user on making such adaptations. The design obligations in this Regulation are also without prejudice to the data minimisation principle as***	

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		direct real-time access to their data without extensive individual verification procedures. In order to facilitate third-party access to the required data, cost-efficient access to software tools is also necessary. Where subsequent updates or alterations to the connected product, by the manufacturer or another party, lead to additional accessible data or a restriction of initially accessible data, such changes should be communicated to the user in the context of the update or alteration. This Regulation does not set an obligation to store data additionally on the central computing unit of a product where this would be	***described in Article 5(1)(c) of Regulation (EU) 2016/679 and should not be understood as an obligation to design products and related services in such a way that they process or store any personal data besides what is necessary in relation to the purposes for which they are processed***.	

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		disproportionate in relation to the expected use. This does not prevent a manufacturer or data holder to voluntarily agree with the user on making such adaptation.		
Recital 20				
30	(20) In case several persons or entities own a product or are party to a lease or rent agreement and benefit from access to a related service, reasonable efforts should be made in the design of the product or related service or the relevant interface so that all	(20) In ~~case~~***cases of co-ownership of the connected product and related services provided, where*** several persons or entities own a product or are party to a lease or rent agreement ~~*and benefit from access to a related service, reasonable efforts should be made*~~	(20) In case several persons or entities ~~*own a product or are party to a lease or rent agreement and benefit from access to a related service*~~***are considered as user, e.g. in the case of co-ownership or when an owner and a renter or lessee exist*** , reasonable efforts	

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	persons can have access to data they generate. Users of products that generate data typically require a user account to be set up. This allows for identification of the user by the manufacturer as well as a means to communicate to exercise and process data access requests. Manufacturers or designers of a product that is typically used by several persons should put in place the necessary mechanism that allow separate user accounts for individual persons, where relevant, or the possibility for several persons to use the same user account. Access should be granted to the user upon simple request mechanisms granting automatic execution, not requiring	~~in~~ the design of the ***connected*** product or related service or the relevant interface ~~so that~~***should enable*** all persons ~~can~~***to*** have access to data they generate. Users of ***connected*** products that generate data typically require a user account to be set up. This allows for identification of the user by ***a data holder, which may be*** the manufacturer as well as a means to communicate to exercise and process data access requests. ***For identification and authentication purposes, manufacturers and providers of related services should enable users to use European Digital Identity Wallets issued pursuant to Regulation (EU) 910/2014[1].***	should be made in the design of the product or related service or the relevant interface so that ~~all persons~~ ***each user*** can have access to data they generate. Users of products that generate data typically require a user account to be set up. This allows for identification of the user by the manufacturer as well as a means to communicate to exercise and process data access requests. ***In case several manufacturers or related services providers have sold, rent out or leased products or services integrated together to the same user, the user should turn to each of the manufacturers or related service providers with whom it has a contractual***	

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	examination or clearance by the manufacturer or data holder. This means that data should only be made available when the user actually wants this. Where automated execution of the data access request is not possible, for instance, via a user account or accompanying mobile application provided with the product or service, the manufacturer should inform the user how the data may be accessed.	Manufacturers or designers of a product that is typically used by several persons should put in place the necessary mechanism that allow separate user accounts for individual persons, where relevant, or the possibility for several persons to use the same user account. Access should be granted to the user upon simple request mechanisms granting automatic execution, not requiring examination or clearance by ~~the~~a manufacturer or data holder. This means that data should only be made available when the user actually wants this. Where automated execution of the data access request is not possible, for instance, via a user account or	***agreement.*** Manufacturers or designers of a product that is typically used by several persons should put in place the necessary mechanism that allow separate user accounts for individual persons, where relevant, or the possibility for several persons to use the same user account***. Account solutions should allow a user to delete their account and the data related to it, in particular taking into account situations when the ownership or the usage of the product changes***. Access should be granted to the user upon simple request mechanisms granting automatic execution, not requiring examination or clearance by the manufacturer or data holder. This	

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		accompanying mobile application provided with the product or service, the manufacturer should inform the user how the data may be accessed. ***User accounts should enable users to revoke consent for processing and data sharing, as well as request deletion of the data generated through the use of the connected product, particularly in cases when the users of the product intend to transfer the ownership of the product to another party.*** _____ ***1. Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic***	means that data should only be made available when the user actually wants this. Where automated execution of the data access request is not possible, for instance, via a user account or accompanying mobile application provided with the product or service, the manufacturer should inform the user how the data may be accessed.	

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		identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).		
Recital 21				
31	(21) Products may be designed to make certain data directly available from an on-device data storage or from a remote server to which the data are communicated. Access to the on-device data storage may be enabled via cable-based or wireless local area networks connected to a publicly available electronic	(21) Products may be designed to make certain data directly available from an on-device data storage or from a remote server to which the data are communicated. Access to the on-device data storage may be enabled via cable-based or wireless local area networks connected to a publicly available electronic	(21) Products may be designed to make certain data directly ~~available~~ ***accessible*** from an on-device data storage or from a remote server to which the data are communicated. Access to the on-device data storage may be enabled via cable-based or wireless local area networks connected to a	

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	communications service or a mobile network. The server may be the manufacturer's own local server capacity or that of a third party or a cloud service provider who functions as data holder. They may be designed to permit the user or a third party to process the data on the product or on a computing instance of the manufacturer.	communications service or a mobile network. The server may be the manufacturer's own local server capacity or that of a third party or a cloud. ***Data processors as defined in Regulation (EU) 2016/679 are by default not considered to act*** ~~*service provider who functions*~~ as data ~~*holder*~~***holders, unless specifically tasked by the data controller***. They may be designed to permit the user or a third party to process the data on the product or on a computing instance of the manufacturer.	publicly available electronic communications service or a mobile network. The server may be the manufacturer's own local server capacity or that of a third party or a cloud service provider who functions as data holder. ~~*They*~~***Products*** may be designed to permit the user or a third party to process the data on the product ~~*or*~~, on a computing instance of the manufacturer ***or within an IT environment chosen by the user or the third party***.	
Recital 22				

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32	(22) Virtual assistants play an increasing role in digitising consumer environments and serve as an easy-to-use interface to play content, obtain information, or activate physical objects connected to the Internet of Things. Virtual assistants can act as a single gateway in, for example, a smart home environment and record significant amounts of relevant data on how users interact with products connected to the Internet of Things, including those manufactured by other parties and can replace the use of manufacturer-provided interfaces such as touchscreens or smart	(22) Virtual assistants play an increasing role in digitising consumer ***and professional*** environments and serve as an easy-to-use interface to play content, obtain information, or activate physical objects connected to the Internet ~~*of Things*~~. Virtual assistants can act as a single gateway in, for example, a smart home environment and record significant amounts of relevant data on how users interact with products connected to the Internet ~~*of Things*~~, including those manufactured by other parties and can replace the use of manufacturer-provided interfaces	(22) Virtual assistants play an increasing role in digitising consumer environments and serve as an easy-to-use interface to play content, obtain information, or activate ~~*physical objects*~~ ***products*** connected to the Internet of Things. Virtual assistants can act as a single gateway in, for example, a smart home environment and record significant amounts of relevant data on how users interact with products connected to the Internet of Things, including those manufactured by other parties and can replace the use of manufacturer-provided interfaces such as touchscreens or smart	

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	phone apps. The user may wish to make available such data with third party manufacturers and enable novel smart home services. Such virtual assistants should be covered by the data access right provided for in this Regulation also regarding data recorded before the virtual assistant's activation by the wake word and data generated when a user interacts with a product via a virtual assistant provided by an entity other than the manufacturer of the product. However, only the data stemming from the interaction between the user and product through the virtual assistant falls within the scope of this Regulation. Data produced by the virtual assistant	such as touchscreens or smart phone apps. The user may wish to make available such data with third party manufacturers and enable novel smart home services. Such virtual assistants should be covered by the data access right provided for in this Regulation also regarding data recorded before the virtual assistant's activation by the wake word and data generated when a user interacts with a ***connected*** product via a virtual assistant provided by an entity other than the manufacturer of the ~~*product. However, only the data stemming from the interaction between the user and*~~***connected*** product ~~*through the virtual assistant falls within the scope of*~~	phone apps. The user may wish to make available such data with third party manufacturers and enable novel smart~~*-home*~~ services. Such virtual assistants should be covered by the data access right provided for in this Regulation ~~*also regarding data recorded before the virtual assistant's activation by the wake word and*~~. Data generated when a user interacts with a product via a virtual assistant provided by an entity other than the manufacturer of the product ***should also be covered***. However, only the data stemming from the interaction between the user and ***a*** product through the virtual assistant ~~*falls*~~***should fall*** within the scope ~~*of this Regulation*~~. Data	

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	unrelated to the use of a product is not the object of this Regulation.	~~*this Regulation. Data produced by the virtual assistant unrelated to the use of a product is not the object of this Regulation*~~.	produced by the virtual assistant unrelated to the use of a product is not the object of this Regulation.	
Recital 23				
33	(23) Before concluding a contract for the purchase, rent, or lease of a product or the provision of a related service, clear and sufficient information should be provided to the user on how the data generated may be accessed. This obligation provides transparency over the data generated and enhances the easy access for the user. This obligation	(23) Before concluding a contract for the purchase ***of a connected product, clear and sufficient information should be provided by the manufacturer, or where relevant the vendor, to the user with regard to the data which is accessible from the connected*** ~~*rent, or lease of a*~~ product***, including the type, format,***	(23) Before concluding a contract for the purchase, rent, or lease of a product or the provision of a related service, ***the data holder should provide to the user*** clear and sufficient information ~~*should be provided to*~~***relevant for the exercise of*** the user***'s rights with regard to*** ~~*on how the*~~ data generated ~~*may be accessed.*~~ ***by the***	

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	to provide information does not affect the obligation for the controller to provide information to the data subject pursuant to Article 12, 13 and 14 of Regulation 2016/679.	***sampling frequency and the estimated volume of accessible data. This should include information on data structures, data formats, vocabularies, classification schemes, taxonomies and code lists, where available, as well as information*** ~~*or the provision of a related service, clear and sufficient information should be provided to the user*~~ on how the data ~~*generated*~~ may be ***stored, retrieved or*** accessed***, including the provision of software development kits or application programming interfaces, along with their terms of use and quality of service descriptions***. This obligation provides transparency over the	***use of the product or related services . In case any information changes during the lifetime of the product, including when the purpose for which those data will be used changes from the originally specified purpose, this should also be provided to the user.*** This obligation provides transparency over the data generated and enhances the easy access for the user***. The information obligation should be on the data holder, independently whether the data holder concludes the contract for the purchase, rent or lease of a product or the provision of related service. If the data holder is not the seller, rentor or lessor, the data holder should***	

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		accessible data generated and enhances the easy access for the user. ***The transparency obligation could be fulfilled by a data holder for example by, maintaining a stable uniform resource locator (URL) on the web, which can be distributed as a web link or QR code, pointing to the relevant information. Such URL could be provided by the manufacturer or where relevant seller, to the user before concluding the contract for the purchase, of a connected product. It is in any case necessary that the user is enabled to store the information in a way that is accessible for future reference and that allows the unchanged reproduction of the***	***ensure that the user receives the required information, for instance from the seller, rentor or lessor which acts as a messenger. In this regard, the data holder could agree in the contract with the seller, rentor or lessor to provide the information to the user. The transparency obligation could be fulfilled by the data holder for example by, maintaining a stable uniform resource locator (URL) on the web, which can be distributed as a web link or QR code, pointing to the relevant information. Such URL could be provided by the seller, rentor or lessor to the user before concluding the contract for the purchase, rent, or lease of a***	

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		information stored. This obligation to provide information does not affect the obligation for the controller to provide information to the data subject pursuant to Article 12, 13 and 14 of ~~*Regulation 2016/679*~***Regulation (EU) 2016/679***.	***product or the provision of a related service. It is in any case necessary that the user is enabled to store the information in a way that is accessible for future reference and that allows the unchanged reproduction of the information stored. The data holder cannot be expected to store the data indefinitely in view of the needs of the user of the product, but should implement a reasonable data retention policy that allows for the effective application of the data access rights under this Regulation***. This obligation to provide information does not affect the obligation for the controller to provide information to the data subject	

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			pursuant to Article 12, 13 and 14 of Regulation 2016/679.	
	33a	***(23a) Related services should be provided in such a manner that data generated during their provision, which represent the digitalisation of user actions or events, are, by default, easily, securely and, where relevant and technically feasible, directly accessible to the user free of charge, in a structured, commonly used and machine-readable format, along with the relevant***		

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		metadata necessary to interpret and use it. Information derived or inferred from this data by means of complex proprietary algorithms, in particular where it combines the output of multiple sensors in the connected product, should not be considered within the scope of a data holder's obligation to share data with users or data recipients, unless agreed differently. Before concluding an agreement with a user on the provision of a related service, which involves the provider's access to data from the connected product, in line with Article 4(6) of this Regulation, the provider should agree with the user on the nature, volume, collection		

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		frequency and format of data accessed by the provider of related services from the connected product, as well as the nature and estimated volume of data generated during the provision of the related service and, where relevant, the modalities for the user to access or retrieve such data, including the period during which it should be stored.		
Recital 24				
34	(24) This Regulation imposes the obligation on data holders to make data available in certain	(24) This Regulation imposes the obligation on data holders to make data available in certain	(24) ***In certain circumstances*** this Regulation imposes the obligation on data holders to make	

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	circumstances. Insofar as personal data are processed, the data holder should be a controller under Regulation (EU) 2016/679. Where users are data subjects, data holders should be obliged to provide them access to their data and to make the data available to third parties of the user's choice in accordance with this Regulation. However, this Regulation does not create a legal basis under Regulation (EU) 2016/679 for the data holder to provide access to personal data or make it available to a third party when requested by a user that is not a data subject and should not be understood as conferring any new right on the data holder to use data generated	circumstances. Insofar as personal data are processed, ~~the~~*a* data holder should be a controller under Regulation (EU) 2016/679. Where users are data subjects, data holders should be obliged to provide them access to their data and to make the data available to third parties of the user's choice in accordance with this Regulation. However, this Regulation does not create a legal basis under Regulation (EU) 2016/679 for ~~the data holder~~*data holders* to provide access to personal data or make it available to a third party when requested by a user that is not a data subject and should not be understood as conferring any new right on ~~the data holder~~ *data*	data available *, in accordance with Article 6(1)(c) and 6(3) of Regulation (EU) 2016/679* ~~in certain circumstances~~. Insofar as personal data are processed, the data holder should be a controller under Regulation (EU) 2016/679. Where users are data subjects, data holders should be obliged to provide them access to their data and to make the data available to third parties of the user's choice in accordance with this Regulation. ~~However~~ *Where the user is not the data subject*, this Regulation does not create a legal basis ~~under~~ *in accordance with Article 6(1)(c) and 6(3) of* Regulation (EU) 2016/679 ~~for the data holder~~ to provide access to personal data or	

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	by the use of a product or related service. This applies in particular where the manufacturer is the data holder. In that case, the basis for the manufacturer to use non-personal data should be a contractual agreement between the manufacturer and the user. This agreement may be part of the sale, rent or lease agreement relating to the product. Any contractual term in the agreement stipulating that the data holder may use the data generated by the user of a product or related service should be transparent to the user, including as regards the purpose for which the data holder intends to use the data. This Regulation should not prevent contractual conditions, whose	***holders*** to use data ***accessed from the connected product or*** generated ~~*by the use of a product or*~~***during the provision of a*** related service. This applies in particular where the manufacturer is ~~*the*~~***a*** data holder. In that case, the basis for the manufacturer to use non-personal data should be a contractual agreement between the manufacturer and the user. This agreement may be part of the sale~~,~~ ~~*rent or lease*~~ ***agreement relating to the connected product. The user should be given a reasonable opportunity to reject this*** agreement***. If a user choses to reject the contractual terms and conditions, this should not prevent the user from using the relevant***	make it available to a third party ~~*when requested by a user that is not a data subject*~~ and should not be understood as conferring any new right on the data holder to use data generated by the use of a product or related service. ~~*This applies in particular*~~***In these cases, it could be in the interest of the user to facilitate meeting the requirements of Article 6 of Regulation (EU) 2016/679. In any case, the data holder needs to ensure compliance of their sharing of personal data with relevant data protection legislation, including but not limited to the need for a valid legal basis under Article 6 of Regulation (EU) 2016/679 and,***	

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	effect is to exclude or limit the use of the data, or certain categories thereof, by the data holder. This Regulation should also not prevent sector-specific regulatory requirements under Union law, or national law compatible with Union law, which would exclude or limit the use of certain such data by the data holder on well-defined public policy grounds.	~~*relating to the*~~ product ***of the service, unless the product of the service cannot function without the user's acceptance of the contractual terms***. Any contractual term in the agreement stipulating that ~~*the*~~***a*** data holder may use the data generated by the user of a product or related service should be transparent to the user, including as regards the purpose for which ~~*the*~~***a*** data holder intends to use the data. This Regulation should not prevent contractual conditions, whose effect is to exclude or limit the use of the data, or certain categories thereof, by ~~*the*~~***a*** data holder. This Regulation should also not prevent sector-specific regulatory	where ***relevant, the conditions of Article 9 of Regulation (EU) 2016/679 and of Article 5(3) of Directive 2002/58/EC. As this Regulation should not adversely affect the data protection rights of others, including the data subject,*** ~~*the manufacturer is*~~ the data holder ***can comply with requests inter alia by anonymizing personal data or transferring only personal data relating to the user***. ***Where the manufacturer is the data holder*** ~~*In that case*~~, the basis for the manufacturer to use non-personal data should be a contractual agreement between the manufacturer and the user. This agreement may be part of the sale, rent or lease agreement relating to	

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		requirements under Union law, or national law compatible with Union law, which would exclude or limit the use of certain such data by ~~the~~*a* data holder on well-defined public policy grounds.	the product. Any contractual term in the agreement stipulating that the data holder may use the data generated by the user of a product or related service should be transparent to the user, including as regards the purpose for which the data holder intends to use the data. ***Any change of the contract should depend on the informed agreement of the user.*** This Regulation should not prevent contractual conditions, whose effect is to exclude or limit the use of the data, or certain categories thereof, by the data holder. This Regulation should also not prevent sector-specific regulatory requirements under Union law, or national law compatible with	

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			Union law, which would exclude or limit the use of certain such data by the data holder on well-defined public policy grounds. ***The notion of data holder generally does not include public sector bodies. However, it may include public undertakings.***	
Y	34a	***(24a) It is currently often difficult for businesses to justify the personnel or computing costs that are necessary for preparing non-personal data sets or data products and offer them to***		Y

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		potential counterparties via data marketplaces, including data intermediation services, as defined in Regulation (EU) 2022/868 of the European Parliament and of the Council[1]. A substantial hurdle to non-personal data sharing by businesses thus results from the lack of predictability of economic returns from investing in the curation and making available of data sets or data products. In order to allow for the emergence of liquid, efficient and fair markets for non-personal data in the Union, it must be clarified which party has the right to offer such data on a marketplace. Users should therefore have the right to share non-personal data with data		

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		recipients for commercial and non-commercial purposes. Such data sharing could be performed directly by the user, upon the request of the user via a data holder or through data intermediation services. Data intermediation services, as regulated by Regulation (EU) 2022/868 could facilitate a data economy by establishing commercial relationships between users, data recipients and third parties and may support users in exercising their right to use data, such as ensuring the proper anonymisation of the data or aggregation of access to data from multiple individual users. In order to protect the incentives for users		

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		to monetise non-personal data from connected products they own, data holders should only be able to monetise aggregated data sets from multiple users and should not make available non-personal data accessed by them from the connected product to third parties for commercial or non-commercial purposes, other than the fulfilment of their contractual obligations to the user. At the same time, where data holders have contractually agreed with users the right to use such data, they should be free to use it for a wide range of purposes, including improving the functioning of the connected product or related services,		

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		developing new products or services or enriching or manipulating it or aggregating it with other data, including with the aim of making available the resulting data set with third parties, as long as such derived data set does not allow the identification of the specific data items accessed by the data holder from the connected product, or allow a third party to derive those data items from the data set without a significant effort. _____ ***1. Regulation (EU) 2022/868 of the European Parliament and of the Council of 30 May 2022 on European data governance***		

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		and amending Regulation (EU) 2018/1724 (Data Governance Act) (OJ L 152, 3.6.2022, p. 1).		
Y	34b	***(24b) Where products generate data, that is derived or inferred from other data generated by the connected product by means of proprietary, complex algorithms, including those that are a part of proprietary software, within the meaning of Directive 2009/24/EC of the European Parliament and of the Council[1], such data should be considered to fall outside the***		Y

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		scope of this Regulation and consequently not be subject to the obligation for a data holder to make it available to a user or data recipient, unless agreed otherwise between the user and the data holder. Such data should include in particular information derived by means of sensor fusion, inferring or deriving data from multiple sensors, collected in the connected product, using complex, proprietary algorithms. However, data inferred or derived from processing of raw data collected from a single sensor or a connected group of sensors, for the purpose of making the collected data comprehensible for wider use-cases by determining a		

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		physical quantity or quality or the change in a physical quantity, such as temperature, pressure, flow rate, pH, liquid level, position, acceleration or speed, should be included in the obligation for data holders to make data available to users and data recipients. Sectorial legislation should further define accessible data based on the specificities of the sector. _____ ***1. Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of***		

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		computer programs (OJ L 111, 5.5.2009, p. 16).		
	34c	***(24c) In principle, to foster the emergence of liquid, fair and efficient markets for non-personal data, users of connected products should be able to share data with others, including for commercial purposes, with minimal legal and technical effort. Ahead of sharing data, a user should be able to share data with a high degree of certainty that they will not face adverse legal consequence after***		

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		the data has been shared. Therefore, where data is excluded from a data holder's obligation to make it available to users or data recipients, the scope of such data should be specified in the contractual agreement between the user and the data holder for the provision of a related service in a comprehensible and clear format, in a way that users can easily determine which data is available for them for sharing with data recipients or third parties without further obligations to protect such data.		

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34d		***(24d) There are many reasons why certain data generated by the use of a product remain inaccessible to a data holder and consequently would not fall under the sharing obligations of chapter II. Data may be highly volatile (values recorded at high frequency) and either instantly or quickly overwritten. They may be collected only for activating a very specific function, such as the activity of windshield wipers or headlights, and there is currently no use case and the design of the product does not foresee such data to be stored in the product in light of the cost related to storage of***		

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		such data, to connecting the data-capturing sensor to a central computing component from which data could be exported and the costs of connectivity for transmitting the data when volumes are considerable. In this regard, sector-specific regulations should further specify relevancy of accessible data according to their specificities in order to ensure the availability of at least data, which is essential for the repairing or servicing of the connected products and related services.		
Recital 25				

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35	(25) In sectors characterised by the concentration of a small number of manufacturers supplying end users, there are only limited options available to users with regard to sharing data with those manufacturers. In such circumstances, contractual agreements may be insufficient to achieve the objective of user empowerment. The data tends to remain under the control of the manufacturers, making it difficult for users to obtain value from the data generated by the equipment they purchase or lease. Consequently, there is limited potential for innovative smaller	(25) In sectors characterised by the concentration of a small number of manufacturers ***or providers of related services*** supplying end users, ~~*there are only limited options available to users with regard to sharing data with those manufacturers*~~***the ability of users to bargain for access to data transferred by the connected product or generated during the provision of related services is limited due to the bargaining power of the manufacturer or provider of related service***. In such circumstances, contractual agreements may be insufficient to achieve the objective of user	(25) In sectors characterised by the concentration of a small number of manufacturers supplying end users, there are only limited options available to users with regard to sharing data with those manufacturers. In such circumstances, contractual agreements may be insufficient to achieve the objective of user empowerment. The data tends to remain under the control of the manufacturers, making it difficult for users to obtain value from the data generated by the equipment they purchase or lease. Consequently, there is limited potential for innovative smaller	

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	businesses to offer data-based solutions in a competitive manner and for a diverse data economy in Europe. This Regulation should therefore build on recent developments in specific sectors, such as the Code of Conduct on agricultural data sharing by contractual agreement. Sectoral legislation may be brought forward to address sector-specific needs and objectives. Furthermore, the data holder should not use any data generated by the use of the product or related service in order to derive insights about the economic situation of the user or its assets or production methods or the use in any other way that could undermine the commercial position	empowerment. The data tends to remain under the control of the manufacturers ***or providers of related services***, making it difficult for users to obtain value from the data generated by the equipment they ~~*purchase or lease*~~***own***. Consequently, there is limited potential for innovative smaller businesses to offer data-based solutions in a competitive manner and for a diverse data economy in Europe. This Regulation should therefore build on recent developments in specific sectors, such as the Code of Conduct on agricultural data sharing by contractual agreement. Sectoral legislation may be brought forward to address sector-specific needs,	businesses to offer data-based solutions in a competitive manner and for a diverse data economy in Europe. This Regulation should therefore build on recent developments in specific sectors, such as the Code of Conduct on agricultural data sharing by contractual agreement. Sectoral legislation may be brought forward to address sector-specific needs and objectives. Furthermore, the data holder should not use any data generated by the use of the product or related service in order to derive insights about the economic situation of the user or its assets or production methods or the use in any other way that could undermine the commercial position	

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	of the user on the markets it is active on. This would, for instance, involve using knowledge about the overall performance of a business or a farm in contractual negotiations with the user on potential acquisition of the user's products or agricultural produce to the user's detriment, or for instance, using such information to feed in larger databases on certain markets in the aggregate (,e.g. databases on crop yields for the upcoming harvesting season) as such use could affect the user negatively in an indirect manner. The user should be given the necessary technical interface to manage permissions, preferably with granular permission options	***security concerns*** and objectives. Furthermore, ~~*the data holder*~~***data holders*** should not use any data ~~*generated by the use of the*~~***accessed by them from the connected*** product or ***generated during the provision of*** related ~~*service*~~***services*** in order to derive insights about the economic situation of the user or its assets or production methods or the use in any other way that could undermine the commercial position of the user on the markets it is active on. This would, for instance, involve using knowledge about the overall performance of a business or a farm in contractual negotiations with the user on potential acquisition of the user's	of the user on the markets it is active on. This would, for instance, involve using knowledge about the overall performance of a business or a farm in contractual negotiations with the user on potential acquisition of the user's products or agricultural produce to the user's detriment, or for instance, using such information to feed in larger databases on certain markets in the aggregate (~~,~~e.g. databases on crop yields for the upcoming harvesting season) as such use could affect the user negatively in an indirect manner. The user should be given the necessary technical interface to manage permissions, preferably with granular permission options	

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	(such as “allow once” or “allow while using this app or service”), including the option to withdraw permission.	products or agricultural produce to the user’s detriment, or for instance, using such information to feed in larger databases on certain markets in the aggregate (~~,~~e.g. databases on crop yields for the upcoming harvesting season) as such use could affect the user negatively in an indirect manner. The user should be given the necessary technical interface to manage permissions, preferably with granular permission options (such as ~~"~~"allow once~~" or "~~" or "allow while using this app or service~~"~~"), including the option to withdraw permission.	(such as "allow once" or "allow while using this app or service"), including the option to withdraw permission.	

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Recital 26				
36	(26) In contracts between a data holder and a consumer as a user of a product or related service generating data, Directive 93/13/EEC applies to the terms of the contract to ensure that a consumer is not subject to unfair contractual terms. For unfair contractual terms unilaterally imposed on a micro, small or medium-sized enterprise as defined in Article 2 of the Annex to Recommendation 2003/361/EC[1], this Regulation provides that such unfair terms should not be binding on that enterprise.	(26) In contracts between a data holder and a consumer as a user of ~~*a product*~~ ***connected products*** or related service generating data, ***EU consumer law applies, Directive 2005/29/EC, which applies against unfair commercial practices, and*** Directive 93/13/EEC applies to the terms of the contract to ensure that a consumer is not subject to unfair contractual terms. For unfair contractual terms unilaterally imposed ~~*on a micro, small or medium-sized enterprise as defined in Article 2 of the Annex to*~~	(26) In contracts between a data holder and a consumer as a user of a product or related service generating data, Directive 93/13/EEC applies to the terms of the contract to ensure that a consumer is not subject to unfair contractual terms. For unfair contractual terms unilaterally imposed on ~~*a micro, small or medium-sized*~~ ***an*** enterprise ~~*as defined in Article 2 of the Annex to Recommendation 2003/361/EC*~~[4], this Regulation provides that such unfair terms should not be binding on that enterprise.	

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	_____ 1. Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises	~~Recommendation 2003/361/EC[1];~~ this Regulation provides that such unfair terms should not be binding on that enterprise. _____ ~~1. Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises~~	_____ ~~1. Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises~~	
Recital 27				
37	(27) The data holder may require appropriate user identification to verify the user's entitlement to	(27) ~~The data holder~~***Data holders*** may require appropriate user identification to verify the user's	(27) The data holder may require appropriate user identification to verify the user's entitlement to	

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	access the data. In the case of personal data processed by a processor on behalf of the controller, the data holder should ensure that the access request is received and handled by the processor.	entitlement to access the data. In the case of personal data processed by a processor on behalf of the controller, ~~*the data holder*~~***data holders*** should ensure that the access request is received and handled by the processor.	access the data. In the case of personal data processed by a processor on behalf of the controller, the data holder should ensure that the access request is received and handled by the processor.	
Recital 28				
38	(28) The user should be free to use the data for any lawful purpose. This includes providing the data the user has received exercising the right under this Regulation to a third party offering an aftermarket service that may be in competition	(28) The user should be free to use the data for any lawful purpose. This includes providing the data the user has received exercising the right under this Regulation to a ~~*third party*~~***data recipient*** offering an aftermarket service that may be	(28) The user should be free to use the data for any lawful purpose. This includes providing the data the user has received exercising the right under this Regulation to a third party offering an aftermarket service that may be in competition	

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	with a service provided by the data holder, or to instruct the data holder to do so. The data holder should ensure that the data made available to the third party is as accurate, complete, reliable, relevant and up-to-date as the data the data holder itself may be able or entitled to access from the use of the product or related service. Any trade secrets or intellectual property rights should be respected in handling the data. It is important to preserve incentives to invest in products with functionalities based on the use of data from sensors built into that product. The aim of this Regulation should accordingly be understood as to foster the development of new, innovative	in competition with a service provided by ~~*the*~~*a* data holder, or to instruct the data holder to do so. The ***request should also be valid regardless of whether the request is put forward by the user or an authorised third party acting on user's behalf, such as authorised data intermediation service in the meaning of the Regulation (EU) 2022/868. Data holders*** ~~*data holder*~~ should ensure that the data made available to ~~*the third party*~~***a data recipient*** is as accurate, complete, reliable, relevant and up-to-date as the data the data holder itself may be able or entitled to access from the use of the ***connected*** product or related service. Any trade secrets or intellectual property rights	with a service provided by the data holder, or to instruct the data holder to do so. The data holder should ensure that the data made available to the third party is as accurate, complete, reliable, relevant and up-to-date as the data the data holder itself may be able or entitled to access from the use of the product or related service. Any ~~*trade secrets or*~~ intellectual property rights should be respected in handling the data. It is important to preserve incentives to invest in products with functionalities based on the use of data from sensors built into that product. The aim of this Regulation should accordingly be understood as to foster the development of new, innovative	

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	products or related services, stimulate innovation on aftermarkets, but also stimulate the development of entirely novel services making use of the data, including based on data from a variety of products or related services. At the same time, it aims to avoid undermining the investment incentives for the type of product from which the data are obtained, for instance, by the use of data to develop a competing product.	should be ***fully*** respected in handling the data. It is important to preserve incentives to invest in products with functionalities based on the use of data from sensors built into that product. The aim of this Regulation should accordingly be understood as to foster the development of new, innovative products or related services, stimulate innovation on aftermarkets, but also stimulate the development of entirely novel services making use of the data, including based on data from a variety of products or related services. At the same time, it aims to avoid undermining the investment incentives for the type of product from which the data are	products or related services, stimulate innovation on aftermarkets, but also stimulate the development of entirely novel services making use of the data, including based on data from a variety of products or related services. At the same time, it aims to avoid undermining the investment incentives for the type of product from which the data are obtained, for instance, by the use of data to develop a competing product.	

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		obtained, for instance, by the use of data to develop a competing product. ***Other lawful purposes in this context include reverse engineering, when allowed pursuant to Directive (EU) of the European Parliament and of the Council 2016/943[1] as a lawful means of independent discovery of know-how or information, provided that it does not lead to unfair competition and it is without prejudice of the obligation not to develop a competing product using the data received under this Regulation. This may be the case for the purposes of repairing, prolonging the lifetime of a product or providing aftermarket services to connected***		

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		products when the manufacturer or provider of related services has ended their production or provision. _____ ***1. Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (OJ L 157, 15.6.2016, p. 1).***		

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38a		***(28a) This Regulation should be interpreted in a manner to preserve the protection awarded to trade secrets under Directive (EU) 2016/943. To that end, data holders should be able to require the user, or third parties of the users' choice, to preserve the confidentiality of data considered as trade secrets. Trade secrets should be identified prior to the disclosure. However, data holders cannot undermine the right of the users to request access and use of data in accordance with this Regulation on the basis of certain data being considered as trade secrets by the data holder. The***		

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		data holder, or the trade secret holder where it is not the data holder, should have the possibility to agree with the user, or third parties of the users' choice, on appropriate measures to preserve their confidentiality, including by the use of model contractual terms, confidentiality agreements, strict access protocols, technical standards and the application of codes of conduct. In cases where the user or third parties of the users' choice fail to implement those measures or undermine the confidentiality of trade secrets, the data holder should be able to suspend the sharing of data identified as trade secrets, pending review by the data coordinator of		

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		the Member State. In such cases, the data holder should immediately notify the data coordinator of the Member State in which the data holder is established, pursuant to Article 31 of this Regulation, that it has suspended the sharing of data and identify which measures have not been implemented or which trade secrets have had their confidentiality undermined. Where the user, or a third party of the user's choice, wishes to challenge the data holder's decision to suspend the sharing of data, the data coordinator should decide, within a reasonable period of time, whether the data sharing should be resumed or not and if		

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		yes, indicate under which conditions. The Commission, assisted by the European Data Innovation Board, should develop model contractual terms, and should be able to develop technical standards. The Commission, assisted by the European Innovation Board, could also encourage the establishment of codes of conduct in relation with the respect of trade secrets or intellectual property rights in handling the data, in order to help achieving the aim of this Regulation.		

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38b			***(28a) Directive (EU) 2016/943 provides that the acquisition, use or disclosure of a trade secret shall be considered lawful notably where such acquisition, use or disclosure is required or allowed by Union or national law. While this Regulation requires data holders to disclose certain data to users or third parties of their choice even when such data qualify for protection as trade secrets, it should be interpreted in a manner to preserve the protection awarded to trade secrets under that Directive as regards any other natural or legal persons. For this reason, data***	

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			holders can require the user or third parties of the user's choice to preserve the secrecy of data considered as trade secrets, including through technical means. Depending on the risks presented by the individual case, including the enforceability of trade secrets protection in the third country where the user or third party chose to process the data, the requirements as concerns the technical means set by the data holder can be further strengthened. Also, the data holders can require that the confidentiality of a disclosure must be ensured by the user and any third party of the user's choice. Data holders cannot	

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			refuse a data access request under this Regulation only on the basis of certain data considered as trade secrets, as this would undo the intended effects of this Regulation. However, in exceptional circumstances, a data holder may reject the request if it can demonstrate to the user or the third party that, in spite of technical and organisational measures, serious damage is highly likely to result from the disclosure of trade secrets. 'Serious damage' refers to damage with an adverse effect on the conduct of economic activity, when the data holder would face significant economic losses, which could, in particular, threaten its	

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			viability or pose a serious risk of bankruptcy. The data holder should justify its refusal in detail, in writing and without undue delay, on a case-by-case basis. This justification should be based on objective elements, demonstrating the exceptional case and risk of serious damage. Exceptional circumstances require the identification of concrete risks for a serious damage expected from a specific data disclosure and the reasons why the measures taken to safeguard the requested data are not sufficient. Factors, such as the enforceability of trade secrets protection in the third country where the user or third party	

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			chose to process the data, the nature and level of confidentiality of the data requested, the uniqueness and novelty of the product, the concrete factors why the damage would be very likely or very serious, should be taken into account. In addition, a possible negative impact on cybersecurity can be considered. The exceptions to data access rights in this Regulation should not in any case limit the access and data portability rights of data subjects under Regulation (EU) 2016/679. The aim of this Regulation should accordingly be understood as to foster the development of new, innovative products or related services,	

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			stimulate innovation on aftermarkets, but also stimulate the development of entirely novel services making use of the data, including based on data from a variety of products or related services. At the same time, it aims to avoid undermining the investment incentives for the type of product from which the data are obtained, for instance, by the use of data to develop a competing product which is regarded as interchangeable or substitutable by users, in particular based on the product's characteristics, its price and intended use. This Regulation provides for no prohibition to develop a related service using data obtained under	

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			this Regulation as this would have an undesirable discouraging effect on innovation. Prohibiting the use of data accessed under this Regulation for developing a competing product protects against free-ride on the data holder's reputation and innovation efforts. Whether a product competes with the product from which the data originates depends on whether the two products are in competition on the same product market. This would be determined based on the established principles of EU competition law for defining the relevant product market.	

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Recital 29				
39	(29) A third party to whom data is made available may be an enterprise, a research organisation or a not-for-profit organisation. In making the data available to the third party, the data holder should not abuse its position to seek a competitive advantage in markets where the data holder and third party may be in direct competition. The data holder should not therefore use any data generated by the use of the product or related service in order to derive insights about the economic situation of the third party or its assets or	(29) A ~~third party~~***data recipient*** to whom data is made available may be ~~an~~***a natural or legal person,*** enterprise, a research organisation or a not-for-profit organisation ***or an intermediary, including data intermediation services or data altruism organisations as defined in Regulation (EU) 2022/868***. In making the data available to ~~the third party, the data holder~~***a data recipient, data holders*** should not abuse ~~its~~***their*** position to seek a competitive advantage in markets where ~~the~~***a*** data holder and ~~third party~~***data recipient*** may be in	(29) A third party to whom data is made available may be an enterprise, a research organisation ***a not-for-profit organisation or an entity acting in a professional capacity*** ~~or a not-for-profit organisation~~. In making the data available to the third party, the data holder should not abuse its position to seek a competitive advantage in markets where the data holder and third party may be in direct competition. The data holder should not therefore use any data generated by the use of the product or related service in order to derive	

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	production methods or the use in any other way that could undermine the commercial position of the third party on the markets it is active on.	direct competition. ~~*The data holder*~~***Data holders*** should not therefore use any data ~~*generated by the use of the product or*~~***accessed from the connected product or generated during the provision of a*** related service in order to derive insights about the economic situation of the third party or its assets or production methods or the use in any other way that could undermine the commercial position of the third party on the markets it is active on. ***The user should have the right to share non-personal data with third parties for commercial purposes. Upon the agreement with the user, and subject to the provisions of this Regulation, data recipients should***	insights about the economic situation of the third party or its assets or production methods or the use in any other way that could undermine the commercial position of the third party on the markets it is active on. ***Data intermediation services [as regulated by Regulation (EU) 2022/868] may support users or third parties in establishing a commercial relation for any lawful purpose on the basis of data of products in scope of this Regulation e.g. by acting on behalf of a user. They could play an instrumental role in aggregating access to data from a large number of individual users so that big data analyses or machine learning can be***	

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		be able to transfer the data access rights granted by the user to third parties, including in exchange for compensation. Data intermediation services [as regulated by Regulation (EU) 2022/868] may support users or data recipients in establishing a commercial relation for any lawful purpose on the basis of data falling within the scope of this Regulation. They could play an instrumental role in aggregating access to data from a large number of individual potential data users so that big data analyses or machine learning can be facilitated, as long as such users remain in full control on whether to contribute their data to	***facilitated, as long as such users remain in full control on whether to contribute their data to such aggregation and the commercial terms under which their data will be used.***	

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		such aggregation and the commercial terms under which their data will be used.		
Recital 30				
40	(30) The use of a product or related service may, in particular when the user is a natural person, generate data that relates to an identified or identifiable natural person (the data subject). Processing of such data is subject to the rules established under Regulation (EU) 2016/679, including where personal and non-personal data in a data set are	(30) The use of a product or related service may, in particular when the user is a natural person, generate data that relates to an identified or identifiable natural person (the data subject). Processing of such data is subject to the rules established under Regulation (EU) 2016/679, including where personal and non-personal data in a data set are	(30) The use of a product or related service may, in particular when the user is a natural person, generate data that relates to an identified or identifiable natural person (the data subject). Processing of such data is subject to the rules established under Regulation (EU) 2016/679, including where personal and non-personal data in a data set are	

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	inextricably linked[1]. The data subject may be the user or another natural person. Personal data may only be requested by a controller or a data subject. A user who is the data subject is under certain circumstances entitled under Regulation (EU) 2016/679 to access personal data concerning them, and such rights are unaffected by this Regulation. Under this Regulation, the user who is a natural person is further entitled to access all data generated by the product, personal and non-personal. Where the user is not the data subject but an enterprise, including a sole trader, and not in cases of shared household use of the product, the user will be a	inextricably linked[1]. The data subject may be the user or another natural person. Personal data may only be requested by a controller or a data subject. A user who is the data subject is under certain circumstances entitled under Regulation (EU) 2016/679 to access personal data concerning them, and such rights are unaffected by this Regulation. Under this Regulation, the user who is a natural person is further entitled to access all data generated by the product, personal and non-personal. Where the user is not the data subject but an enterprise, including a sole trader, and not in cases of shared household use of the product, the user will be a	inextricably linked[1]. The data subject may be the user or another natural person. Personal data may only be requested by a controller or a data subject. A user who is the data subject is under certain circumstances entitled under Regulation (EU) 2016/679 to access personal data concerning them, and such rights are unaffected by this Regulation. Under this Regulation, the user who is a natural person is further entitled to access all data generated by the product, personal and non-personal. Where the user is not the data subject but an enterprise, including a sole trader, and not in cases of shared household use of the product, the user will be a	

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	controller within the meaning of Regulation (EU) 2016/679. Accordingly, such a user as controller intending to request personal data generated by the use of a product or related service is required to have a legal basis for processing the data under Article 6(1) of Regulation (EU) 2016/679, such as the consent of the data subject or legitimate interest. This user should ensure that the data subject is appropriately informed of the specified, explicit and legitimate purposes for processing those data, and how the data subject may effectively exercise their rights. Where the data holder and the user are joint controllers within the meaning of Article 26 of	controller within the meaning of Regulation (EU) 2016/679. Accordingly, such a user as controller intending to request personal data generated by the use of a product or related service is required to have a legal basis for processing the data under Article 6(1) of Regulation (EU) 2016/679, such as the consent of the data subject or legitimate interest. This user should ensure that the data subject is appropriately informed of the specified, explicit and legitimate purposes for processing those data, and how the data subject may effectively exercise their rights. Where the data holder and the user are joint controllers within the meaning of Article 26 of	controller within the meaning of Regulation (EU) 2016/679. Accordingly, such a user as controller intending to request personal data generated by the use of a product or related service is required to have a legal basis for processing the data under Article 6(1) of Regulation (EU) 2016/679, such as the consent of the data subject or ~~*legitimate interest*~~***the performance of a contract to which the data subject is a party*** . This user should ensure that the data subject is appropriately informed of the specified, explicit and legitimate purposes for processing those data, and how the data subject may effectively exercise their rights. Where the	

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	Regulation (EU) 2016/679, they are required to determine, in a transparent manner by means of an arrangement between them, their respective responsibilities for compliance with that Regulation. It should be understood that such a user, once data has been made available, may in turn become a data holder, if they meet the criteria under this Regulation and thus become subject to the obligations to make data available under this Regulation. _____ 1. OJ L 303, 28.11.2018, p. 59–68.	Regulation (EU) 2016/679, they are required to determine, in a transparent manner by means of an arrangement between them, their respective responsibilities for compliance with that Regulation. It should be understood that such a user, once data has been made available, may in turn become a data holder, if they meet the criteria under this Regulation and thus become subject to the obligations to make data available under this Regulation. _____ 1. OJ L 303, 28.11.2018, p. 59–68.	data holder and the user are joint controllers within the meaning of Article 26 of Regulation (EU) 2016/679, they are required to determine, in a transparent manner by means of an arrangement between them, their respective responsibilities for compliance with that Regulation. It should be understood that such a user, once data has been made available, may in turn become a data holder, if they meet the criteria under this Regulation and thus become subject to the obligations to make data available under this Regulation. _____	

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			1. OJ L 303, 28.11.2018, p. 59–68.	
Recital 31				
41	(31) Data generated by the use of a product or related service should only be made available to a third party at the request of the user. This Regulation accordingly complements the right provided under Article 20 of Regulation (EU) 2016/679. That Article provides for a right of data subjects to receive personal data concerning them in a structured, commonly used and machine-readable format,	(31) Data ***accessed from a connected product or*** generated ~~*by the use of a product or*~~ ***during the provision of a*** related service should only be made available to a third party at the request of the user. This Regulation accordingly complements the right provided under Article 20 of Regulation (EU) 2016/679. That Article provides for a right of data subjects to receive personal data concerning them in a structured, commonly used and machine-readable format,	(31) Data generated by the use of a product or related service should only be made available to a third party at the request of the user. This Regulation accordingly complements the right provided under Article 20 of Regulation (EU) 2016/679. That Article provides for a right of data subjects to receive personal data concerning them in a structured, commonly used and machine-readable format,	

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	and to port those data to other controllers, where those data are processed on the basis of Article 6(1), point (a), or Article 9(2), point (a), or of a contract pursuant to Article 6(1), point (b). Data subjects also have the right to have the personal data transmitted directly from one controller to another, but only where technically feasible. Article 20 specifies that it pertains to data provided by the data subject but does not specify whether this necessitates active behaviour on the side of the data subject or whether it also applies to situations where a product or related service by its design observes the behaviour of a data subject or other information in	them in a structured, commonly used and machine-readable format, and to port those data to other controllers, where those data are processed on the basis of Article 6(1), point (a), or Article 9(2), point (a), or of a contract pursuant to Article 6(1), point (b). Data subjects also have the right to have the personal data transmitted directly from one controller to another, but only where technically feasible. Article 20 specifies that it pertains to data provided by the data subject but does not specify whether this necessitates active behaviour on the side of the data subject or whether it also applies to situations where a product or related service by its design	and to port those data to other controllers, where those data are processed ***by automated means*** on the basis of Article 6(1), point (a), or Article 9(2), point (a), or of a contract pursuant to Article 6(1), point (b). Data subjects also have the right to have the personal data transmitted directly from one controller to another, but only where technically feasible. Article 20 specifies that it pertains to data provided by the data subject but does not specify whether this necessitates active behaviour on the side of the data subject or whether it also applies to situations where a product or related service by its design observes the behaviour of a data subject or other	

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	relation to a data subject in a passive manner. The right under this Regulation complements the right to receive and port personal data under Article 20 of Regulation (EU) 2016/679 in several ways. It grants users the right to access and make available to a third party to any data generated by the use of a product or related service, irrespective of its nature as personal data, of the distinction between actively provided or passively observed data, and irrespective of the legal basis of processing. Unlike the technical obligations provided for in Article 20 of Regulation (EU) 2016/679, this Regulation mandates and ensures the technical feasibility of	observes the behaviour of a data subject or other information in relation to a data subject in a passive manner. The right under this Regulation complements the right to receive and port personal data under Article 20 of Regulation (EU) 2016/679 in several ways. It grants users the right to access and make available to a ~~third party~~***data recipient*** to any data ***accessed from the connected product or*** generated ~~by the use of a product or~~ ***during the provision of a*** related service, irrespective of its nature as personal data, of the distinction between actively provided or passively observed data, and irrespective of the legal basis of processing. Unlike the	information in relation to a data subject in a passive manner. The right under this Regulation complements the right to receive and port personal data under Article 20 of Regulation (EU) 2016/679 in several ways. It grants users the right to access and make available to a third party to any data generated by the use of a product or related service, irrespective of its nature as personal data, of the distinction between actively provided or passively observed data, and irrespective of the legal basis of processing. Unlike ~~the technical obligations provided for in~~ Article 20 of Regulation (EU) 2016/679, this Regulation mandates and	

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	third party access for all types of data coming within its scope, whether personal or non-personal. It also allows the data holder to set reasonable compensation to be met by third parties, but not by the user, for any cost incurred in providing direct access to the data generated by the user's product. If a data holder and third party are unable to agree terms for such direct access, the data subject should be in no way prevented from exercising the rights contained in Regulation (EU) 2016/679, including the right to data portability, by seeking remedies in accordance with that Regulation. It is to be understood in this context that, in accordance with Regulation (EU) 2016/679, a	technical obligations provided for in Article 20 of Regulation (EU) 2016/679, this Regulation mandates and ensures the technical feasibility of third party access for all types of data coming within its scope, whether personal or non-personal. It also allows ~~*the data holder*~~***data holders*** to set reasonable compensation to be met by ~~*third parties*~~***data recipients***, but not by the user, for any cost incurred in providing direct access to the data generated by the user's product. If a data holder and third party are unable to agree terms for such direct access, the data subject should be in no way prevented from exercising the rights contained in Regulation (EU)	ensures the technical feasibility of third party access for all types of data coming within its scope, whether personal or non-personal, ***thereby making sure that technical obstacles no longer hinder or prevent access to such data***. It also allows the data holder to set reasonable compensation to be met by third parties, but not by the user, for any cost incurred in providing direct access to the data generated by the user's product. If a data holder and third party are unable to agree terms for such direct access, the data subject should be in no way prevented from exercising the rights contained in Regulation (EU) 2016/679, including the right to	

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	contractual agreement does not allow for the processing of special categories of personal data by the data holder or the third party.	2016/679, including the right to data portability, by seeking remedies in accordance with that Regulation. It is to be understood in this context that, in accordance with Regulation (EU) 2016/679, a contractual agreement does not allow for the processing of special categories of personal data by ~~*the data holder or the third party*~~***data holders or data recipient***.	data portability, by seeking remedies in accordance with that Regulation. It is to be understood in this context that, in accordance with Regulation (EU) 2016/679, a contractual agreement does not allow for the processing of special categories of personal data by the data holder or the third party.	
Recital 32				
42	(32) Access to any data stored in and accessed from terminal equipment is subject to Directive	(32) Access to any data stored in and accessed from terminal equipment is subject to Directive	(32) Access to any data stored in and accessed from terminal equipment is subject to Directive	

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	2002/58/EC and requires the consent of the subscriber or user within the meaning of that Directive unless it is strictly necessary for the provision of an information society service explicitly requested by the user or subscriber (or for the sole purpose of the transmission of a communication). Directive 2002/58/EC ('ePrivacy Directive') (and the proposed ePrivacy Regulation) protect the integrity of the user's terminal equipment as regards the use of processing and storage capabilities and the collection of information. Internet of Things equipment is considered terminal equipment if it is directly	2002/58/EC and requires the consent of the subscriber or user within the meaning of that Directive unless it is strictly necessary for the provision of an information society service explicitly requested by the user or subscriber (or for the sole purpose of the transmission of a communication). Directive 2002/58/EC ('ePrivacy Directive') (and the proposed ePrivacy Regulation) protect the integrity of the user's terminal equipment as regards the use of processing and storage capabilities and the collection of information. Internet of Things equipment is considered terminal equipment if it is directly	2002/58/EC and requires the consent of the subscriber or user within the meaning of that Directive unless it is strictly necessary for the provision of an information society service explicitly requested by the user or subscriber (or for the sole purpose of the transmission of a communication). Directive 2002/58/EC ('ePrivacy Directive') ~~(and the proposed ePrivacy Regulation)~~ protect the integrity of the user's terminal equipment as regards the use of processing and storage capabilities and the collection of information. Internet of Things equipment is considered terminal equipment if it is directly	

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	or indirectly connected to a public communications network.	or indirectly connected to a public communications network.	or indirectly connected to a public communications network.	
Recital 33				
43	(33) In order to prevent the exploitation of users, third parties to whom data has been made available upon request of the user should only process the data for the purposes agreed with the user and share it with another third party only if this is necessary to provide the service requested by the user.	(33) In order to prevent the exploitation of users, ~~third parties~~***data recipients*** to whom data has been made available upon request of the user should only process the data for the purposes agreed with the user and ***not*** share it with another third party ~~only if this is necessary to provide the service requested by the user~~***without unequivocally informing the user in a timely***	(33) In order to prevent the exploitation of users, third parties to whom data has been made available upon request of the user should only process the data for the purposes agreed with the user and share it with another third party only if this is necessary to provide the service requested by the user.	

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		manner and having its explicit agreement to such sharing.		
Recital 34				
44	(34) In line with the data minimisation principle, the third party should only access additional information that is necessary for the provision of the service requested by the user. Having received access to data, the third party should process it exclusively for the purposes agreed with the user, without interference from the data holder. It should be as easy for the user to refuse or discontinue	(34) ~~*In line with the data minimisation principle, the third party*~~***Data recipients*** should only access additional information that is necessary for the provision of the service requested by the user. Having received access to data, the ~~*third party*~~***data recipient*** should process it exclusively for the purposes agreed with the user, without interference from the data holder. It should be as easy for the	(34) In line with the data minimisation principle, the third party should only access additional information that is necessary for the provision of the service requested by the user. Having received access to data, the third party should process it exclusively for the purposes agreed with the user, without interference from the data holder. It should be as easy for the user to refuse or discontinue	

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	access by the third party to the data as it is for the user to authorise access. The third party should not coerce, deceive or manipulate the user in any way, by subverting or impairing the autonomy, decision-making or choices of the user, including by means of a digital interface with the user. in this context, third parties should not rely on so-called dark patterns in designing their digital interfaces. Dark patterns are design techniques that push or deceive consumers into decisions that have negative consequences for them. These manipulative techniques can be used to persuade users, particularly vulnerable consumers, to engage in unwanted behaviours,	user to refuse or discontinue access by the ~~*third party*~~***data recipient*** to the data as it is for the user to authorise access. ~~*The third party*~~***A data recipient or data holder*** should not ***make the exercise of the rights or choices of users unduly difficult including by offering choices to users in a non-neutral manner, or*** coerce, deceive or manipulate the user in any way, ***or*** by subverting or impairing the autonomy, decision-making or choices of the user, including by means of a digital interface ***or a part thereof, including its structure, design, function or manner of operation*** with the user. In this context, third parties ***or data holders*** should not	access by the third party to the data as it is for the user to authorise access. The third party should not coerce, deceive or manipulate the user in any way, by subverting or impairing the autonomy, decision-making or choices of the user, including by means of a digital interface with the user. in this context, third parties should not rely on so-called dark patterns in designing their digital interfaces. Dark patterns are design techniques that push or deceive consumers into decisions that have negative consequences for them. These manipulative techniques can be used to persuade users, particularly vulnerable consumers, to engage in unwanted behaviours,	

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	and to deceive users by nudging them into decisions on data disclosure transactions or to unreasonably bias the decision-making of the users of the service, in a way that subverts and impairs their autonomy, decision-making and choice. Common and legitimate commercial practices that are in compliance with Union law should not in themselves be regarded as constituting dark patterns. Third parties should comply with their obligations under relevant Union law, in particular the requirements set out in Directive 2005/29/EC, Directive 2011/83/EU, Directive	rely on so-called dark patterns in designing their digital interfaces. Dark patterns are design techniques that push or deceive consumers into decisions that have negative consequences for them. These manipulative techniques can be used to persuade users, particularly vulnerable consumers, to engage in unwanted behaviours, and to deceive users by nudging them into decisions on data disclosure transactions or to unreasonably bias the decision-making of the users of the service, in a way that subverts and impairs their autonomy, decision-making and choice. Common and legitimate commercial practices that are in	and to deceive users by nudging them into decisions on data disclosure transactions or to unreasonably bias the decision-making of the users of the service, in a way that subverts and impairs their autonomy, decision-making and choice. Common and legitimate commercial practices that are in compliance with Union law should not in themselves be regarded as constituting dark patterns. Third parties should comply with their obligations under relevant Union law, in particular the requirements set out in Directive 2005/29/EC, Directive 2011/83/EU, Directive	

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	2000/31/EC and Directive 98/6/EC.	compliance with Union law should not in themselves be regarded as constituting dark patterns. Third parties ***and data holders*** should comply with their obligations under relevant Union law, ~~*in particular*~~***including*** the requirements set out in Directive 2005/29/EC, Directive 2011/83/EU, Directive 2000/31/EC and Directive 98/6/EC.	2000/31/EC and Directive 98/6/EC.	
Recital 35				
45	(35) The third party should also refrain from using the data to profile individuals unless these	(35) ~~*The third party*~~***Data holders and data recipients*** should also refrain from using the data to	(35) The third party should also refrain from using the data to profile individuals unless these	

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	processing activities are strictly necessary to provide the service requested by the user. The requirement to delete data when no longer required for the purpose agreed with the user complements the right to erasure of the data subject pursuant to Article 17 of Regulation 2016/679. Where the third party is a provider of a data intermediation service within the meaning of [Data Governance Act], the safeguards for the data subject provided for by that Regulation apply. The third party may use the data to develop a new and innovative product or related service but not to develop a competing product.	profile individuals unless these processing activities are strictly necessary to provide the service requested by the user. The requirement to delete ***personal*** data when no longer required for the purpose agreed with the user complements the right to erasure of the data subject pursuant to Article 17 of ~~*Regulation 2016/679*~~***Regulation (EU) 2016/679***. Where ~~*the third party*~~***a data recipient*** is a provider of a data intermediation service within the meaning of ~~*[Data Governance Act]*~~***Regulation (EU) 2022/868***, the safeguards for the data subject provided for by that Regulation apply. The third party may use the data to develop a new and	processing activities are strictly necessary to provide the service requested by the user. The requirement to delete data when no longer required for the purpose agreed with the user complements the right to erasure of the data subject pursuant to Article 17 of Regulation 2016/679. Where the third party is a provider of a data intermediation service within the meaning of [Data Governance Act], the safeguards for the data subject provided for by that Regulation apply. The third party may use the data to develop a new and innovative product or related service but not to develop a competing product.	

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		innovative product or related service but not to develop a competing product.		
Recital 36				
46	(36) Start-ups, small and medium-sized enterprises and companies from traditional sectors with less-developed digital capabilities struggle to obtain access to relevant data. This Regulation aims to facilitate access to data for these entities, while ensuring that the corresponding obligations are scoped as proportionately as possible to	(36) Start-ups, ~~small and medium-sized enterprises~~ ***SMEs*** and companies from traditional sectors with less-developed digital capabilities struggle to obtain access to relevant data. This Regulation aims to facilitate access to data for these entities, while ensuring that the corresponding obligations are scoped as proportionately as possible to	(36) Start-ups, small and medium-sized enterprises and companies from traditional sectors with less-developed digital capabilities struggle to obtain access to relevant data. This Regulation aims to facilitate access to data for these entities, while ensuring that the corresponding obligations are scoped as proportionately as possible to	

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	avoid overreach. At the same time, a small number of very large companies have emerged with considerable economic power in the digital economy through the accumulation and aggregation of vast volumes of data and the technological infrastructure for monetising them. These companies include undertakings that provide core platform services controlling whole platform ecosystems in the digital economy and whom existing or new market operators are unable to challenge or contest. The [Regulation on contestable and fair markets in the digital sector (Digital Markets Act)] aims to redress these inefficiencies and imbalances by allowing the	avoid overreach. At the same time, a small number of very large companies have emerged with considerable economic power in the digital economy through the accumulation and aggregation of vast volumes of data and the technological infrastructure for monetising them. These companies include undertakings that provide core platform services controlling whole platform ecosystems in the digital economy and whom existing or new market operators are unable to challenge or contest. The ~~[~~Regulation ~~on contestable and fair markets in the digital sector (Digital Markets Act)]~~ ***(EU) 2022/1925 of the European Parliament and of the Council*** [1]	avoid overreach. At the same time, a small number of very large companies have emerged with considerable economic power in the digital economy through the accumulation and aggregation of vast volumes of data and the technological infrastructure for monetising them. These companies include undertakings that provide core platform services controlling whole platform ecosystems in the digital economy and whom existing or new market operators are unable to challenge or contest. ***Regulation (EU) 2022/1925*** ~~*The [Regulation*~~ on contestable and fair markets in the digital sector (Digital Markets Act)~~]~~ [1] aims to redress these inefficiencies and	

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	Commission to designate a provider as a “gatekeeper”, and imposes a number of obligations on such designated gatekeepers, including a prohibition to combine certain data without consent, and an obligation to ensure effective rights to data portability under Article 20 of Regulation (EU) 2016/679. Consistent with the [Regulation on contestable and fair markets in the digital sector (Digital Markets Act)], and given the unrivalled ability of these companies to acquire data, it would not be necessary to achieve the objective of this Regulation, and would thus be disproportionate in relation to data holders made subject to such obligations, to	aims to redress these inefficiencies and imbalances by allowing the Commission to designate a provider as a "gatekeeper", and imposes a number of obligations on such designated gatekeepers, including a prohibition to combine certain data without consent, and an obligation to ensure effective rights to data portability under Article 20 of Regulation (EU) 2016/679. Consistent with the ~~[~~ Regulation ~~on contestable and fair markets in the digital sector (Digital Markets Act~~***EU***~~)]~~ ***2022/1925***, and given the unrivalled ability of these companies to acquire data, it would not be necessary to achieve the	imbalances by allowing the Commission to designate a provider as a "gatekeeper", and imposes a number of obligations on such designated gatekeepers, including a prohibition to combine certain data without consent, and an obligation to ensure effective rights to data portability under Article 20 of Regulation (EU) 2016/679. Consistent with ~~the~~ ~~[~~Regulation ~~on contestable and fair markets in the digital sector (Digital Markets Act)]~~***EU) 2022/1925*** , and given the unrivalled ability of these companies to acquire data, it would not be necessary to achieve the objective of this Regulation, and would thus be disproportionate in	

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	include such gatekeeper undertakings as beneficiaries of the data access right. This means that an undertaking providing core platform services that has been designated as a gatekeeper cannot request or be granted access to users' data generated by the use of a product or related service or by a virtual assistant based on the provisions of Chapter II of this Regulation. An undertaking providing core platform services designated as a gatekeeper pursuant to Digital Markets Act should be understood to include all legal entities of a group of companies where one legal entity provides a core platform service. Furthermore, third parties to whom	objective of this Regulation, and would thus be disproportionate in relation to data holders made subject to such obligations, to include such gatekeeper undertakings as beneficiaries of the data access right. This means that an undertaking providing core platform services that has been designated as a gatekeeper cannot request or be granted access to users' data generated by the use of a product or related service or by a virtual assistant based on the provisions of Chapter II of this Regulation. An undertaking providing core platform services designated as a gatekeeper pursuant to ~~*Digital Markets Act*~~***Regulation (EU) 2022/1925***	relation to data holders made subject to such obligations, to include such gatekeeper undertakings as beneficiaries of the data access right. ***Such inclusion would also likely limit the benefits of the Data Act for the SMEs, linked to the fairness of the distribution of data value across market actors.*** This means that an undertaking providing core platform services that has been designated as a gatekeeper cannot request or be granted access to users' data generated by the use of a product or related service or by a virtual assistant based on the provisions of Chapter II of this Regulation.~~*An undertaking providing core platform services*~~	

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	data are made available at the request of the user may not make the data available to a designated gatekeeper. For instance, the third party may not sub-contract the service provision to a gatekeeper. However, this does not prevent third parties from using data processing services offered by a designated gatekeeper. This exclusion of designated gatekeepers from the scope of the access right under this Regulation does not prevent these companies from obtaining data through other lawful means.	should be understood to include all legal entities of a group of companies where one legal entity provides a core platform service. Furthermore, third parties to whom data are made available at the request of the user may not make the data available to a designated gatekeeper. For instance, the third party may not sub-contract the service provision to a gatekeeper. However, this does not prevent third parties from using data processing services offered by a designated gatekeeper. This exclusion of designated gatekeepers from the scope of the access right under this Regulation does not prevent these companies	~~*designated as a gatekeeper pursuant to Digital Markets Act should be understood to include all legal entities of a group of companies where one legal entity provides a core platform service.*~~ Furthermore, third parties to whom data are made available at the request of the user may not make the data available to a designated gatekeeper. For instance, the third party may not sub-contract the service provision to a gatekeeper. However, this does not prevent third parties from using data processing services offered by a designated gatekeeper. ~~*This*~~***The*** exclusion of designated gatekeepers from the scope of the access right under this Regulation	

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		from obtaining data through other lawful means. _____ ***1. Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act). (OJ L 265, 12.10.2022, p. 1)***	~~*does*~~***means that they cannot receive data from the users and from third parties. It should*** not prevent these companies from obtaining ***and using the same*** data through other lawful means. ***Notably, it should continue to be possible for manufacturers to contractually agree with gatekeepers that data from products they manufacture can be used by a gatekeeper company . . The access rights under Chapter II of the Data Act contribute to a wider choice of services for consumers. The limitation on granting access to gatekeepers would not exclude them from the market and prevent them from offering its services, as voluntary***	

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			agreements between them and the data holders remain unaffected. _____ ***1. OJ L 265, 12.10.2022, p. 1–66.***	
Recital 37				
47	(37) Given the current state of technology, it is overly burdensome to impose further design obligations in relation to products manufactured or designed and related services provided by micro and small enterprises. That is not the case, however, where a	(37) ~~*Given the current state of technology, it is overly burdensome to impose further design*~~***Micro and small enterprises should be excluded from the*** obligations ~~*in relation to products manufactured or designed and related services provided by micro and small*~~	(37) Given the current state of technology, it is overly burdensome to impose further design obligations in relation to products manufactured or designed and related services provided by micro and small enterprises. That is not the case, however, where a	

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	micro or small enterprise is sub-contracted to manufacture or design a product. In such situations, the enterprise, which has sub-contracted to the micro or small enterprise, is able to compensate the sub-contractor appropriately. A micro or small enterprise may nevertheless be subject to the requirements laid down by this Regulation as data holder, where it is not the manufacturer of the product or a provider of related services.	~~*enterprises*~~***of Chapter II***. That is not the case, however, where a micro or small enterprise is sub-contracted to manufacture or design a product. In such situations, the enterprise, which has sub-contracted to the micro or small enterprise, is able to compensate the sub-contractor appropriately. A micro or small enterprise may nevertheless be subject to the requirements laid down by this Regulation as data holder, where it is not the manufacturer of the product or a provider of related services.	micro or small enterprise is sub-contracted to manufacture or design a product. In such situations, the enterprise, which has sub-contracted to the micro or small enterprise, is able to compensate the sub-contractor appropriately. A micro or small enterprise may nevertheless be subject to the requirements laid down by this Regulation as data holder, where it is not the manufacturer of the product or a provider of related services. ***Similarly, enterprises that just have passed the thresholds qualifying as a medium-sized enterprise as well as medium-sized enterprises bringing a new product on the market should***	

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			benefit from a certain period before being exposed to the potential competition based on the access rights under this Regulation on the market for services around products they manufacture.	
Recital 38				
48	(38) This Regulation contains general access rules, whenever a data holder is obliged by law to make data available to a data recipient. Such access should be based on fair, reasonable, non-discriminatory and transparent	(38) This Regulation contains ~~*general access*~~ rules, whenever a data holder is obliged by law to make data available to a data recipient. Such access should be based on fair, reasonable, non-discriminatory and transparent	(38) ~~*This Regulation contains general access rules, whenever a data holder is obliged by law to make data available to a data recipient. Such access should be based on*~~***In order to take account of a variety of products in scope.***	

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	conditions to ensure consistency of data sharing practices in the internal market, including across sectors, and to encourage and promote fair data sharing practices even in areas where no such right to data access is provided. These general access rules do not apply to obligations to make data available under Regulation (EU) 2016/679. Voluntary data sharing remains unaffected by these rules.	conditions to ensure consistency of data sharing practices in the internal market, including across sectors, and to encourage and promote fair data sharing practices even in areas where no such right to data access is provided. These general access rules do not apply to obligations to make data available under Regulation (EU) 2016/679. Voluntary data sharing remains unaffected by these rules.	***producing data of different nature, volume and frequency, presenting different levels of data and cybersecurity risks, and providing economic opportunities of different value, this Regulation assumes that the data holder and the third party conclude a contractual agreement on the modalities under which the right to share data with third parties is to be fulfilled. Those modalities should be*** fair, reasonable, non-discriminatory and transparent***. The non-binding model contractual terms for business-to-business*** ~~*conditions to ensure consistency of*~~ data sharing ~~*practices in the internal market, including across sectors, and to*~~	

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			~~*encourage and promote fair data sharing practices even in areas where no such*~~ ***to be developed and recommended by the Commission may help the parties to conclude a contractual agreement including fair, reasonable and non-discriminatory terms and implemented in a transparent way. The conclusion of such an agreement should, however, not mean that the*** right to ***share data with third parties is in any way conditional upon the existence of such agreement. Should parties be unable to conclude an agreement on the modalities, including with the support of dispute settlement bodies, the right to share data with third parties is enforceable in***	

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			national courts*~~data access is provided. These general access rules do not apply to obligations to make data available under Regulation (EU) 2016/679. Voluntary data sharing remains unaffected by these rules~~*.	
Y	48a		***(38a) For the purpose of ensuring consistency of data sharing practices in the internal market, including across sectors, and to encourage and promote fair data sharing practices even in areas where no such right to data***	Y

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			access is provided, this Regulation provides for horizontal rules on modalities of access to data whenever a data holder is obliged by law to make data available to a data recipient. This should apply in addition to the rules that lay down the rights of access to data generated by products or related services These general access rules do not apply to obligations to make data available under Regulation (EU) 2016/679. Voluntary data sharing remains unaffected by these rules.	
Recital 39				

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49	(39) Based on the principle of contractual freedom, the parties should remain free to negotiate the precise conditions for making data available in their contracts, within the framework of the general access rules for making data available.	(39) Based on the principle of contractual freedom, the parties should remain free to negotiate the precise conditions for making data available in their contracts, within the framework of the general access rules for making data available.	(39) Based on the principle of contractual freedom, the parties should remain free to negotiate the precise conditions for making data available in their contracts, within the framework of the general access rules for making data available. ***Such terms could include technical and organisational issues, including in relation to data security.***	
Recital 40				
50				

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	(40) In order to ensure that the conditions for mandatory data access are fair for both parties, the general rules on data access rights should refer to the rule on avoiding unfair contract terms.	(40) In order to ensure that the conditions for mandatory data access are fair for both parties, the general rules on data access rights should refer to the rule on avoiding unfair contract terms.	(40) In order to ensure that the conditions for mandatory data access are fair for both parties, the general rules on data access rights should refer to the rule on avoiding unfair contract terms.	
Recital 41				
51	(41) In order to compensate for the lack of information on the conditions of different contracts, which makes it difficult for the data recipient to assess if the terms for making the data available are non-discriminatory, it should be on the data holder to demonstrate that	(41) ***Any agreement concluded for making the data available should not discriminate between comparable categories of data recipients, independently whether they are large companies or micro, small or medium-sized enterprises.*** In order to compensate	(41) ***Any agreement concluded in business-to-business relations for making the data available should also be non-discriminatory between comparable categories of data recipients, independently whether they are large companies or micro, small or medium-sized***	

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	a contractual term is not discriminatory. It is not unlawful discrimination, where a data holder uses different contractual terms for making data available or different compensation, if those differences are justified by objective reasons. These obligations are without prejudice to Regulation (EU) 2016/679.	for the lack of information on the conditions of different contracts, which makes it difficult for the data recipient to assess if the terms for making the data available are non-discriminatory, it should be ~~on~~***the responsibility of*** the data ~~holder~~***holders*** to demonstrate that a contractual term is not discriminatory. ***The Commission, while involving all affected stakeholders, should establish practical guidelines on what constitutes non-discriminatory terms.*** It is not unlawful discrimination, where a data holder uses different contractual terms for making data available ~~or different compensation~~, if those differences are justified by objective reasons.	***enterprises.*** In order to compensate for the lack of information on the conditions of different contracts, which makes it difficult for the data recipient to assess if the terms for making the data available are non-discriminatory, it should be on the data holder to demonstrate that a contractual term is not discriminatory. It is not unlawful discrimination, where a data holder uses different contractual terms for making data available or different compensation, if those differences are justified by objective reasons. These obligations are without prejudice to Regulation (EU) 2016/679.	

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		These obligations are without prejudice to Regulation (EU) 2016/679.		
Recital 42				
52	(42) In order to incentivise the continued investment in generating valuable data, including investments in relevant technical tools, this Regulation contains the principle that the data holder may request reasonable compensation when legally obliged to make data available to the data recipient. These provisions should not be understood as paying for the data	(42) In order to incentivise the continued investment in generating ***and making available*** valuable data, including investments in relevant technical tools, this Regulation contains the principle that ~~*the data holder*~~***data holders*** may request reasonable compensation when legally obliged to make data available to the data recipient ***in business- to business***	(42) In order to incentivise the continued investment in generating valuable data, including investments in relevant technical tools, ~~*this Regulation contains the principle that the data holder may request reasonable compensation when legally obliged to*~~***while at the same time avoiding excessive burden for access and use of data which*** make data ~~*available to the*~~	

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	itself, but in the case of micro, small or medium-sized enterprises, for the costs incurred and investment required for making the data available.	***relations***. These provisions should not be understood as paying for the data itself, but ***to allow data holders to be reasonably compensated for making data available or,*** in the case of micro, small or medium-sized enterprises ***and of research organisations using the data on a not-for-profit basis***, for the ***direct*** costs incurred and investment required for making the data available. ***The Commission should develop guidance detailing what qualifies as a reasonable compensation in the data economy.***	~~*data recipient. These provisions should not be understood as paying for*~~***sharing no longer commercially viable, this Regulation contains the principle that*** the data ~~*itself, but in the case of micro, small or medium-sized enterprises, for the costs incurred and investment required for making*~~***holder may request reasonable compensation when legally obliged to make data available to*** the data ~~*available*~~***recipient***.	

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52a		***(42a) Such reasonable compensation may include firstly the costs incurred and, except for micro and small enterprises, investment required for making the data available. Those costs can be technical costs, such as the costs necessary for data reproduction, dissemination via electronic means and storage, but not of data collection or production. Such technical costs could include also the costs for processing, necessary to make data available. Costs related to making the data available may also include the costs of facilitating concrete data sharing***	***(42a) Such reasonable compensation may include firstly the costs incurred and investment required for making the data available. These costs can be technical costs, such as the costs necessary for data reproduction, dissemination via electronic means and storage, but not of data collection or production. Such technical costs could include also the costs for processing, necessary to make data available, including costs associated with anonymising or pseudonymising data, and formatting of data. Costs related to making the data available may also include the costs of***	

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		requests. They may also vary depending on the arrangements taken for making the data available. Long-term arrangements between data holders and data recipients, for instance via a subscription model or the use of smart contracts, could reduce the costs in regular or repetitive transactions in a business relationship. Costs related to making data available are either specific to a particular request or shared with other requests. In the latter case, a single data recipient should not pay the full costs of making the data available. Reasonable compensation may include, except for micro and small enterprises,	***organising answers to concrete data sharing requests. They may also vary depending on the volume of the data as well as the arrangements taken for making the data available. Long-term arrangements between data holders and data recipients, for instance via a subscription model or the use of smart contracts, could reduce the costs in regular or repetitive transactions in a business relationship. Costs related to making data available are either specific to a particular request or shared with other requests. In the latter case, a single data recipient should not pay the full costs of making the data available. Reasonable***	

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		secondly a margin. Such margin may vary depending on factors related to the data itself, such as volume, format or nature of the data, or on the supply of and demand for the data. It may consider the costs for collecting the data. The margin may therefore decrease where the data holder has collected the data for its own business without significant investments or may increase where the investments in the data collection for the purposes of the data holder's business are high. The margin may also depend on the follow-on use of the data by the data recipient. It may be limited or even excluded in situations where	***compensation may include secondly a margin. Such margin may vary depending on factors related to the data itself, such as volume, format or nature of the data. It may consider the costs for collecting the data. The margin may therefore decrease where the data holder has collected the data for its own business without significant investments or may increase where the investments in the data collection for the purposes of the data holder's business are high. . The fact that the data is co-generated by the user could also lower the amount of the compensation in comparison to other situations***	

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		the use of the data by the data recipient does not affect the own activities of the data holder. The fact that the data is co-generated by a connected product owned by the user could also lower the amount of the compensation in comparison to other situations where the data are generated by the data holder for example during the provision of a related service.	***where the data are generated exclusively by the data holder.***	
Recital 43				
53	(43) In justified cases, including the need to safeguard consumer	(43) In ***duly*** justified cases, including the need to safeguard	(43) ***It is not necessary to intervene in the case of data***	

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	participation and competition or to promote innovation in certain markets, Union law or national legislation implementing Union law may impose regulated compensation for making available specific data types.	consumer participation and competition or to promote innovation in certain markets, Union law or national legislation implementing Union law may impose regulated compensation for making available specific data types.	***sharing between large companies, or when the data holder is a small or medium-sized enterprise and the data recipient is a large company. In such cases, the companies are considered capable of negotiating the*** ~~*In justified cases, including the need to safeguard consumer participation and competition or to promote innovation in certain markets, Union law or national legislation implementing Union law may impose regulated*~~ compensation ~~*for making available specific data types*~~***within the limits of what is reasonable***.	

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Recital 44				
54	(44) To protect micro, small or medium-sized enterprises from excessive economic burdens which would make it commercially too difficult for them to develop and run innovative business models, the compensation for making data available to be paid by them should not exceed the direct cost of making the data available and be non-discriminatory.	(44) To protect micro, small or medium-sized enterprises from excessive economic burdens which would make it commercially too difficult for them to develop and run innovative business models, the compensation for making data available to be paid by them should not exceed the direct cost of making the data available and be non-discriminatory. ***The same regime should apply to those research organisations that use the data on a not-for-profit basis.***	(44) To protect micro, small or medium-sized enterprises from excessive economic burdens which would make it commercially too difficult for them to develop and run innovative business models, the ***reasonable*** compensation for making data available to be paid by them should not exceed the ~~*direct cost of*~~ ***cost directly related to*** making the data available ~~*and be non-discriminatory*~~.	

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Recital 45				
55	(45) Direct costs for making data available are the costs necessary for data reproduction, dissemination via electronic means and storage but not of data collection or production. Direct costs for making data available should be limited to the share attributable to the individual requests, taking into account that the necessary technical interfaces or related software and connectivity will have to be set up permanently by the data holder. Long-term arrangements between data holders and data recipients,	(45) Direct costs for making data available are the costs necessary for data reproduction, dissemination via electronic means and storage but not of data collection or production. Direct costs for making data available should be limited to the share attributable to the individual requests, taking into account that the necessary technical interfaces or related software and connectivity will have to be set up permanently by the data holder. Long-term arrangements between data holders and data recipients,	(45) ~~*Direct costs for making data available are the*~~***Directly related*** costs~~*necessary for data reproduction, dissemination via electronic means and storage but not of data collection or production. Direct*~~ ***are those*** costs ~~*for making data available should be limited to the share*~~ ***which are*** attributable to the individual requests, taking into account that the necessary technical interfaces or related software and connectivity will have to be set up permanently by the data holder. ~~*Long-term arrangements between*~~	

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	for instance via a subscription model, could reduce the costs linked to making the data available in regular or repetitive transactions in a business relationship.	for instance via a subscription model, could reduce the costs linked to making the data available in regular or repetitive transactions in a business relationship. ***The data holder, if not an SME, should actively provide the calculation showing that his price is a cost-based, when he knows, or should have known, that his counterparty is an SME. In any case, he should state that he is obliged to make the data available to an SME at cost price and that he is obliged to make detailed information available when requested.***	~~*data holders and data recipients, for instance via a subscription model, could reduce the costs linked to making the data available in regular or repetitive transactions in a business relationship.*~~	

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Y 55a			***(45a) In justified cases, including the need to safeguard consumer participation and competition or to promote innovation in certain markets, Union law or national legislation implementing Union law may impose regulated compensation for making available specific data types.***	Y
Recital 46				
Y 56	(46) It is not necessary to intervene in the case of data	(46) It is not necessary to intervene in the case of data	~~*(46) It is not necessary to intervene in the case of data*~~	Y

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	sharing between large companies, or when the data holder is a small or medium-sized enterprise and the data recipient is a large company. In such cases, the companies are considered capable of negotiating any compensation if it is reasonable, taking into account factors such as the volume, format, nature, or supply of and demand for the data as well as the costs for collecting and making the data available to the data recipient.	sharing between large companies, or when the data holder is a small or medium-sized enterprise and the data recipient is a large company. In such cases, the companies are considered capable of negotiating any compensation if it is reasonable, taking into account factors such as the volume, format, nature, or supply of and demand for the data as well as the costs for collecting and making the data available to the data recipient. ***In the case of misuse or disclosure of data, the data recipient should be liable for the damages to the party suffering from it and should comply without undue delay with the requests of the data holder.***	~~*sharing between large companies, or when the data holder is a small or medium-sized enterprise and the data recipient is a large company. In such cases, the companies are considered capable of negotiating any compensation if it is reasonable, taking into account factors such as the volume, format, nature, or supply of and demand for the data as well as the costs for collecting and making the data available to the data recipient.*~~	

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Recital 47				
57	(47) Transparency is an important principle to ensure that the compensation requested by the data holder is reasonable, or, in case the data recipient is a micro, small or medium-sized enterprise, that the compensation does not exceed the costs directly related to making the data available to the data recipient and is attributable to the individual request. In order to put the data recipient in the position to assess and verify that the compensation complies with	(47) Transparency is an important principle to ensure that the compensation requested by ~~the~~***a*** data holder is reasonable, or, ~~in case~~***if*** the data recipient is ~~a micro, small or medium-sized enterprise~~***an SME***, that the compensation does not exceed the costs directly related to making the data available to the data recipient and is attributable to the individual request. In order to put ~~the data recipient~~ ***data recipients*** in the position to assess and verify that	(47) Transparency is an important principle to ensure that the compensation requested by the data holder is reasonable, or, in case the data recipient is a micro, small or medium-sized enterprise, that the compensation does not exceed the costs directly related to making the data available to the data recipient ~~and is attributable to the individual request~~. In order to put the data recipient in the position to assess and verify that the compensation complies with	

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	the requirements under this Regulation, the data holder should provide to the data recipient the information for the calculation of the compensation with a sufficient degree of detail.	the compensation complies with the requirements under this Regulation, the data holder should provide to the data recipient the information for the calculation of the compensation with a sufficient degree of detail.	the requirements under this Regulation, the data holder should provide to the data recipient the information for the calculation of the compensation with a sufficient degree of detail.	
Recital 48				
58	(48) Ensuring access to alternative ways of resolving domestic and cross-border disputes that arise in connection with making data available should benefit data holders and data recipients and therefore strengthen trust in data	(48) Ensuring access to alternative ways of resolving domestic and cross-border disputes that arise in connection with making data available should benefit data holders and data recipients and therefore strengthen trust in data	(48) Ensuring access to alternative ways of resolving domestic and cross-border disputes that arise in connection with making data available should benefit data holders and data recipients and therefore strengthen trust in data	

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	sharing. In cases where parties cannot agree on fair, reasonable and non-discriminatory terms of making data available, dispute settlement bodies should offer a simple, fast and low-cost solution to the parties.	sharing. In cases where parties cannot agree on fair, reasonable and non-discriminatory terms of making data available, dispute settlement bodies should offer a simple, fast and low-cost solution to the parties.	sharing. In cases where parties cannot agree on fair, reasonable and non-discriminatory terms of making data available, dispute settlement bodies should offer a simple, fast and low-cost solution to the parties. ***While this Regulation only lays down the conditions that dispute settlement bodies need to fulfill to be certified, Member States are free to regulate any specific rules on the certification procedure, including the expiration or revocation of the certification. The provisions in this Regulation on dispute settlement should not require Member States to***	

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			establish dispute settlement bodies.	
Y	58a		***(48a) The dispute settlement procedure under this Regulation is a voluntary procedure that enables both data holder and data recipient to agree on bringing their dispute before a dispute settlement body. In this regard, the parties should be free to address a dispute settlement body of their choice, be it within or outside of the Member States they are established in.***	Y

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Recital 49				
59	(49) To avoid that two or more dispute settlement bodies are seized for the same dispute, particularly in a cross-border setting, a dispute settlement body should be able to reject a request to resolve a dispute that has already been brought before another dispute settlement body or before a court or a tribunal of a Member State.	(49) To avoid that two or more dispute settlement bodies are seized for the same dispute, particularly in a cross-border setting, a dispute settlement body should be able to reject a request to resolve a dispute that has already been brought before another dispute settlement body or before a court or a tribunal of a Member State.	(49) To avoid that two or more dispute settlement bodies are seized for the same dispute, particularly in a cross-border setting, a dispute settlement body should be able to reject a request to resolve a dispute that has already been brought before another dispute settlement body or before a court or a tribunal of a Member State.	

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59a			***(49a) In order to ensure an uniform application of this Regulation, the dispute settlement bodies should take into account the non-binding model contractual terms developed and recommended by the Commission as well as sectoral regulation specifying data sharing obligations or guidelines issued by sectoral authorities for the application of such Regulation.***	
Recital 50				
60				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(50) Parties to dispute settlement proceedings should not be prevented from exercising their fundamental rights to an effective remedy and to a fair trial. Therefore, the decision to submit a dispute to a dispute settlement body should not deprive those parties of their right to seek redress before a court or a tribunal of a Member State.	(50) Parties to dispute settlement proceedings should not be prevented from exercising their fundamental rights to an effective remedy and to a fair trial. Therefore, the decision to submit a dispute to a dispute settlement body should not deprive those parties of their right to seek redress before a court or a tribunal of a Member State. ***Dispute settlement bodies should make annual activity reports publicly available.***	(50) Parties to dispute settlement proceedings should not be prevented from exercising their fundamental rights to an effective remedy and to a fair trial. Therefore, the decision to submit a dispute to a dispute settlement body should not deprive those parties of their right to seek redress before a court or a tribunal of a Member State.	
	60a			

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			(50a) In order to avoid misuse of the new data access rights, the data holder may apply technical protection measures in relation to the data made available to the recipient to prevent unauthorised access and ensure compliance with the framework of data access in Chapter II and III. However, those measures should not hinder the effective access and use of data for the data recipient. In the case of abusive practices on the part of the data recipient, such as misleading the data holder with inaccurate information or developing a competing product on the basis of data, the data holder can, for example, request the deletion of data and the end of	

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			production of products or services based on the data received.	
Recital 51				
G 61	(51) Where one party is in a stronger bargaining position, there is a risk that that party could leverage such position to the detriment of the other contracting party when negotiating access to data and make access to data commercially less viable and sometimes economically prohibitive. Such contractual imbalances particularly harm micro, small and medium-sized	(51) Where one party is in a stronger bargaining position, there is a risk that that party could leverage such position to the detriment of the other contracting party when negotiating access to data and make access to data commercially less viable and sometimes economically prohibitive. Such contractual imbalances ~~*particularly harm micro, small and*~~	(51) Where one party is in a stronger bargaining position, there is a risk that that party could leverage such position to the detriment of the other contracting party when negotiating access to data and make access to data commercially less viable and sometimes economically prohibitive. Such contractual imbalances ~~*particularly harm micro, small and medium-sized*~~	(51) Where one party is in a stronger bargaining position, there is a risk that that party could leverage such position to the detriment of the other contracting party when negotiating access to data and make access to data commercially less viable and sometimes economically prohibitive. Such contractual imbalances ~~*particularly harm micro, small and medium-sized*~~ ***harm all*** enterprises without a G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	enterprises without a meaningful ability to negotiate the conditions for access to data, who may have no other choice than to accept 'take-it-or-leave-it' contractual terms. Therefore, unfair contract terms regulating the access to and use of data or the liability and remedies for the breach or the termination of data related obligations should not be binding on micro, small or medium-sized enterprises when they have been unilaterally imposed on them.	~~*medium-sized*~~***harm*** enterprises without a meaningful ability to negotiate the conditions for access to data, who may have no other choice than to accept 'take-it-or-leave-it' contractual terms. Therefore, unfair contract terms regulating the access to and use of data or the liability and remedies for the breach or the termination of data related obligations should not be binding on micro, small or medium-sized enterprises when they have been unilaterally imposed on them.	***harm all*** enterprises without a meaningful ability to negotiate the conditions for access to data, who may have no other choice than to accept 'take-it-or-leave-it' contractual terms. Therefore, unfair contract terms regulating the access to and use of data or the liability and remedies for the breach or the termination of data related obligations should not be binding on ~~*micro, small or medium-sized*~~ enterprises when they have been unilaterally imposed on them.	meaningful ability to negotiate the conditions for access to data, who may have no other choice than to accept 'take-it-or-leave-it' contractual terms. Therefore, unfair contract terms regulating the access to and use of data or the liability and remedies for the breach or the termination of data related obligations should not be binding on ~~*micro, small or medium-sized*~~ enterprises when they have been unilaterally imposed on them. Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Recital 52				
62	(52) Rules on contractual terms should take into account the principle of contractual freedom as an essential concept in business-to-business relationships. Therefore, not all contractual terms should be subject to an unfairness test, but only to those terms that are unilaterally imposed on micro, small and medium-sized enterprises. This concerns 'take-it-or-leave-it' situations where one party supplies a certain contractual term and the micro, small or medium-sized enterprise cannot influence the content of that	(52) Rules on contractual terms should take into account the principle of contractual freedom as an essential concept in business-to-business relationships. ~~*Therefore, not all contractual terms should be subject to an unfairness test, but only to those terms that are unilaterally imposed on micro, small and medium-sized enterprises*~~. This concerns 'take-it-or-leave-it' situations where one party supplies a certain contractual term and the ~~*micro, small or medium-sized*~~***other*** enterprise cannot influence the	(52) Rules on contractual terms should take into account the principle of contractual freedom as an essential concept in business-to-business relationships. Therefore, not all contractual terms should be subject to an unfairness test, but only to those terms that are unilaterally imposed ~~*on micro, small and medium-sized enterprises*~~. This concerns 'take-it-or-leave-it' situations where one party supplies a certain contractual term and the ~~*micro, small or medium-sized*~~ ***other*** enterprise cannot influence the	

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	term despite an attempt to negotiate it. A contractual term that is simply provided by one party and accepted by the micro, small or medium-sized enterprise or a term that is negotiated and subsequently agreed in an amended way between contracting parties should not be considered as unilaterally imposed.	content of that term despite an attempt to negotiate it. A contractual term that is simply provided by one party and accepted by the ~~*micro, small or medium-sized*~~***other*** enterprise or a term that is negotiated and subsequently agreed in an amended way between contracting parties should not be considered as unilaterally imposed. ***All contractual agreements should be in line with Fair, Reasonable and Non-Discriminatory (FRAND) principles.***	content of that term despite an attempt to negotiate it. A contractual term that is simply provided by one party and accepted by the ~~*micro, small or medium-sized*~~ ***other*** enterprise or a term that is negotiated and subsequently agreed in an amended way between contracting parties should not be considered as unilaterally imposed.	
Recital 53				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
63	(53) Furthermore, the rules on unfair contractual terms should only apply to those elements of a contract that are related to making data available, that is contractual terms concerning the access to and use of data as well as liability or remedies for breach and termination of data related obligations. Other parts of the same contract, unrelated to making data available, should not be subject to the unfairness test laid down in this Regulation.	(53) Furthermore, the rules on unfair contractual terms should only apply to those elements of a contract that are related to making data available, that is contractual terms concerning the access to and use of data as well as liability or remedies for breach and termination of data related obligations. Other parts of the same contract, unrelated to making data available, should not be subject to the unfairness test laid down in this Regulation.	(53) Furthermore, the rules on unfair contractual terms should only apply to those elements of a contract that are related to making data available, that is contractual terms concerning the access to and use of data as well as liability or remedies for breach and termination of data related obligations. Other parts of the same contract, unrelated to making data available, should not be subject to the unfairness test laid down in this Regulation.	
Recital 54				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
64	(54) Criteria to identify unfair contractual terms should be applied only to excessive contractual terms, where a stronger bargaining position is abused. The vast majority of contractual terms that are commercially more favourable to one party than to the other, including those that are normal in business-to-business contracts, are a normal expression of the principle of contractual freedom and shall continue to apply.	(54) Criteria to identify unfair contractual terms should be applied only to excessive contractual terms, where a stronger bargaining position is abused. The vast majority of contractual terms that are commercially more favourable to one party than to the other, including those that are normal in business-to-business contracts, are a normal expression of the principle of contractual freedom and ~~*shall*~~ continue to apply.	(54) Criteria to identify unfair contractual terms should be applied only to excessive contractual terms, where a stronger bargaining position is abused. The vast majority of contractual terms that are commercially more favourable to one party than to the other, including those that are normal in business-to-business contracts, are a normal expression of the principle of contractual freedom and shall continue to apply.	(54) Criteria to identify unfair contractual terms should be applied only to excessive contractual terms, where a stronger bargaining position is abused. The vast majority of contractual terms that are commercially more favourable to one party than to the other, including those that are normal in business-to-business contracts, are a normal expression of the principle of contractual freedom and shall continue to apply. ***For the purposes of this Chapter, to grossly deviate from good commercial practices would include, amongst other circumstances of the case to objectively impair the ability of***

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				the party upon whom the term has been unilaterally imposed to protect its legitimate commercial interest in the data in question. Text Origin: Commission Proposal
Recital 55				
65	(55) If a contractual term is not included in the list of terms that are always considered unfair or that are presumed to be unfair, the general unfairness provision applies. In this regard, the terms listed as unfair terms should serve	(55) If a contractual term is not included in the list of terms that are always considered unfair or that are presumed to be unfair, the general unfairness provision applies. In this regard, the terms listed as unfair terms should serve	(55) ***In order to ensure legal certainty, this Regulation establishes a list with clauses that are always considered unfair and a list with clauses that are presumed unfair. In the latter case, the enterprise that imposed***	

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	as a yardstick to interpret the general unfairness provision. Finally, model contractual terms for business-to-business data sharing contracts to be developed and recommended by the Commission may also be helpful to commercial parties when negotiating contracts.	as a yardstick to interpret the general unfairness provision. Finally, model contractual terms for business-to-business data sharing contracts to be developed and recommended by the Commission may also be helpful to commercial parties when negotiating contracts.	***the contract term can rebut the presumption by demonstrating that the contractual term listed is not unfair in the specific case at hand.*** If a contractual term is not included in the list of terms that are always considered unfair or that are presumed to be unfair, the general unfairness provision applies. In this regard, the terms listed as unfair terms should serve as a yardstick to interpret the general unfairness provision. Finally, model contractual terms for business-to-business data sharing contracts to be developed and recommended by the Commission may also be helpful to commercial parties when negotiating contracts. ***If a clause is***	

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			declared as being unfair, the contract should continue to apply without that clause, unless the unfair clause is not severable from the other terms of the contract.	
Recital 56				
66	(56) In situations of exceptional need, it may be necessary for public sector bodies or Union institutions, agencies or bodies to use data held by an enterprise to respond to public emergencies or in other exceptional cases. Research-performing organisations	(56) In situations of exceptional need, it may be necessary for public sector bodies or Union institutions, agencies or bodies to use data held by an enterprise ***or that it is currently collecting or has previously obtained, collected or otherwise generated and which***	(56) In situations of exceptional need, it may be necessary for public sector bodies***, the Commission, the European Central Bank*** -or Union ~~*institutions, agencies or bodies*~~***bodies in the performance of their statutory duties in the***	

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	and research-funding organisations could also be organised as public sector bodies or bodies governed by public law. To limit the burden on businesses, micro and small enterprises should be exempted from the obligation to provide public sector bodies and Union institutions, agencies or bodies data in situations of exceptional need.	***it retains at the time of the request,*** to respond to public emergencies or in other exceptional cases. Research-performing organisations and research-funding organisations could also be organised as public sector bodies or bodies governed by public law. To limit the burden on businesses, micro and small enterprises should be exempted from the obligation to provide public sector bodies and Union institutions, agencies or bodies data in situations of exceptional need.	***public interest*** to use ***existing data including, where relevant, accompanying metadata,*** ~~*data*~~ held by an enterprise ***as a data holder*** to respond to public emergencies or in other exceptional cases. ***The notion of data holder generally does not include public sector bodies. However, it may include public undertakings. Exceptional needs are circumstances which are unforeseeable and limited in time, in contrast to other circumstances which might be planned, scheduled, periodic or frequent.*** Research-performing organisations and research-funding organisations could also be organised as public sector bodies or bodies governed	

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			by public law. To limit the burden on businesses, micro and small enterprises should ***only be under*** ~~***be exempted from***~~ the obligation to provide ***data to*** public sector bodies***, the Commission, the European Central Bank or Union*** ~~***and Union institutions, agencies or***~~ bodies ~~***data***~~ in situations of exceptional need ***to respond to a public emergency***.	
Recital 57				
67	(57) In case of public emergencies, such as public health emergencies, emergencies resulting	(57) In case of public emergencies, such as public health emergencies, emergencies resulting	(57) In case of public emergencies, such as public health emergencies, emergencies resulting	

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	from environmental degradation and major natural disasters including those aggravated by climate change, as well as human-induced major disasters, such as major cybersecurity incidents, the public interest resulting from the use of the data will outweigh the interests of the data holders to dispose freely of the data they hold. In such a case, data holders should be placed under an obligation to make the data available to public sector bodies or to Union institutions, agencies or bodies upon their request. The existence of a public emergency is determined according to the respective procedures in the	from environmental degradation and major natural disasters including those aggravated by climate change, as well as human-induced major disasters, such as major cybersecurity incidents, the public interest resulting from the use of the data will outweigh the interests of the data holders to dispose freely of the data they hold. In such a case, data holders should be placed under an obligation to make the data available to public sector bodies or to Union institutions, agencies or bodies upon their request ***and subject to conditions and other safeguards set out in this Regulation or other Union or national law***. The existence of a	from ~~*environmental degradation and*~~ major natural disasters including those aggravated by climate change ***and environmental degradation***, as well as human-induced major disasters, such as major cybersecurity incidents, the public interest resulting from the use of the data will outweigh the interests of the data holders to dispose freely of the data they hold. In such a case, data holders should be placed under an obligation to make the data available to public sector bodies***, the Commission, the European Central Bank or Union*** ~~*or to Union institutions, agencies or*~~ bodies upon their request. The existence of a public emergency ***or***	

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	Member States or of relevant international organisations.	public emergency is determined according to the respective procedures in the Member States or of relevant international organisations.	***its likely occurrence which would require mitigating measures should be*** ~~*is*~~ determined ***or declared*** according to the respective procedures in the Member States or of relevant international organisations.	
Recital 58				
68	(58) An exceptional need may also arise when a public sector body can demonstrate that the data are necessary either to prevent a public emergency, or to assist recovery from a public emergency, in circumstances that are reasonably	(58) An exceptional need may also ~~*arise*~~***stem from non-emergency situations*** when a public sector body can demonstrate that the data are necessary ~~*either to prevent a public emergency, or to assist recovery from a public emergency,*~~	(58) An exceptional need may also arise when a public sector body can demonstrate that the data are necessary either to ~~*prevent*~~ ***mitigate*** a public emergency, or to assist recovery from a public emergency, in circumstances that	

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	proximate to the public emergency in question. Where the exceptional need is not justified by the need to respond to, prevent or assist recovery from a public emergency, the public sector body or the Union institution, agency or body should demonstrate that the lack of timely access to and the use of the data requested prevents it from effectively fulfilling a specific task in the public interest that has been explicitly provided in law. Such exceptional need may also occur in other situations, for example in relation to the timely compilation of official statistics when data is not otherwise available or when the burden on statistical respondents will be considerably reduced. At	~~*in circumstances that are reasonably proximate to the public emergency in question. Where the exceptional need is not justified by the need to respond to, prevent or assist recovery from a public emergency, the public sector body or the Union institution, agency or body should demonstrate that the lack of timely access to and the use of the data requested prevents it from effectively fulfilling*~~ ***for the fulfilment of*** a specific task in the public interest that has been explicitly provided ~~*in law. Such exceptional need may also occur in other situations, for example in relation to the timely compilation of official statistics when data is not otherwise available or*~~***and***	are reasonably proximate to the public emergency in question. ***In such cases, the public sector body should demonstrate that the data in scope of the request could not be otherwise obtained in a timely and effective manner and under equivalent conditions, for instance by a voluntary provision of data by another company or via consulation of a public database.*** Where the exceptional need is not justified by the need to respond to, prevent or assist recovery from a public emergency, the public sector body or the Union institution, agency or body should demonstrate that the lack of timely access to and the use of the data requested prevents it from effectively	

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	the same time, the public sector body or the Union institution, agency or body should, outside the case of responding to, preventing or assisting recovery from a public emergency, demonstrate that no alternative means for obtaining the data requested exists and that the data cannot be obtained in a timely manner through the laying down of the necessary data provision obligations in new legislation.	***defined by national law, such as preventing or assisting the recovery from a public emergency. Such a request can be made only*** when the ~~*burden on statistical respondents will be considerably reduced. At the same time, the*~~ public sector body or the Union institution, agency or body ~~*should, outside the case of responding to, preventing or assisting recovery from a public emergency, demonstrate that no*~~***has identified specific data which is unavailable and only if it has exhausted all of the following three*** alternative means ~~*for obtaining the data requested exists and that*~~***to obtain data: requesting*** the data ~~*cannot be obtained in a timely manner*~~	fulfilling a specific task in the public interest that has been explicitly provided in law. ~~*Such exceptional need may also occur in other situations, for example in relation to the timely compilation of official statistics when data is not otherwise available or when the burden on statistical respondents will be considerably reduced.*~~ ***The specific task should be within the competence of the public sector body or Union institution, agency or body requesting the data, and explicitly laid down in their mandate. Such tasks could be, inter alia, related to local transport or city planning, improving infrastructural services (such as energy, waste and water***	

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		~~through the laying down of the necessary data provision~~through voluntary agreements; purchasing the data on the market or by relying on existing obligations ~~in new legislation~~to make data available.	management), or developing, producing and disseminating reliable and timely statistics. The conditions and principles for requests established in Article 17 (such as purpose limitation, proportionality, transparency, time limitation) should also apply to these requests. At the same time, the public sector body or the Union institution, agency or body should, outside the case of responding to, preventing or assisting recovery from a public emergency, demonstrate that it has exhausted all the ~~no alternative~~ means ~~for~~of obtaining the data ~~requested exists~~at its disposal and that the data cannot be obtained in a timely manner through the laying down of	

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			the necessary data provision obligations in new legislation. ***In case of requests for data necessary for the production of official statistics, the requesting public sector body should also demonstrate that the applicable law does not allow it to purchase data on the market.***	
Recital 59				
69	(59) This Regulation should not apply to, nor pre-empt, voluntary arrangements for the exchange of data between private and public entities. Obligations placed on data	(59) This Regulation should not apply to, nor pre-empt, voluntary arrangements for the exchange of ***non-personal*** data between private and public entities. ~~*Obligations*~~	(59) This Regulation should not apply to, nor pre-empt, voluntary arrangements for the exchange of data between private and public entities, ***including the provision of***	

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	holders to provide data that are motivated by needs of a non-exceptional nature, notably where the range of data and of data holders is known and where data use can take place on a regular basis, as in the case of reporting obligations and internal market obligations, should not be affected by this Regulation. Requirements to access data to verify compliance with applicable rules, including in cases where public sector bodies assign the task of the verification of compliance to entities other than public sector bodies, should also not be affected by this Regulation.	~~placed on data holders to provide data that are motivated by needs of a non-exceptional nature, notably where the range of data and of data holders is known and where data use can take place on a regular basis, as in the case of reporting obligations and internal market obligations, should not be affected by this Regulation~~. Requirements to access data to verify compliance with applicable rules, including in cases where public sector bodies assign the task of the verification of compliance to entities other than public sector bodies, should also not be affected by this Regulation.	***data by SMEs, and is without prejudice to Union acts providing for mandatory information requests by public entities to private entities***. Obligations placed on data holders to provide data that are motivated by needs of a non-exceptional nature, notably where the range of data and of data holders is known ~~and~~***, or*** where data use can take place on a regular basis, as in the case of reporting obligations and internal market obligations, should not be affected by this Regulation. Requirements to access data to verify compliance with applicable rules, including in cases where public sector bodies assign the task of the verification of compliance to entities other than	

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			public sector bodies, should also not be affected by this Regulation.	
	69a		***(59a) This Regulation complements and is without prejudice to the Union and national laws providing for the access to and enabling to use data for statistical purposes, in particular Regulation (EC) No 223/2009 on European statistics and its related legal acts as well as national legal acts related to official statistics.***	

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Recital 60				
70	(60) For the exercise of their tasks in the areas of prevention, investigation, detection or prosecution of criminal and administrative offences, the execution of criminal and administrative penalties, as well as the collection of data for taxation or customs purposes, public sector bodies and Union institutions, agencies and bodies should rely on their powers under sectoral legislation. This Regulation accordingly does not affect	(60) For the exercise of their tasks in the areas of prevention, investigation, detection or prosecution of criminal and administrative offences, the execution of criminal and administrative penalties, as well as the collection of data for taxation or customs purposes, public sector bodies and Union institutions, agencies and bodies should rely on their powers under sectoral legislation. This Regulation accordingly does not affect	(60) For the exercise of their tasks in the areas of prevention, investigation, detection or prosecution of criminal and administrative offences, the execution of criminal and administrative penalties, as well as the collection of data for taxation or customs purposes, public sector bodies***, the Commission, the European Central Bank or Union*** ~~*and Union institutions, agencies and*~~ bodies should rely on their powers under sectoral legislation.	

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	instruments for the sharing, access and use of data in those areas.	instruments for the sharing, access and use of data in those areas.	This Regulation accordingly does not affect instruments for the sharing, access and use of data in those areas.	
Recital 61				
71	(61) A proportionate, limited and predictable framework at Union level is necessary for the making available of data by data holders, in cases of exceptional needs, to public sector bodies and to Union institution, agencies or bodies both to ensure legal certainty and to minimise the administrative burdens placed on businesses. To	(61) A proportionate, limited and predictable framework at Union level is necessary for the making available of data by data holders, in cases of exceptional needs, to public sector bodies and to Union institution, agencies or bodies both to ensure legal certainty and to minimise the administrative burdens placed on businesses. To	(61) ***In accordance with Article 6(1) and 6(3) of Regulation (EU) 2016/679,*** a proportionate, limited and predictable framework at Union level is necessary ***when providing for the legal basis*** for the making available of data by data holders, in cases of exceptional needs, to public sector bodies and to Union institution,	

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	this end, data requests by public sector bodies and by Union institution, agencies and bodies to data holders should be transparent and proportionate in terms of their scope of content and their granularity. The purpose of the request and the intended use of the data requested should be specific and clearly explained, while allowing appropriate flexibility for the requesting entity to perform its tasks in the public interest. The request should also respect the legitimate interests of the businesses to whom the request is made. The burden on data holders should be minimised by obliging requesting entities to respect the once-only principle, which	this end, data requests by public sector bodies and by Union institution, agencies and bodies to data holders should be ***based on Union or national law, specific,*** transparent and proportionate in terms of their scope of content and their granularity. The purpose of the request and the intended use of the data requested should be specific and clearly explained, while allowing appropriate flexibility for the requesting entity to perform its tasks in the public interest. The request should also respect the legitimate interests of the businesses to whom the request is made. The burden on data holders should be minimised by obliging requesting entities to	agencies or bodies ~~*both to ensure legal certainty and to minimise the administrative burdens placed on businesses*~~. To this end, data requests by public sector bodies and by Union institution, agencies and bodies to data holders should be transparent and proportionate in terms of their scope of content and their granularity. The purpose of the request and the intended use of the data requested should be specific and clearly explained, while allowing appropriate flexibility for the requesting entity to perform its tasks in the public interest***. The principle of purpose limitation and other principles of data protection law should also apply to situations where the***	

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	prevents the same data from being requested more than once by more than one public sector body or Union institution, agency or body where those data are needed to respond to a public emergency. To ensure transparency, data requests made by public sector bodies and by Union institutions, agencies or bodies should be made public without undue delay by the entity requesting the data and online public availability of all requests justified by a public emergency should be ensured.	respect the once-only principle, which prevents the same data from being requested more than once by more than one public sector body or Union institution, agency or body where those data are needed to respond to a public emergency. To ensure transparency ***and an appropriate coordination***, data requests made by public sector bodies and by Union institutions, agencies or bodies should be ~~*made public*~~***communicated*** without undue delay by the entity requesting the data ~~*and*~~ ***to the data coordinator of that Member State that will ensure that those request are to be included in an*** online public ~~*availability*~~***available list*** of all requests justified by ~~*a public*~~	***public sector body or EU institution, agency or body shares the data received under this Chapter with third parties to whom they have outsourced any function***. The request should also respect the legitimate interests of the businesses to whom the request is made. The burden on data holders should be minimised by obliging requesting entities to respect the once-only principle, which prevents the same data from being requested more than once by more than one public sector body or Union institution, agency or body where those data are needed to respond to a public emergency. To ensure transparency, data requests made by public sector	

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		~~emergency should be ensured~~***an exceptional need***.	bodies and by ~~Union institutions, agencies or~~ ***the Commission, the European Central Bank or Union*** bodies should be made public without undue delay by the entity requesting the data***, which should also notify the competent authority of the Member State where the public sector body is established or the Commission, if the request is made by the Commission, the European Central Bank or Union bodies.*** ~~and~~ Online public availability of all requests justified by a public emergency should be ensured. ***Upon the receipt of such notification, the competent authority can decide to assess the lawfulness of the request and***	

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			exercise its functions in relation to the enforcement and implementation of this Regulation.	
Recital 62				
72	(62) The objective of the obligation to provide the data is to ensure that public sector bodies and Union institutions, agencies or bodies have the necessary knowledge to respond to, prevent or recover from public emergencies or to maintain the capacity to fulfil specific tasks explicitly provided by law. The data obtained by those	(62) The objective of the obligation to provide the data is to ensure that public sector bodies and Union institutions, agencies or bodies have the necessary knowledge to respond to, prevent or recover from public emergencies or to maintain the capacity to fulfil specific tasks explicitly provided by law. The data obtained by those	(62) The objective of the obligation to provide the data is to ensure that public sector bodies, ***the Commission, the European Central Bank or Union*** ~~*and Union institutions, agencies or*~~ bodies have the necessary knowledge to respond to, prevent or recover from public emergencies or to maintain the capacity to fulfil	

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	entities may be commercially sensitive. Therefore, Directive (EU) 2019/1024 of the European Parliament and of the Council[1] should not apply to data made available under this Regulation and should not be considered as open data available for reuse by third parties. This however should not affect the applicability of Directive (EU) 2019/1024 to the reuse of official statistics for the production of which data obtained pursuant to this Regulation was used, provided the reuse does not include the underlying data. In addition, it should not affect the possibility of sharing the data for conducting research or for the compilation of official statistics, provided the	entities may be commercially sensitive. Therefore, ***Regulation (EU) 2022/868, as well as*** Directive (EU) 2019/1024 of the European Parliament and of the Council[1] should not apply to data made available under this Regulation and should not be considered as open data available for reuse by third parties. This however should not affect the applicability of Directive (EU) 2019/1024 to the reuse of official statistics for the production of which data obtained pursuant to this Regulation was used, provided the reuse does not include the underlying data. In addition, it should not affect the possibility of sharing the data for conducting	specific tasks explicitly provided by law. The data obtained by those entities may be commercially sensitive. Therefore, Directive (EU) 2019/1024 of the European Parliament and of the Council[1] should not apply to data made available under this Regulation and should not be considered as open data available for reuse by third parties. This however should not affect the applicability of Directive (EU) 2019/1024 to the reuse of official statistics for the production of which data obtained pursuant to this Regulation was used, provided the reuse does not include the underlying data. In addition, it should not affect the possibility of sharing the data for conducting	

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	conditions laid down in this Regulation are met. Public sector bodies should also be allowed to exchange data obtained pursuant to this Regulation with other public sector bodies to address the exceptional needs for which the data has been requested. _____ 1. Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information (OJ L 172, 26.6.2019, p. 56).	research or for the compilation of official statistics, provided the conditions laid down in this Regulation are met. ***Where allowed by Union or national law,*** public sector bodies should also be allowed to exchange data obtained pursuant to this Regulation with other public sector bodies to address the exceptional needs for which the data has been requested***, provided that the data holder is informed in a timely manner and all bodies respect the same rules on transparency as the original requester of the data and protection of trade secrets and intellectual property rights is ensured***.	research or for the ***development, production and dissemination*** ~~*compilation*~~ of official statistics, provided the conditions laid down in this Regulation are met. Public sector bodies should also be allowed to exchange data obtained pursuant to this Regulation with other public sector bodies to address the exceptional needs for which the data has been requested. _____ 1. Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information (OJ L 172, 26.6.2019, p. 56).	

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		_____ 1. Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information (OJ L 172, 26.6.2019, p. 56).		
Recital 63				
Y	73	(63) Data holders should have the possibility to either ask for a modification of the request made by a public sector body or Union institution, agency and body or its cancellation in a period of 5 or 15	(63) Data holders should have the possibility to either ask for a modification of the request made by a public sector body or Union institution, agency and body or its cancellation in a period of 5 or 15	(63) Data holders should have the possibility to either ask for a modification of the request made by a public sector body, ***the Commission, the European Central Bank or Union*** ~~*or Union*~~	Y

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	working days depending on the nature of the exceptional need invoked in the request. In case of requests motivated by a public emergency, justified reason not to make the data available should exist if it can be shown that the request is similar or identical to a previously submitted request for the same purpose by another public sector body or by another Union institution, agency or body. A data holder rejecting the request or seeking its modification should communicate the underlying justification for refusing the request to the public sector body or to the Union institution, agency or body requesting the data. In case the sui generis database rights	working days depending on the nature of the exceptional need invoked in the request. In case of requests motivated by a public emergency, justified reason not to make the data available should exist if it can be shown that the request is similar or identical to a previously submitted request for the same purpose by another public sector body or by another Union institution, agency or body ***or if the data holder is not currently collecting or has not previously collected, obtained or otherwise generated the requested data and does not retain it at the time of the request***. A data holder rejecting the request or seeking its modification should communicate the	~~*institution, agency and*~~ body or its cancellation in a period of 5 or 15 working days depending on the nature of the exceptional need invoked in the request. In case of requests motivated by a public emergency, justified reason not to make the data available should exist if it can be shown that the request is similar or identical to a previously submitted request for the same purpose by another public sector body or by another Union institution, agency or body. A data holder rejecting the request or seeking its modification should communicate the underlying justification for refusing the request to the public sector body or to the Union institution, agency or	

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	under Directive 96/6/EC of the European Parliament and of the Council[1] apply in relation to the requested datasets, data holders should exercise their rights in a way that does not prevent the public sector body and Union institutions, agencies or bodies from obtaining the data, or from sharing it, in accordance with this Regulation. _____ 1. Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases (OJ L 77, 27.3.1996, p. 20).	underlying justification for refusing the request to the public sector body or to the Union institution, agency or body requesting the data. In case the sui generis database rights under Directive ~~*96/6/EC*~~***96/9/EC*** of the European Parliament and of the Council[1] apply in relation to the requested datasets, data holders should exercise their rights in a way that does not prevent the public sector body and Union institutions, agencies or bodies from obtaining the data, or from sharing it, in accordance with this Regulation. _____	body requesting the data. In case the ***sui generis***~~*sui generis*~~ database rights under Directive 96/6/EC of the European Parliament and of the Council[1] apply in relation to the requested datasets, data holders should exercise their rights in a way that does not prevent the public sector body***, the Commission, the European Central Bank or Union*** ~~*and Union institutions, agencies or*~~ bodies from obtaining the data, or from sharing it, in accordance with this Regulation. _____ 1. Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on	

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		1. Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases (OJ L 77, 27.3.1996, p. 20).	the legal protection of databases (OJ L 77, 27.3.1996, p. 20).	
Recital 64				
74	(64) Where it is strictly necessary to include personal data in the data made available to a public sector body or to a Union institution, agency or body the applicable rules on personal data protection should be complied with and the making available of the data and their subsequent use should and be	(64) ~~*Where it is strictly necessary to include personal data in the data made available to a public sector body or to a Union institution, agency or body the applicable rules on personal data protection should be complied with and the making available of the data and their subsequent use*~~	(64) ~~*Where it is strictly necessary to include personal data in the data made available to a*~~***In case of exceptional need related to public emergency, public sector bodies should use non-personal data, including anonymised data, wherever possible. In cases of requests based on an exceptional***	

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	accompanied by safeguards for the rights and interests of individuals concerned by those data. The body requesting the data should demonstrate the strict necessity and the specific and limited purposes for processing. The data holder should take reasonable efforts to anonymise the data or, where such anonymisation proves impossible, the data holder should apply technological means such as pseudonymisation and aggregation, prior to making the data available.	~~should and be accompanied by safeguards for the rights and interests of individuals concerned by those data. The body requesting the data should demonstrate the strict necessity and the specific and limited purposes for processing. The data holder should take reasonable efforts to anonymise the data or, where such anonymisation proves impossible, the data holder should apply technological means such as pseudonymisation and aggregation, prior to making the data available.~~	***need not related to*** public ~~sector body or to a Union institution, agency or~~***emergency, personal data can be used only if legal provisions in other Union or Member States law allocating to the requesting public sector*** body the ~~applicable rules on~~***specific public interest task relevant for requesting*** personal data ~~protection should be complied with and the making available of~~***exist . Whenever personal data is requested, the data holder should anonymise*** the data and ~~their subsequent use should and be accompanied by safeguards for the rights and interests of individuals concerned by those data.~~***can request compensation for that,***	

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			pursuant to the rules on the compensation in cases of exceptional need. Where it is strictly necessary to include personal data in the data to be made available to a public sector body or to a Union institution, agency or body or where anonymisation proves impossible, the body requesting the data should demonstrate the strict necessity and the specific and limited purposes for processing. The ~~*data holder should take reasonable efforts to anonymise the data or, where such anonymisation proves impossible,*~~ ***applicable rules on personal data protection should be complied with.*** The data holder should apply technological means	

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			such as pseudonymisation and aggregation, prior to making the data available***, for which compensation can also be requested***. ***The making available of the data and their subsequent use should be accompanied by safeguards for the rights and interests of individuals concerned by those data.***		
Recital 65					
Y	75	(65) Data made available to public sector bodies and to Union institutions, agencies and bodies on the basis of exceptional need	(65) Data made available to public sector bodies and to Union institutions, agencies and bodies on the basis of exceptional need	(65) Data made available to public sector bodies***, the Commission, the European Central Bank or Union*** ~~*and to Union institutions, agencies*~~	(65) Data made available to public sector bodies***, [the Commission, the European Central Bank or Union*** ~~*and to Union institutions, agencies and*~~ bodies***]*** on the basis	Y

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	should only be used for the purpose for which they were requested, unless the data holder that made the data available has expressly agreed for the data to be used for other purposes. The data should be destroyed once it is no longer necessary for the purpose stated in the request, unless agreed otherwise, and the data holder should be informed thereof.	should only be used for the purpose for which they were requested~~, unless the data holder that made the data available has expressly agreed for the data to be used for other purposes~~. The data should be destroyed once it is no longer necessary for the purpose stated in the request, unless agreed otherwise, and the data holder should be informed thereof. ***Public sector bodies and to Union institutions, agencies and bodies should ensure, including through the application of proportionate security measures, where applicable in accordance with Union and national law, that any protected nature of data is***	~~and~~ bodies on the basis of exceptional need should only be used for the purpose for which they were requested, unless the data holder that made the data available has expressly agreed for the data to be used for other purposes. The data should be ~~destroyed~~***erased*** once it is no longer necessary for the purpose stated in the request, unless agreed otherwise, and the data holder should be informed thereof.	of exceptional need should only be used for the purpose for which they were requested, unless the data holder that made the data available has expressly agreed for the data to be used for other purposes. The data should be ~~destroyed~~***erased*** once it is no longer necessary for the purpose stated in the request, unless agreed otherwise, and the data holder should be informed thereof. ***This Regulation builds on the existing access regimes in Union and Member States and does not change the national rules for public access to documents in the context of transparency obligations. Data should be***

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		preserved and unauthorised access is avoided.		***erased once it is no longer needed to comply with such obligations.***
Recital 66				
76	(66) When reusing data provided by data holders, public sector bodies and Union institutions, agencies or bodies should respect both existing applicable legislation and contractual obligations to which the data holder is subject. Where the disclosure of trade secrets of the data holder to public sector bodies or to Union institutions, agencies or bodies is strictly necessary to fulfil the	(66) When reusing data provided by data holders, public sector bodies and Union institutions, agencies or bodies should respect both existing applicable legislation and contractual obligations to which the data holder is subject. Where the disclosure of trade secrets of the data holder to public sector bodies or to Union institutions, agencies or bodies is strictly necessary to fulfil the	(66) When reusing data provided by data holders, public sector bodies ~~*and Union institutions, agencies or*~~ ***, the Commission, the European Central Bank or Union*** bodies should respect both existing applicable legislation and contractual obligations to which the data holder is subject. Where the disclosure of trade secrets of the data holder to public sector bodies***, the Commission, the***	

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	purpose for which the data has been requested, confidentiality of such disclosure should be ensured to the data holder.	purpose for which the data has been requested, confidentiality of such disclosure should be ensured ***in advance*** to the data holder ***or the trade secret holder, including as appropriate, by the use of model contractual clauses, technical standards and the application of codes of conduct. In cases where the public sector body or the Union institutions, agency or body or the third parties that received the data to perform the task that have been outsourced to it, fail to implement those measures or undermine the confidentiality of trade secrets, the data holder should be able to suspend the sharing of data identified as trade secrets. Such a***	***European Central Bank or Union*** ~~*or to Union institutions, agencies*~~ ~~*or*~~ bodies is strictly necessary to fulfil the purpose for which the data has been requested, confidentiality of such disclosure should be ~~*ensured to the data holder*~~ ***guaranteed***.	

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		decision to suspend the sharing of data might be challenged by the public sector body or the Union institutions, agency or body or the third parties to which data were transmitted and subject to review by the data coordinator of the Member State.		
Recital 67				
77	(67) When the safeguarding of a significant public good is at stake, such as is the case of responding to public emergencies, the public sector body or the Union institution, agency or body should	(67) When the safeguarding of a significant public good is at stake, such as is the case of responding to public emergencies, the public sector body or the Union institution, agency or body should	(67) When the safeguarding of a significant public good is at stake, such as is the case of responding to public emergencies, the public sector body or the Union institution, agency or body should	

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	not be expected to compensate enterprises for the data obtained. Public emergencies are rare events and not all such emergencies require the use of data held by enterprises. The business activities of the data holders are therefore not likely to be negatively affected as a consequence of the public sector bodies or Union institutions, agencies or bodies having recourse to this Regulation. However, as cases of an exceptional need other than responding to a public emergency might be more frequent, including cases of prevention of or recovery from a public emergency, data holders should in such cases be entitled to a reasonable compensation which	not be expected to compensate enterprises for the data obtained ***provided that the request is limited in time and scope, proportionate to the state of the public emergency***. Public emergencies are rare events and not all such emergencies require the use of data held by enterprises. The business activities of the data holders are therefore not likely to be negatively affected as a consequence of the public sector bodies or Union institutions, agencies or bodies having recourse to this Regulation. However, as cases of an exceptional need other than responding to a public emergency might be more frequent, including cases of	not be expected to compensate enterprises for the data obtained. Public emergencies are rare events and not all such emergencies require the use of data held by enterprises. ***At the same time, the obligation to provide data might constitute a considerable burden for micro and small enterprises. They should therefore be allowed to claim compensation even in the context of public emergency response.*** The business activities of the data holders are therefore not likely to be negatively affected as a consequence of the public sector bodies ~~*or Union institutions, agencies or*~~ ***, the Commission, the European Central Bank or Union*** bodies having recourse to this	

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	should not exceed the technical and organisational costs incurred in complying with the request and the reasonable margin required for making the data available to the public sector body or to the Union institution, agency or body. The compensation should not be understood as constituting payment for the data itself and as being compulsory.	prevention of or recovery from a public emergency, data holders should in such cases be entitled to a reasonable compensation. ***This Regulation*** ~~*which*~~ should not ~~*exceed the technical and organisational costs incurred in complying with the request and the reasonable margin required for making the data available to the*~~***affect existing Union or national arrangements in which data is shared free of charge, or prevent*** public sector ~~*body or to the*~~***bodies,*** Union ~~*institution, agency or body. The compensation should not be understood as constituting payment for the data itself and as being compulsory*~~***institutions, agencies***	Regulation. However, as cases of an exceptional need other than responding to a public emergency might be more frequent, including cases of prevention of or recovery from a public emergency, data holders should in such cases be entitled to a reasonable compensation which should not exceed the technical and organisational costs incurred in complying with the request and the reasonable margin required for making the data available to the public sector body or to the Union institution, agency or body. The compensation should not be understood as constituting payment for the data itself and as being compulsory. ***Data holders should***	

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		or bodies, and data holders from entering into voluntary data sharing agreements free of charge.	***not be able to claim compensation in cases where Member State law prevents national statistical institutes or other national authorities responsible for the production of statistics from compensating data holders for making data available. The public sector body, the Commission, the European Central Bank or Union bodies can challenge the level of compensation requested by the data holder by bringing the matter to the competent authority of the Member State where the data holder is based.***	
Recital 68				

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78	(68) The public sector body or Union institution, agency or body may share the data it has obtained pursuant to the request with other entities or persons when this is needed to carry out scientific research activities or analytical activities it cannot perform itself. Such data may also be shared under the same circumstances with the national statistical institutes and Eurostat for the compilation of official statistics. Such research activities should however be compatible with the purpose for which the data was requested and the data holder should be informed about the further sharing of the	(68) The public sector body or Union institution, agency or body may share the data it has obtained pursuant to the request with other entities or persons when this is needed to carry out scientific research activities or analytical activities it cannot perform itself ***provided that those activities are strictly necessary to respond to the emergency need. It should inform the data holder of such sharing in a timely manner***. Such data may also be shared under the same circumstances with the national statistical institutes and Eurostat for the compilation of official statistics. Such research activities	(68) The public sector body or Union institution, agency or body may share the data it has obtained pursuant to the request with other entities or persons when this is needed to carry out scientific research activities or analytical activities it cannot perform itself. Such data may also be shared under the same circumstances with the national statistical institutes and Eurostat for the ***development, production and dissemination*** ~~compilation~~ of official statistics. ~~Such~~ Research activities should however be compatible with the purpose for which the data was requested and the data holder	(68) The public sector body or ***[***Union institution, agency or body***]*** may share the data it has obtained pursuant to the request with other entities or persons when this is needed to carry out scientific research activities or analytical activities it cannot perform itself ***provided that those activities are compatible with the purpose for which the data was requested. It should inform the data holder of such sharing in a timely manner***. Such data may also be shared under the same circumstances with the national statistical institutes and Eurostat for the ~~compilation~~***development, production and dissemination*** of

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	data it had provided. Individuals conducting research or research organisations with whom these data may be shared should act either on a not-for-profit basis or in the context of a public-interest mission recognised by the State. Organisations upon which commercial undertakings have a decisive influence allowing such undertakings to exercise control because of structural situations, which could result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Regulation.	should however be compatible with the purpose for which the data was requested and the data holder should be informed about the further sharing of the data it had provided. Individuals conducting research or research organisations with whom these data may be shared should act either on a not-for-profit basis or in the context of a public-interest mission recognised by the State. Organisations upon which commercial ***or public*** undertakings have a decisive influence allowing such undertakings to exercise control because of structural situations, which could result in preferential access to the results of the research, should not be	should be informed about the further sharing of the data it had provided. Individuals conducting research or research organisations with whom these data may be shared should act either on a not-for-profit basis or in the context of a public-interest mission recognised by the State. Organisations upon which commercial undertakings have a decisive influence allowing such undertakings to exercise control because of structural situations, which could result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Regulation.	official statistics. Such research activities should however be compatible with the purpose for which the data was requested and the data holder should be informed about the further sharing of the data it had provided. Individuals conducting research or research organisations with whom these data may be shared should act either on a not-for-profit basis or in the context of a public-interest mission recognised by the State. Organisations upon which commercial undertakings have a ~~decisive~~***significant*** influence allowing such undertakings to exercise control because of structural situations, which could result in preferential access to the

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		considered research organisations for the purposes of this Regulation.		results of the research, should not be considered research organisations for the purposes of this Regulation. Text Origin: EP Mandate
Y	78a		***(68a) In order to deal with a cross-border public emergency or another exceptional need, data requests may be addressed to data holders in different Member States than the one of the requesting public sector body. In***	Y

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			this case, the request should be communicated to the competent authority of the Member State where the data holder is based, in order to let it examine the request against the criteria established in this Regulation. The same would apply to requests made by the Commission, the European Central Bank or Union bodies. The competent authority would be entitled to advise the public sector body or the Commission, the European Central Bank or Union body to cooperate with the competent authority of the data holder's Member State on the need to ensure a minimised administrative burden on the data holder. When the competent	

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			authority has justified reservations in relation to compliance of the request with this Regulation, it should return the request to the public sector body or to the Commission, the European Central Bank or Union body which should take those reservations into account before resubmitting the request. Data holders may seek recourse against a decision by the Commission, the European Central Bank or a Union body in relation to Chapter V, where relevant, with the Court of Justice of the European Union, in accordance with the Treaty on the Functioning of the European Union.	

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Recital 69				
79	(69) The ability for customers of data processing services, including cloud and edge services, to switch from one data processing service to another, while maintaining a minimum functionality of service, is a key condition for a more competitive market with lower entry barriers for new service providers.	(69) The ability for customers of data processing services, including cloud and edge services, to switch from one data processing service to another, while ~~*maintaining a minimum functionality of service*~~***avoiding downtime of services, or to use the services of several providers simultaneously without undue data transfer costs***, is a key condition for a more competitive market with lower entry barriers for new service providers***, and for ensuring***	(69) The ability for customers of data processing services, including cloud and edge services, to switch from one data processing service to another, while maintaining a minimum functionality of service, is a key condition for a more competitive market with lower entry barriers for new service providers. ***For switching, an adequate level of interoperability and portability between data processing services is necessary.***	

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		further resilience for the users of those services. Guarantees for effective switching should also include customers benefiting from large-scale free-tier offerings, so that does not result in a lock-in situation for customers. Facilitating a multi-cloud approach for customers of data processing services can also contribute to increasing their digital operational resilience, as recognised for financial service institutions in the Digital Operational Resilience Act (DORA).		

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79a		***(69a) Switching charges are charges imposed by providers of cloud computing on their customers for the switching process. Typically, those charges are intended to pass on costs, which the source provider may incur because of the switching process, to the customer that wishes to switch. Examples of common switching charges are costs related to the transfer of data from one provider to the other or to an on-premise system ('egress fees') or the costs incurred for specific support actions during the switching process. Unnecessarily high***		

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		egress fees and other unjustified charges unrelated to actual switching costs, inhibit customers' switching, restrict the free flow of data, have the potential to limit competition and cause lock-in effects for the customers of data processing services, by reducing incentives to choose a different or additional service provider. As a result of the new obligations foreseen in this Regulation, the source provider of data processing services might outsource certain tasks and renumerate third party entities in order to comply with those obligations. The customer should not bare costs arising from the outsourcing of services concluded by the source provider		

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		of data processing services during the switching process and such costs should be considered as unjustified. Nothing in the Data Act prevents a customer to remunerate third party entities for support in the migration process. Egress fees are charged to customers by providers of source data processing services when the customers are willing to take their data out from a cloud provider's network to an external location, especially when switching from one provider to one or several providers of destination, to relocate their data from one location to another while using the same cloud service provider. Therefore, in order to foster		

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		competition, the gradual withdrawal of the charges associated with switching data processing services should specifically include withdrawing egress fees charged by the data processing service to a customer.		
Y	79b		***(69a) Interoperability between data processing services is also necessary to facilitate the in-parallel use of multiple data processing services with complementary functionalities. This is important, inter alia, for***	Y

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			the successful deployment of 'multi-cloud' strategies, which allow customers to implement future-proof IT strategies and which decrease dependence on individual providers of data processing services.	
Recital 70				
80	(70) Regulation (EU) 2018/1807 of the European Parliament and of the Council encourages service providers to effectively develop and implement self-regulatory codes of conduct covering best practices for, inter alia, facilitating	(70) Regulation (EU) 2018/1807 of the European Parliament and of the Council encourages ~~*service*~~ providers ***of data processing services*** to effectively develop and implement self-regulatory codes of conduct covering best practices for,	(70) Regulation (EU) 2018/1807 of the European Parliament and of the Council encourages service providers to effectively develop and implement self-regulatory codes of conduct covering best practices for, inter alia, facilitating	

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	the switching of data processing service providers and the porting of data. Given the limited efficacy of the self-regulatory frameworks developed in response, and the general unavailability of open standards and interfaces, it is necessary to adopt a set of minimum regulatory obligations on providers of data processing services to eliminate contractual, economic and technical barriers to effective switching between data processing services.	inter alia, facilitating the switching of ***providers of*** data processing service ~~***providers***~~ and the porting of data. Given the limited ~~***efficacy***~~***uptake*** of the self-regulatory frameworks developed in response, and the general unavailability of open standards and interfaces, it is necessary to adopt a set of minimum regulatory obligations on providers of data processing services to eliminate contractual, ***commercial, organisational,*** economic and technical barriers, ***which are not limited to an impeded speed of data transfer at the customer's exit, which hamper***	the switching of data processing service providers and the porting of data. Given the limited efficacy of the self-regulatory frameworks developed in response, and the general unavailability of open standards and interfaces, it is necessary to adopt a set of minimum regulatory obligations on providers of data processing services to eliminate contractual, economic and technical barriers to effective switching between data processing services.	

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		~~to~~ effective switching between data processing services.		
Recital 71				
81	(71) Data processing services should cover services that allow on-demand and broad remote access to a scalable and elastic pool of shareable and distributed computing resources. Those computing resources include resources such as networks, servers or other virtual or physical infrastructure, operating systems, software, including software development tools, storage,	(71) Data processing services should cover services that allow ~~on-demand and broad remote~~***ubiquitous and on-demand network*** access to a ***configurable,*** scalable and elastic ***shared*** pool of ~~shareable and~~ distributed computing resources. Those computing resources include resources such as networks, servers or other virtual or physical infrastructure~~, operating systems~~,	(71) Data processing services should cover services that allow on-demand and broad remote access to a scalable and elastic pool of shareable and distributed computing resources. Those computing resources include resources such as networks, servers or other virtual or physical infrastructure, operating systems, software, including software development tools, storage,	

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	applications and services. The capability of the customer of the data processing service to unilaterally self-provision computing capabilities, such as server time or network storage, without any human interaction by the service provider could be described as on-demand administration. The term 'broad remote access' is used to describe that the computing capabilities are provided over the network and accessed through mechanisms promoting the use of heterogeneous thin or thick client platforms (from web browsers to mobile devices and workstations). The term 'scalable' refers to computing resources that are	software, including software development tools, storage, applications and services. The ***deployment models of data processing services should include private and public cloud. Such services and deployment models should be the same as defined by international standards. The*** capability of the customer of the data processing service to unilaterally self-provision computing capabilities, such as server time or network storage, without any human interaction by the ~~*service*~~ provider ***of data processing services*** could be described as ~~*on-demand administration*~~***requiring minimal management effort and as***	applications and services. The capability of the customer of the data processing service to unilaterally self-provision computing capabilities, such as server time or network storage, without any human interaction by the service provider could be described as on-demand administration. The term 'broad remote access' is used to describe that the computing capabilities are provided over the network and accessed through mechanisms promoting the use of heterogeneous thin or thick client platforms (from web browsers to mobile devices and workstations). The term 'scalable' refers to computing resources that are	

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	flexibly allocated by the data processing service provider, irrespective of the geographical location of the resources, in order to handle fluctuations in demand. The term 'elastic pool' is used to describe those computing resources that are provisioned and released according to demand in order to rapidly increase or decrease resources available depending on workload. The term 'shareable' is used to describe those computing resources that are provided to multiple users who share a common access to the service, but where the processing is carried out separately for each user, although the service is provided from the same electronic equipment. The	***entailing minimal interaction between provider and customer***. The term '~~*broad remote access*~~***ubiquitous***' is used to describe that the computing capabilities are provided over the network and accessed through mechanisms promoting the use of heterogeneous thin or thick client platforms (from web browsers to mobile devices and workstations). The term 'scalable' refers to computing resources that are flexibly allocated by the ***provider of*** data processing ~~*service provider*~~***services***, irrespective of the geographical location of the resources, in order to handle fluctuations in demand. The term 'elastic~~*pool*~~***_***' is used to describe	flexibly allocated by the data processing service provider, irrespective of the geographical location of the resources, in order to handle fluctuations in demand. The term 'elastic pool' is used to describe those computing resources that are provisioned and released according to demand in order to rapidly increase or decrease resources available depending on workload. The term 'shareable' is used to describe those computing resources that are provided to multiple users who share a common access to the service, but where the processing is carried out separately for each user, although the service is provided from the same electronic equipment. The	

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	term ‘distributed’ is used to describe those computing resources that are located on different networked computers or devices and which communicate and coordinate among themselves by message passing. The term ‘highly distributed’ is used to describe data processing services that involve data processing closer to where data are being generated or collected, for instance in a connected data processing device. Edge computing, which is a form of such highly distributed data processing, is expected to generate new business models and cloud service delivery models, which	those computing resources that are provisioned and released according to demand in order to rapidly increase or decrease resources available depending on workload. The term ‘~~*shareable*~~***shared pool***’ is used to describe those computing resources that are provided to multiple users who share a common access to the service, but where the processing is carried out separately for each user, although the service is provided from the same electronic equipment. The term ‘distributed’ is used to describe those computing resources that are located on different networked computers or devices and which communicate and coordinate among themselves by	term ‘distributed’ is used to describe those computing resources that are located on different networked computers or devices and which communicate and coordinate among themselves by message passing. The term ‘highly distributed’ is used to describe data processing services that involve data processing closer to where data are being generated or collected, for instance in a connected data processing device. Edge computing, which is a form of such highly distributed data processing, is expected to generate new business models and cloud service delivery models, which	

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	should be open and interoperable from the outset.	message passing. The term 'highly distributed' is used to describe data processing services that involve data processing closer to where data are being generated or collected, for instance in a connected data processing device. Edge computing, which is a form of such highly distributed data processing, is expected to generate new business models and cloud service delivery models, which should be open and interoperable from the outset. ***Digital services considered as an online platform as defined in point (i) of Article 3 of [the Digital Services Act] and an online content service as defined in Article 2(5) of***	should be open and interoperable from the outset.	

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		Regulation (EU) 2017/1128 of the European Parliament and of the Council [1] ***should not be considered as 'data processing services' within the meaning of this Regulation.***		

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1. Regulation (EU) 2017/1128 of the European Parliament and of the Council of 14 June 2017 on cross-border portability of online content services in the internal market (OJ L 168, 30.6.2017, p. 1).

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81a		***(71a) Data processing services fall into one or more of the following three data processing service delivery models: IaaS (infrastructure-as-a-service), PaaS (platform-as-a-service) and SaaS (software-as-a-service). Those service delivery models represent a specific, pre-packaged combination of IT resources offered by a provider of data processing service. Three base cloud delivery models are further completed by emerging variations, each comprised of a distinct combination of IT resources, such as Storage-as-a-Service and Database-as-a-Service. For the***		

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		purpose of this Regulation, data processing services can be categorised in more granular and a non-exhaustive multiplicity of different 'equivalent services', meaning sets of data processing services that share the same primary objective and main functionalities as well as the same type of data processing models, that are not related to the service operational characteristics. In an example two databases might appear to share the same primary objective, but after considering their data processing model, distribution model and targeted use-case, such databases should fall into a more granular subcategory of equivalent		

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		services. Equivalent services may have different and competing characteristics such as performance, security, resilience, and quality of service.		
81b		***(71b) Extracting the data that belongs to the customer from the source provider of data processing services remains one of the challenges that impedes restoration of the service functionalities in the destination provider infrastructure. In order to properly plan the exit strategy,***		

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		avoid unnecessary and burdensome tasks and to ensure that the customer does not lose any of its data as a consequence of the switching process, the source provider of data processing services should include in the contract the mandatory information on the scope of the data that can be exported by the customer once he or she decides to switch to a different service, other provider of data processing services or move to on-premise ICT infrastructure. The scope of exportable data should include at a minimum input and output data, including relevant data formats, data structures and metadata directly or indirectly generated or		

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		co-generated by the customer's use of the data processing service, and that can be clearly assigned to the customer. The exportable data should exclude any data processing service, or third party's assets or data protected by intellectual property rights or constituting a trade secret or confidential information, such as data related to the integrity and security of the service provided by the data processing service, and should also exclude data used by the provider to operate, maintain and improve the service.		

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81c			***(71a) The generic concept 'data processing service' by definition covers a very large number of services, with a very broad range of different purposes, functionalities and technical set-ups. As commonly understood by providers and users and in line with broadly used standards, data processing services fall into one or more of the following three data processing service delivery models: IaaS (infrastructure-as-a-service), PaaS (platform-as-a-service) and SaaS (software-as-a-service). These service delivery models indicate the level and type of***	

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			computing resources (hardware and/or software) offered by the provider of a given service, relative to the computing resources that remain in control of the user of that service. In a much more detailed categorisation, data processing services can be categorised in a non-exhaustive multiplicity of different 'service types', meaning sets of data processing services that share the same primary objective and main functionalities. Examples of such service types could be customer relationship management systems, office suites or cloud-based software suites tailored to a specific sector, such as cloud-based banking software.	

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			Typically, services falling under the same service type also share the same data processing service model.	
Recital 72				
82	(72) This Regulation aims to facilitate switching between data processing services, which encompasses all conditions and actions that are necessary for a customer to terminate a contractual agreement of a data processing service, to conclude one or multiple new contracts with different providers of data	(72) This Regulation aims to facilitate switching between data processing services, which encompasses all ***relevant*** conditions and actions that are necessary for a customer to terminate a contractual agreement of a data processing service, to conclude one or multiple new contracts with different providers	(72) This Regulation aims to facilitate switching between data processing services, which encompasses all conditions and actions that are necessary for a customer to terminate a contractual agreement of a data processing service, to conclude one or multiple new contracts with different providers of data	

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	processing services, to port all its digital assets, including data, to the concerned other providers and to continue to use them in the new environment while benefitting from functional equivalence. Digital assets refer to elements in digital format for which the customer has the right of use, including data, applications, virtual machines and other manifestations of virtualisation technologies, such as containers. Functional equivalence means the maintenance of a minimum level of functionality of a service after switching, and should be deemed technically feasible whenever both the originating and the destination data processing services cover (in	of data processing services, to port all its digital assets, including data, to the concerned other providers and to continue to use them in the new environment ~~*while benefitting*~~***and benefit*** from functional equivalence. ***It should be noted that the data processing services in scope are those where the data processing service, as defined under this Regulation, forms part of the core business of a provider.*** Digital assets refer to elements in digital format for which the customer has the right of use, including data, applications, virtual machines and other manifestations of virtualisation technologies, such as containers. ***Switching is a customer-driven***	processing services, to port all its digital assets, including data, to the concerned other providers and to continue to use them in the new environment while benefitting from functional equivalence. Digital assets refer to elements in digital format for which the customer has the ***sustained*** right of use, ***independently from the contractual relationship of the data processing service it intends to switch away from,*** including data, applications, virtual machines and other manifestations of virtualisation technologies, such as containers. Functional equivalence means the maintenance of a minimum level of functionality of a service after switching, and	

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	part or in whole) the same service type. Meta-data, generated by the customer's use of a service, should also be portable pursuant to this Regulation's provisions on switching.	***operation consisting in three main steps, namely (i) data extraction, i.e. downloading data from a source provider's ecosystem; (ii) transformation, when the data is structured in a way that does not match the schema of the target location; and (iii) the uploading of the data in a new destination location. In a specific situation outlined in this Regulation, unbundling of a particular service from the contract and moving it to another provider should also be considered as switching. The switching process is sometimes managed on behalf of the customer by a third-party entity. Accordingly, all right and obligations of the customer***	should be deemed technically feasible whenever both the originating and the destination data processing services cover (in part or in whole) the same service type. ~~*Meta-data*~~***Services can only be expected to facilitate functional equivalence for the functionalities that both the originating and destination services offer. This Regulation does not instate an obligation of facilitating functional equivalence for data processing services of the PaaS and/or SaaS service delivery model. Metadata***, generated by the customer's use of a service, should also be portable pursuant to this	

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		established by this Regulation, including the obligation to collaborate in good faith, should be understood to apply to such a third-party entity in those circumstances. Providers of cloud computing services and customers have different levels of responsibilities, depending on the steps of the process referred to. For instance, the source provider of data processing services is responsible to extract the data to a machine-readable format, but it is the customer and the destination provider who will upload the data to the new environment, unless specific professional transition service has been obtained. Obstacles to switching are of a	Regulation's provisions on switching.	

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		different nature, depending on which step of the switching process is referred to. Functional equivalence means the ~~*maintenance of*~~ ***possibility to re-establish, on the basis of the customer's data,*** a minimum level of functionality of a service ***in the environment of a new data processing service*** after switching, ~~*and should be deemed technically feasible whenever both the originating and the destination data processing*~~***where the destination service delivers a comparable outcome in response to the same input for shared functionality supplied to the customer under the contractual agreement. Different*** services		

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		~~*cover (in part or in whole)*~~***may only achieve functional equivalence for the shared core functionalities, where both the source and destination service providers independently offer*** the same ***core functionalities. This Regulation does not instance an obligation of facilitating functional equivalence for data processing*** service ~~*type.*~~ ***delivery models of the PaaS or SaaS. Relevant*** meta-data, generated by the customer's use of a service, should also be portable pursuant to this Regulation's provisions on switching ***and falls within the definition of exportable data. Data processing services are used across sectors and vary in***		

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		complexity and service type. This is an important consideration with regard to the porting process and timeframes.		
82a			***(72a) An extension - on the ground of technical unfeasibility to the switching obligations proposed in this Regulation – may only be invoked in exceptional cases. The burden of proof in this regard should be fully on the provider of the concerned data processing service.***	

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	82b		***(72b) After a transition period of three years after this Regulation enters into force, all 'switching charges' should be abolished. Switching charges are charges imposed by data processing providers to their customers for the switching process. Typically, those charges are intended to pass on costs, which the originating provider may incur because of the switching process, to the customer that wishes to switch. Examples of common switching charges are***	

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			costs related to the transit of data from one provider to the other or to an on-premise system ('data egress costs') or the costs incurred for specific support actions during the switching process, for example in terms of additional human resources provided by the originating data processing service provider either in-house or outsourced. Nothing in the Data Act prevents a customer from remunerating third party entities for support in the migration process or parties from agreeing on contracts for data processing services of a fixed duration, including termination charges to cover the early termination of said	

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			contracts, in accordance with national and Union law.	
	82c	***(72a) An ambitious and innovation inspiring regulatory approach to interoperability is needed, in order to overcome vendor lock-in, which undermines competition and the development of new services. Interoperability between equivalent data processing services involves multiple interfaces and layers of infrastructure and software and is rarely confined to a binary test of***		

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		being achievable or not. Instead, the building of such interoperability is subject to a cost-benefit analysis which is necessary to establish whether it is worthwhile to pursue reasonably predictable results. The ISO/IEC 19941:2017 is an important reference for the achievement of the objectives of this Regulation, as it contains technical considerations clarifying the complexity of such a process.			
Recital 73					
G	83			(73) Where providers of data processing services are in turn	G

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	(73) Where providers of data processing services are in turn customers of data processing services provided by a third party provider, they will benefit from more effective switching themselves, while simultaneously invariably bound by this Regulation's obligations for what pertains to their own service offerings.	(73) Where providers of data processing services are in turn customers of data processing services provided by a third party provider, they will benefit from more effective switching themselves, while simultaneously invariably bound by this Regulation's obligations for what pertains to their own service offerings.	(73) Where providers of data processing services are in turn customers of data processing services provided by a third party provider, they will benefit from more effective switching themselves, while simultaneously invariably bound by this Regulation's obligations for what pertains to their own service offerings.	customers of data processing services provided by a third party provider, they will benefit from more effective switching themselves, while simultaneously invariably bound by this Regulation's obligations for what pertains to their own service offerings. Text Origin: Commission Proposal
Recital 74				
84	(74) Data processing service providers should be required to	(74) ***Providers of*** data processing ~~service providers~~***services*** should be	(74) Data processing service providers should be required to	

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	offer all assistance and support that is required to make the switching process successful and effective without requiring those data processing service providers to develop new categories of services within or on the basis of the IT-infrastructure of different data processing service providers to guarantee functional equivalence in an environment other than their own systems. Nevertheless, service providers are required to offer all assistance and support that is required to make the switching process effective. Existing rights relating to the termination of contracts, including those introduced by Regulation (EU) 2016/679 and Directive (EU)	required ***not to impose and to remove all relevant obstacles and*** to offer all assistance and support ***within their capacity and proportional to their respective obligations*** that is required to make the switching process successful***,*** ***safe*** and effective***. This Regulation does not require providers of*** ~~*without requiring those*~~ data processing ~~*service providers*~~***services*** to develop new categories of ***data processing*** services***, including*** within or on the basis of the IT-infrastructure of different data processing service providers to guarantee functional equivalence in an environment other than their own systems. ~~*Nevertheless, service providers are*~~	offer all assistance and support that is required to make the switching process ***to a service of a different data processing service provider*** successful***, effective and secure including in cooperation with the data processing service provider of the destination service.*** ~~*and effective without requiring those*~~ Data processing service providers ***should also be required to remove existing obstacles and not impose new for customers wishing to switch, also, to an on-premise system. Obstacles relate to, inter alia, hurdles of pre-commercial, commercial, technical, contractual and organisational nature. Throughout the switching process, a high level of security***	

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	2019/770 of the European Parliament and of the Council[1] should not be affected. _____ 1. Directive (EU) 2019/770 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the supply of digital content and digital services (OJ L 136, 22.5.2019, p. 1).	~~required to offer all assistance and~~***A source provider of data processing services has no access and insights into the environment of the destination provider of data processing services and should not be obliged to rebuilt customer's service, according to functional equivalence requirements, within the destination provider's infrastructure. Instead, the source provider should take all reasonable measures within their power to facilitate the process of achieving functional equivalence through providing capabilities, adequate information, documentation, technical support and, where appropriate, the***	***should be maintained. This means that the data processing service provider of the original*** ~~*to develop new categories of services within or on the basis of the IT-infrastructure of different*~~ data processing service ~~*providers to guarantee functional equivalence in an environment other than their own systems. Nevertheless,*~~***should extend the level of security to which it committed for the service to all technical modalities deployed in the related switching process (such as network connections or physical devices). This Regulation does not require data processing*** service providers ~~*are required to offer all assistance and support that is required to*~~	

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		necessary tools. The information to be provided by providers of data processing services to the customer should support ***the development of the customer's exit strategy and should include procedures for initiating switching from the cloud computing service, the machine-readable data formats that the user's data can be exported to, the tools, including at least one open standard data portability interface, foreseen to export data, information on known technical restrictions and limitations that could impact*** ~~*that is required to make*~~ the switching process ~~*effective*~~***and the estimated time necessary to complete the switching process. The written***	~~*make the switching process effective*~~***to develop new categories of services within or on the basis of the IT-infrastructure of different data processing service providers to guarantee functional equivalence in an environment other than their own systems***. Existing rights relating to the termination of contracts, including those introduced by Regulation (EU) 2016/679 and Directive (EU) 2019/770 of the European Parliament and of the Council[1] should not be affected. _____ 1. Directive (EU) 2019/770 of the European Parliament and of the Council of 20 May 2019 on	

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		contract setting out the rights of the customer and the obligations of the provider of cloud computing services should only cover information which is available to the provider of data processing services at the time of the formation of the contract. Existing rights relating to the termination of contracts, including those introduced by Regulation (EU) 2016/679 and Directive (EU) 2019/770 of the European Parliament and of the Council[1] should not be affected. ***Any mandatory period under this Regulation should not affect compliance with other timelines specified under sectoral legislation. Chapter VI of this***	certain aspects concerning contracts for the supply of digital content and digital services (OJ L 136, 22.5.2019, p. 1).	

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		Regulation should not be understood as preventing a provider of data processing services from provisioning to its customers new and improved services, features and functionalities or from competing with other providers of data processing services on that basis. _____ 1. Directive (EU) 2019/770 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the supply of digital content and digital services (OJ L 136, 22.5.2019, p. 1).		

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Recital 75				
85	(75) To facilitate switching between data processing services, providers of data processing services should consider the use of implementation and/or compliance tools, notably those published by the Commission in the form of a Rulebook relating to cloud services. In particular, standard contractual clauses are beneficial to increase confidence in data processing services, to create a more balanced relationship between users and service	(75) To facilitate switching between data processing services, providers of data processing services should consider the use of implementation and/or compliance tools, notably those published by the Commission in the form of a Rulebook relating to cloud services. In particular, standard contractual clauses are beneficial to increase confidence in data processing services, to create a more balanced relationship between users and ~~service~~	(75) To facilitate ***interoperability and*** switching between data processing services, providers of data processing services should consider the use of implementation and/or compliance tools, notably those published by the Commission in the form of a Rulebook relating to cloud services. In particular, standard contractual clauses are beneficial to increase confidence in data processing services, to create a more balanced relationship	

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	providers and to improve legal certainty on the conditions that apply for switching to other data processing services. In this light, users and service providers should consider the use of standard contractual clauses developed by relevant bodies or expert groups established under Union law.	~~*providers*~~***providers of data processing services*** and to improve legal certainty on the conditions that apply for switching to other data processing services. In this light, users and ~~*service providers*~~***providers of data processing services*** should consider the use of standard contractual clauses developed by relevant bodies or expert groups established under Union law.	between users and service providers and to improve legal certainty on the conditions that apply for switching to other data processing services.~~-~~ In this light, users and service providers should consider the use of standard contractual clauses ***or other self-regulatory compliance tools provided that they fully reflect the requirements of Chapter VI and relevant provisions of Chapter VIII of this Regulation,*** developed by relevant bodies or expert groups established under Union law.	

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85a		***(75a) In order to facilitate switching between cloud computing services, all parties involved, including providers of both source and destination data processing services, should collaborate in good faith with a view to enabling an effective switching process and the secure and timely transfer of necessary data in a commonly used, machine-readable format, and by means of an open standard data portability interface, and avoiding service disruptions.***		
Recital 75a				

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G 85b		***(75b) Data processing services which concern services that are substantially altered to facilitate a specific customer's need (custom built), or data processing services that operate on a trial basis or only supply a testing and evaluation service for business product offerings, should be exempted from some of the obligations applicable to data processing service switching.***		***(75a) Data processing services which concern services of which the majority of main features have been custom-built to respond to the specific demands of an individual customer or where all components have been developed for the purposes of an individual customer should be exempted from some of the obligations applicable to data processing service switching. This should not include services which the provider offers at a broad commercial scale via their services catalogue. It is part of the provider's obligations to duly inform prospective customers of such services, prior to the*** G

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				conclusion of a contractual agreement, of the obligations in this chapter that do not apply to the respective services. Nothing prevents the service provider from eventually deploying such services at scale, in which case the provider would have to comply with all obligations for switching as set out in Chapter VI.
	85c		***(75c) Without prejudice to their right to take action before a court, customers should have access to certified dispute settlement bodies***	

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		to settle disputes related to switching between providers of data processing services.		
Y	85d		***(75a) In line with its minimum requirements to allow for switching between providers, this Regulation also aims to improve interoperability for in-parallel use of data processing services. This relates to situations where customers do not terminate a contractual agreement to switch to a different provider of data processing services, but where***	Y

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			multiple services of different providers are used in-parallel, in an interoperable manner, to benefit from the complementary functionalities of the different services in the customer's system set-up.	
Recital 76				
86	(76) Open interoperability specifications and standards developed in accordance with paragraph 3 and 4 of Annex II of Regulation (EU) 1025/2021 in the field of interoperability and portability enable a seamless	(76) Open interoperability ***and portability*** specifications and standards developed in accordance with paragraph 3 and 4 of Annex II ~~of~~***to*** Regulation (EU) 1025/2021 ***of the European Parliament and of the Council***[1] in the field of	(76) Open interoperability specifications and standards developed in accordance with ~~*paragraph 3 and 4 of*~~ Annex II of Regulation (EU) 1025/2021 in the field of interoperability and portability ***are expected to*** enable a	

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	multi-vendor cloud environment, which is a key requirement for open innovation in the European data economy. As market-driven processes have not demonstrated the capacity to establish technical specifications or standards that facilitate effective cloud interoperability at the PaaS (platform-as-a-service) and SaaS (software-as-a-service) levels, the Commission should be able, on the basis of this Regulation and in accordance with Regulation (EU) No 1025/2012, to request European standardisation bodies to develop such standards, particularly for service types where such standards do not yet exist. In addition to this, the Commission will encourage	interoperability and portability enable a ~~*seamless*~~ multi-vendor cloud environment, which is a key requirement for open innovation in the European data economy. As market-driven processes have not demonstrated the capacity to establish technical specifications or standards that facilitate effective cloud interoperability ***and portability*** at the PaaS ~~*(platform-as-a-service)*~~ and SaaS ~~*(software-as-a-service)*~~ levels, the Commission should be able, ***where technically feasible,*** on the basis of this Regulation and in accordance with Regulation (EU) No 1025/2012, to request European standardisation bodies to develop such standards~~*, particularly for*~~	seamless multi-vendor cloud environment, which is a key requirement for open innovation in the European data economy. As ***the market take-up of identified standards under the cloud standardisation coordination (CSC) initiative concluded in 2016 has been limited, the Commission also needs to rely on parties in the market to develop relevant open interoperability specifications to keep up with the fast pace of technological development in this industry. Such open interoperability specifications can then be adopted by the Commission in the form of common specifications. In addition, where*** market-driven	

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	parties in the market to develop relevant open interoperability specifications. The Commission, by way of delegated acts, can mandate the use of European standards for interoperability or open interoperability specifications for specific service types through a reference in a central Union standards repository for the interoperability of data processing services. European standards and open interoperability specifications will only be referenced if in compliance with the criteria specified in this Regulation, which have the same meaning as the requirements in paragraphs 3 and 4 of Annex II of Regulation (EU) No 1025/2021 and the interoperability	~~*service types*~~ ***for equivalent services*** where such standards do not yet exist. In addition to this, the Commission will encourage parties in the market to develop relevant open interoperability ***and portability*** specifications. ***Following consultation with stakeholders and taking into account relevant international and European standards and self-regulatory initiatives,*** the Commission, by way of delegated acts, can mandate the use of European standards for interoperability ***and portability*** or open interoperability ***and portability*** specifications for specific ~~*service types*~~***equivalent services*** through a reference in a	processes have not demonstrated the capacity to establish technical specifications or standards that facilitate effective cloud interoperability at the PaaS (platform-as-a-service) and SaaS (software-as-a-service) levels, the Commission should be able, on the basis of this Regulation and in accordance with Regulation (EU) No 1025/2012, to request European standardisation bodies to develop such standards, particularly for service types where such standards do not yet exist. ~~*In addition to this, the Commission will encourage parties in the market to develop relevant open interoperability specifications.*~~ The Commission, by way of ~~*delegated*~~	

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	facets defined under the ISO/IEC 19941:2017.	central Union standards repository for the interoperability of data processing services. ***Providers of data processing services should ensure compatibility with those standards for interoperability and portability specifications, taking into account the nature, security and integrity of the data they host.*** European standards ***for the interoperability and portability of data processing services*** and open interoperability specifications will only be referenced if in compliance with the criteria specified in this Regulation, which have the same meaning as the requirements in paragraphs 3 and 4 of Annex II ~~of~~***to*** Regulation (EU) No 1025/2021 and the interoperability	***implementing*** acts, can mandate the use of ~~*European*~~ standards for interoperability or ~~*open interoperability*~~ ***common*** specifications for specific service types through a reference in a central Union standards repository for the interoperability of data processing services. ~~*European*~~***The repository may make reference to*** standards ***or common specifications both for the purposes of switching between providers and of interoperability for in-parallel use of data processing services. Standards*** and open interoperability specifications will only be referenced if in compliance with the criteria specified in this	

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		facets defined under the ISO/IEC 19941:2017. _____ ***1. Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and***	Regulation, which have the same meaning as the requirements in paragraphs 3 and 4 of Annex II of Regulation (EU) No 1025/2021 ~~*and the interoperability facets defined under the ISO/IEC 19941:2017*~~.	

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		Decision No 1673/2006/EC of the European Parliament and of the Council (OJ L 316, 14.11.2012, p. 12).		
Recital 77				
87	(77) Third countries may adopt laws, regulations and other legal acts that aim at directly transferring or providing governmental access to non-personal data located outside their borders, including in the Union. Judgments of courts or tribunals or decisions of other judicial or administrative authorities, including law	(77) Third countries may adopt laws, regulations and other legal acts that aim at directly transferring or providing governmental access to non-personal data located outside their borders, including in the Union. Judgments of courts or tribunals or decisions of other judicial or administrative authorities, including law	(77) Third countries may adopt laws, regulations and other legal acts that aim at directly transferring or providing governmental access to non-personal data located outside their borders, including in the Union. Judgments of courts or tribunals or decisions of other judicial or administrative authorities, including law	

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	enforcement authorities in third countries requiring such transfer or access to non-personal data should be enforceable when based on an international agreement, such as a mutual legal assistance treaty, in force between the requesting third country and the Union or a Member State. In other cases, situations may arise where a request to transfer or provide access to non-personal data arising from a third country law conflicts with an obligation to protect such data under Union law or national law, in particular as regards the protection of fundamental rights of the individual, such as the right to security and the right to effective remedy, or the fundamental	enforcement authorities in third countries requiring such transfer or access to non-personal data should be enforceable when based on an international agreement, such as a mutual legal assistance treaty, in force between the requesting third country and the Union or a Member State. In other cases, situations may arise where a request to transfer or provide access to non-personal data arising from a third country law conflicts with an obligation to protect such data under Union law or national law, in particular as regards the protection of fundamental rights of the individual, such as the right to security and the right to effective remedy, or the fundamental	enforcement authorities in third countries requiring such transfer or access to non-personal data should be enforceable when based on an international agreement, such as a mutual legal assistance treaty, in force between the requesting third country and the Union or a Member State. In other cases, situations may arise where a request to transfer or provide access to non-personal data arising from a third country law conflicts with an obligation to protect such data under Union law or national law, in particular as regards the protection of fundamental rights of the individual, such as the right to security and the right to effective remedy, or the fundamental	

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	interests of a Member State related to national security or defence, as well as the protection of commercially sensitive data, including the protection of trade secrets, and the protection of intellectual property rights, and including its contractual undertakings regarding confidentiality in accordance with such law. In the absence of international agreements regulating such matters, transfer or access should only be allowed if it has been verified that the third country's legal system requires the reasons and proportionality of the decision to be set out, that the court order or the decision is specific in character, and that the reasoned	interests of a Member State related to national security or defence, as well as the protection of commercially sensitive data, including the protection of trade secrets, and the protection of intellectual property rights, and including its contractual undertakings regarding confidentiality in accordance with such law. In the absence of international agreements regulating such matters, transfer or access should only be allowed if it has been verified that the third country's legal system requires the reasons and proportionality of the decision to be set out, that the court order or the decision is specific in character, and that the reasoned	interests of a Member State related to national security or defence, as well as the protection of commercially sensitive data, including the protection of trade secrets, and the protection of intellectual property rights, and including its contractual undertakings regarding confidentiality in accordance with such law. In the absence of international agreements regulating such matters, transfer or access should only be allowed if it has been verified that the third country's legal system requires the reasons and proportionality of the decision to be set out, that the court order or the decision is specific in character, and that the reasoned	

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	objection of the addressee is subject to a review by a competent court in the third country, which is empowered to take duly into account the relevant legal interests of the provider of such data. Wherever possible under the terms of the data access request of the third country's authority, the provider of data processing services should be able to inform the customer whose data are being requested in order to verify the presence of a potential conflict of such access with Union or national rules, such as those on the protection of commercially sensitive data, including the protection of trade secrets and intellectual property rights and the	objection of the addressee is subject to a review by a competent court in the third country, which is empowered to take duly into account the relevant legal interests of the provider of such data. Wherever possible under the terms of the data access request of the third country's authority, the provider of data processing services should be able to inform the ~~*customer*~~***consumer*** whose data are being requested in order to verify the presence of a potential conflict of such access with Union or national rules, such as those on the protection of commercially sensitive data, including the protection of trade secrets and intellectual property rights and the	objection of the addressee is subject to a review by a competent court in the third country, which is empowered to take duly into account the relevant legal interests of the provider of such data. Wherever possible under the terms of the data access request of the third country's authority, the provider of data processing services should be able to inform the customer whose data are being requested ***before granting access to that data*** in order to verify the presence of a potential conflict of such access with Union or national rules, such as those on the protection of commercially sensitive data, including the protection of trade secrets and	

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	contractual undertakings regarding confidentiality.	contractual undertakings regarding confidentiality.	intellectual property rights and the contractual undertakings regarding confidentiality.	
Recital 78				
88	(78) To foster further trust in the data, it is important that safeguards in relation to Union citizens, the public sector and businesses are implemented to the extent possible to ensure control over their data. In addition, Union law, values and standards should be upheld in terms of (but not limited to) security, data protection and privacy, and consumer protection.	(78) To foster further trust in the data, it is important that safeguards in relation to Union citizens, the public sector and businesses are implemented to the extent possible to ensure control over their data. In addition, Union law, values and standards should be upheld in terms of (but not limited to) security, data protection and privacy, and consumer protection.	(78) To foster further trust in the data, it is important that safeguards in relation to Union citizens, the public sector and businesses are implemented to the extent possible to ensure control over their data. In addition, Union law, values and standards should be upheld in terms of (but not limited to) security, data protection and privacy, and consumer protection.	

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	In order to prevent unlawful access to non-personal data, providers of data processing services subject to this instrument, such as cloud and edge 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 order to prevent unlawful access to non-personal data, providers of data processing services subject to this instrument, such as cloud and edge 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 order to prevent unlawful ***governmental*** access to non-personal data ***by third country authorities***, providers of data processing services subject to this instrument, such as cloud and edge 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.	
Recital 79				

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89	(79) Standardisation and semantic interoperability should play a key role to provide technical solutions to ensure interoperability. In order to facilitate the conformity with the requirements for interoperability, it is necessary to provide for a presumption of conformity for interoperability solutions that meet harmonised standards or parts thereof in accordance with Regulation (EU) No 1025/2012 of the European Parliament and of the Council. The Commission should adopt common specifications in areas where no harmonised standards exist or where they are insufficient in order to further	(79) Standardisation***, semantic and syntactic*** ~~*and semantic*~~ interoperability should play a key role to provide technical solutions to ~~*ensure*~~***enable portability and*** interoperability. In order to facilitate the conformity with the requirements for interoperability ***within the common European data spaces which are purpose- or sector-specific or cross-sectoral, interoperable frameworks of common standards and practices to share or jointly process data for, inter alia, development of new products and services, scientific research or civil society initiatives should be developed. This***	(79) Standardisation and semantic interoperability should play a key role to provide technical solutions to ensure ***interoperabilitywithin the common European data spaces, which are purpose- or sector-specific or cross-sectoral interoperable frameworks of common standards and practices to share or jointly process data for, inter alia, development of new products and services, scientific research or civil society initiatives. This Regulation lays down certain essential requirements for*** interoperability. ***Operators within the data spaces, which are entities facilitating or engaging in data***	

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	enhance interoperability for the common European data spaces, application programming interfaces, cloud switching as well as smart contracts. Additionally, common specifications in the different sectors could remain to be adopted, in accordance with Union or national sectoral law, based on the specific needs of those sectors. Reusable data structures and models (in form of core vocabularies), ontologies, metadata application profile, reference data in the form of core vocabulary, taxonomies, code lists, authority tables, thesauri should also be part of the technical specifications for semantic interoperability. Furthermore, the Commission	***Regulation lays down certain essential requirements for interoperability. Participants within the data spaces, which are entities facilitating or engaging in data sharing within the common European data spaces, including data holders, should comply with those requirements. Compliance with those rules can occur by adhering to the requirements laid down in this Regulation, or by adapting to already existing standards via a presumption of conformity. In order to facilitate the conformity with the requirements for interoperability***, it is necessary to provide for a presumption of conformity for interoperability solutions that meet	***sharing within the common European data spaces, including data holders, should comply with these requirements in as far as elements under their control are concerned. Compliance with these rules can be ensured by adhering to the essential requirements laid down in this Regulation, or presumed by complying with standards or common specifications.*** In order to facilitate the conformity with the requirements for interoperability, it is necessary to provide for a presumption of conformity for interoperability solutions that meet harmonised standards or parts thereof in accordance with Regulation (EU) No 1025/2012 of	

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	should be enabled to mandate the development of harmonised standards for the interoperability of data processing services.	harmonised standards or parts thereof in accordance with Regulation (EU) No 1025/2012 **.** ***Standards should be developed in open, technology neutral and inclusive way line with Chapter II*** of the ***Regulation (EU) No 1025/2012. Taking into account, where relevant, positions adopted by the*** European ~~*Parliament and of the Council.*~~***Data Innovation Board according to Article 30, point (f), of Regulation (EU) 2022/868,*** the Commission should adopt common specifications in areas where no harmonised standards exist or where they are insufficient in order to further enhance interoperability for the common European data spaces,	the European Parliament and of the Council***, which represents the framework by default to elaborate standards that provide for such presumptions***. The Commission should ~~*adopt common specifications in areas where no*~~***assess barriers to interoperability and prioritise standardisation needs, based on which it may request one or more European standardisation organisation in accordance with Regulation (EU) No 1025/2012 of the European Parliament and of the Council to draft*** harmonised standards ~~*exist or where they*~~***which fulfil the essential requirements laid down in this Regulation. In case such requests do not result in***	

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		application programming interfaces, cloud switching as well as smart contracts. Additionally, common specifications in the different sectors could remain to be adopted, in accordance with Union or national sectoral law, based on the specific needs of those sectors. Reusable data structures and models (in form of core vocabularies), ontologies, metadata application profile, reference data in the form of core vocabulary, taxonomies, code lists, authority tables, thesauri ~~*should*~~*could* also be part of the technical specifications for semantic interoperability. Furthermore, *following consultation with stakeholders and taking into account relevant*	*harmonised standards or such harmonised standards* are insufficient *to ensure conformity with the essential requirements set out in thise Regulation, the Commission should be able to adopt common specifications in these areas provided that in doing so it duly respects the standardisation organisations' role and functions, as an exceptional fall back solution to facilitate the manufacturer's obligation to comply with the essential requirements laid down in this Regulation, when the standardisation process is blocked or when there are delays in the establishment of appropriate harmonised standards. If such*	

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		international and European standards and self-regulating initiatives, where relevant, positions adopted by the European Data Innovation Board, as referred to in Article 30, point (f), of Regulation (EU) 2022/868, the Commission should be enabled to ***adopt common specifications in areas where no harmonised standards exist and to*** mandate the development of harmonised standards for the ***portability and*** interoperability of data processing services. ***The European Data Innovation Board should build on existing European and global initiatives for cross-sectoral interoperability of data. In particular, the European Data***	***delay is due to the technical complexity of the standard in question, this should be considered by the Commission before contemplating the establishment of common specifications.*** ~~*in order to further enhance interoperability for the common European data spaces, application programming interfaces, cloud switching as well as smart contracts*~~. Additionally, common specifications in the different sectors could ~~*remain to*~~ be adopted, in accordance with Union or national sectoral law, based on the specific needs of those sectors. Reusable data structures and models (in form of core vocabularies), ontologies,	

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		Innovation Board should study the potential of the digital identity of objects framework as established by the Regulation (EU) 910/214 and systems for the identification of legal entities such as the GLEIF for that purpose.	metadata application profile, reference data in the form of core vocabulary, taxonomies, code lists, authority tables, thesauri should also be part of the technical specifications for semantic interoperability. Furthermore, the Commission should be enabled to mandate the development of harmonised standards for the interoperability of data processing services.	
	89a	***(79a) In order to further enhance coordination in the enforcement***		

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		of this Regulation, the European Data Innovation Board should foster the mutual exchange of information amongst competent authorities as well as advise and assist the Commission in matters falling under this Regulation that fall within the competences of Article 30 of Regulation (EU) 2022/868. A subgroup for stakeholder involvement referred to in Article 29(2), point (c), of that Regulation should participate in the consultation on a continual basis.		
Recital 80				

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90	(80) To promote the interoperability of smart contracts in data sharing applications, it is necessary to lay down essential requirements for smart contracts for professionals who create smart contracts for others or integrate such smart contracts in applications that support the implementation of agreements for sharing data. In order to facilitate the conformity of such smart contracts with those essential requirements, it is necessary to provide for a presumption of conformity for smart contracts that meet harmonised standards or parts thereof in accordance with	(80) To promote the interoperability of smart contracts in data sharing applications, it ~~is~~***may be*** necessary to lay down essential requirements for smart contracts for professionals who create smart contracts for others or integrate such smart contracts in applications that support the implementation of agreements for sharing data. ~~*In order to facilitate the conformity of such*~~***For example,*** smart contracts ~~*with those essential requirements, it is necessary to provide for a presumption of conformity for*~~***should guarantee that conditions for data sharing are***	(80) To promote the interoperability of ~~*smart contracts in*~~***tools for the automated execution of*** data sharing ~~*applications*~~***agreements***, it is necessary to lay down essential requirements for smart contracts ~~*for*~~ ***which*** professionals ~~*who*~~ create ~~*smart contracts*~~ for others or integrate ~~*such smart contracts*~~ in applications that support the implementation of agreements for sharing data. In order to facilitate the conformity of such smart contracts with those essential requirements, it is necessary to provide for a presumption of conformity for smart contracts that	

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	Regulation (EU) No 1025/2012 of the European Parliament and of the Council.	***respected. Specific training programmes on*** smart contracts ~~*that meet harmonised standards or parts thereof in accordance with Regulation (EU) No 1025/2012 of the European Parliament and of the Council*~~***for businesses, in particular SMEs, should be promoted***.	meet harmonised standards or parts thereof in accordance with Regulation (EU) No 1025/2012 of the European Parliament and of the Council. ***The notion of "smart contract" in this Regulation is technologically neutral. Smart contracts can be connected to any kind of electronic ledger, be it a centrally operated ledger or a ledger operated in distributed manner. The obligation should apply only to the vendors of smart contracts, but not to the in-house development of smart contracts exclusively for internal use . The essential requirement to ensure that smart contracts can be interrupted and terminated implies mutual consent by the***	

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			parties to the data sharing agreement.	
Y	90a		***(80a) To demonstrate fulfilment of the essential requirements in this Regulation, the vendor of a smart contract or in the absence thereof, the person whose trade, business or profession involves the deployment of smart contracts for others in the context of an agreement to make data available, should perform a conformity assessment and issue an EU declaration of conformity. To***	Y

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			avoid administrative burdens to the deployment of smart contracts and to ensure that vendors of smart contracts can scale up across the Union, the conformity assessment of a smart contract should be based on a self-assessment by the vendor of that smart contract or in the absence thereof, the person whose trade, business or profession involves the deployment of smart contracts for others in the context of an agreement to make data available. This conformity assessment should be subject to the general principles set out in Regulation (EC) No 765/2008 and Regulation (EC) No 768/2008.	

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90b			***(80b) Besides the obligation on professional developers of smart contracts to comply with essential requirements, it is also necessary to oblige those operators within data spaces that facilitate data sharing within and across the common European data spaces to support interoperability of tools for data sharing including smart contracts. Such operators shall, therefore, select only tools for the automated execution of data sharing agreements that comply***	

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			with technical specifications so that all operators within data spaces can share data amongst one another.	
Recital 81				
91	(81) In order to ensure the efficient implementation of this Regulation, Member States should designate one or more competent authorities. If a Member State designates more than one competent authority, it should also designate a coordinating competent authority. Competent authorities should cooperate with each other.	(81) In order to ensure the efficient implementation of this Regulation, Member States should designate one or more competent authorities ***and assign to them sufficient resources***. If a Member State designates more than one competent authority, it should also designate a coordinating competent authority. Competent authorities	(81) In order to ensure the efficient implementation of this Regulation, Member States should designate one or more competent authorities. If a Member State designates more than one competent authority, it should also designate a coordinating competent authority. Competent authorities should cooperate with each other.	Text Origin: Council Mandate

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	The authorities responsible for the supervision of compliance with data protection and competent authorities designated under sectoral legislation should have the responsibility for application of this Regulation in their areas of competence.	should cooperate with each other ***effectively and in a timely manner, in line with the principles of good administration and mutual assistance to ensure the effective implementation and enforcement of this Regulation***. The authorities responsible for the supervision of compliance with data protection and competent authorities designated under sectoral legislation should have the responsibility for application of this Regulation in their areas of competence. ***Competent authorities should cooperate upon request of the authorities within the European Data Protection***	***Through the exercise of their powers of investigation in accordance with applicable national procedures, competent authorities should be able to search for and obtain information , in particular in relation to an entity's activity under their competence, and including in the context of joint investigations, with due regard to the fact that oversight and enforcement measures concerning an entity under the competence of another Member State should be adopted by the competent authority of that other Member State, where relevant in accordance with the procedures relating to cross-border cooperation.***	

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		Board and the European Data Innovation Board.	***Competent authorities should assist each other in a timely manner, in particular when a competent authority in a Member State holds relevant information for an investigation carried out by the competent authorities in other Member States, or is able to gather such information to which the competent authorities in the Member State where the entity is established do not have access. Designated competent authorities and coordinating competent authorities should be identified in the public register maintained by the Commission. The coordinating competent authority could be an additional means for facilitating collaboration for***	

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			cross-border situations, such as when a competent authority from a given Member State does not know which authority it should approach in the coordinating competent authority's Member State (e.g. the case is related to more than one competent authority or sector). The authorities responsible for the supervision of compliance with data protection and competent authorities designated under sectoral legislation should have the responsibility for application of this Regulation in their areas of competence. ***In order to avoid conflict of interest, the competent authorities responsible for the application and enforcement of***	

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			this Regulation in the area of making data available following requests based on exceptional need should not benefit from the right to request data based on exceptional need.	
Y	91a		***(81a) In order to further enhance coordination in the enforcement of this Regulation, the European Data Innovation Board should foster the mutual exchange of information amongst competent authorities as well as advise and assist the Commission in matters***	Y

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		falling under this Regulation with a focus on the matters falling under the competences of the Board in line with Article 30 of Regulation (EU) No 2022/868.		
Recital 82				
92	(82) In order to enforce their rights under this Regulation, natural and legal persons should be entitled to seek redress for the infringements of their rights under this Regulation by lodging complaints with competent authorities. Those authorities should be obliged to cooperate to ensure the complaint	(82) In order to enforce their rights under this Regulation, natural and legal persons should be entitled to seek redress for the infringements of their rights under this Regulation by lodging complaints with ***the data coordinator, other relevant*** competent authorities ***and before the Courts***. Those	(82) In order to enforce their rights under this Regulation, natural and legal persons should be entitled to seek redress for the infringements of their rights under this Regulation by lodging complaints with competent authorities. Those authorities should be obliged to cooperate to ensure the complaint	

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	is appropriately handled and resolved. In order to make use of the consumer protection cooperation network mechanism and to enable representative actions, this Regulation amends the Annexes to the Regulation (EU) 2017/2394 of the European Parliament and of the Council[1] and Directive (EU) 2020/1828 of the European Parliament and of the Council[2]. _____ 1. Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible	authorities should be obliged to cooperate to ensure the complaint is appropriately handled and resolved ***swiftly and effectively***. In order to make use of the consumer protection cooperation network mechanism and to enable representative actions, this Regulation amends the Annexes to the Regulation (EU) 2017/2394 of the European Parliament and of the Council[1] and Directive (EU) 2020/1828 of the European Parliament and of the Council[2]. _____ 1. ***[1]*** Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on	is appropriately handled and resolved. In order to make use of the consumer protection cooperation network mechanism and to enable representative actions, this Regulation amends the Annexes to the Regulation (EU) 2017/2394 of the European Parliament and of the Council[1] and Directive (EU) 2020/1828 of the European Parliament and of the Council[2]. _____ 1. Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible	

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	for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004 (OJ L 345, 27.12.2017, p. 1). 2. Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC (OJ L 409, 4.12.2020, p. 1).	cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004 (OJ L 345, 27.12.2017, p. 1). 2. ***[2]*** Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC (OJ L 409, 4.12.2020, p. 1).	for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004 (OJ L 345, 27.12.2017, p. 1). 2. Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC (OJ L 409, 4.12.2020, p. 1).	
Recital 83				

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93	(83) Member States competent authorities should ensure that infringements of the obligations laid down in this Regulation are sanctioned by penalties. When doing so, they should take into account the nature, gravity, recurrence and duration of the infringement in view of the public interest at stake, the scope and kind of activities carried out, as well as the economic capacity of the infringer. They should take into account whether the infringer systematically or recurrently fails to comply with its obligations stemming from this Regulation. In order to help enterprises to draft	(83) Member States competent authorities should ensure that infringements of the obligations laid down in this Regulation are sanctioned by penalties. When doing so, they should take into account the nature, gravity, recurrence and duration of the infringement in view of the public interest at stake, the scope and kind of activities carried out, as well as the economic capacity of the infringer. They should take into account whether the infringer systematically or recurrently fails to comply with its obligations stemming from this Regulation. In order to help enterprises to draft	(83) Member States competent authorities should ensure that infringements of the obligations laid down in this Regulation are sanctioned by penalties***, which could be inter alia in the form of financial penalties, warnings, reprimands or orders to bring business practices in compliance with the obligations under this Regulation. Where appropriate, Member States' competent authorities should make use of interim measures to limit the effects of an alleged violation while the investigation of such violation is on-going***. When doing so, they should take into account	

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	and negotiate contracts, the Commission should develop and recommend non-mandatory model contractual terms for business-to-business data sharing contracts, where necessary taking into account the conditions in specific sectors and the existing practices with voluntary data sharing mechanisms. These model contractual terms should be primarily a practical tool to help in particular smaller enterprises to conclude a contract. When used widely and integrally, these model contractual terms should also have the beneficial effect of influencing the design of contracts about access to and use of data and therefore lead more broadly	and negotiate contracts, the Commission should develop and recommend non-mandatory model contractual terms for business-to-business data sharing contracts, where necessary taking into account the conditions in specific sectors and the existing practices with voluntary data sharing mechanisms. These model contractual terms should be primarily a practical tool to help in particular smaller enterprises to conclude a contract. When used widely and integrally, these model contractual terms should also have the beneficial effect of influencing the design of contracts about access to and use of data and therefore lead more broadly	the nature, gravity, recurrence and duration of the infringement in view of the public interest at stake, the scope and kind of activities carried out, as well as the economic capacity of the infringer. They should take into account whether the infringer systematically or recurrently fails to comply with its obligations stemming from this Regulation. In order to ~~*help enterprises to draft and negotiate contracts, the Commission should develop and recommend non-mandatory model contractual terms for business-to-business data sharing contracts, where necessary taking into account the conditions in specific sectors and the existing*~~	

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	towards fairer contractual relations when accessing and sharing data.	towards fairer contractual relations when accessing and sharing data.	~~*practices with voluntary data sharing mechanisms. These model contractual terms should be primarily a practical tool to help*~~ ***ensure that the principle of ne bis in idem is respected, and*** in particular ~~*smaller enterprises to conclude a contract. When used widely and integrally, these model contractual terms should also have the beneficial effect of influencing the design of contracts about access to and use of data and therefore lead more broadly towards fairer contractual relations when accessing and sharing data.*~~***to avoid that the same infringement of the obligations laid down in this Regulation is sanctioned more***	

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			than once, each Member State that intends to exercise its competence in respect of such entity should, without undue delay, inform all other authorities, including the Commission.	
Y	93a		*(83a) In order to help enterprises to draft and negotiate contracts, the Commission should develop and recommend non-mandatory model contractual terms for business-to-business data sharing contracts, where necessary taking into account the conditions in*	Y

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			specific sectors and the existing practices with voluntary data sharing mechanisms. These model contractual terms should be primarily a practical tool to help in particular smaller enterprises to conclude a contract. When used widely and integrally, these model contractual terms should also have the beneficial effect of influencing the design of contracts about access to and use of data and therefore lead more broadly towards fairer contractual relations when accessing and sharing data.	
Recital 84				

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94	(84) In order to eliminate the risk that holders of data in databases obtained or generated by means of physical components, such as sensors, of a connected product and a related service claim the sui generis right under Article 7 of Directive 96/9/EC where such databases do not qualify for the sui generis right, and in so doing hinder the effective exercise of the right of users to access and use data and the right to share data with third parties under this Regulation, this Regulation should clarify that the sui generis right does not apply to such databases as	(84) In order to eliminate the risk that holders of ~~*data in databases*~~***databases containing data*** obtained or generated by means of physical components, such as sensors, of a connected product and a related service***, namely machine-generated data,*** claim the sui generis right under Article 7 of Directive 96/9/EC***, this Regulation clarifies that*** ~~*where such databases do not qualify for*~~ the sui generis right~~*, and in so doing hinder the effective exercise of the right of users to access and use data and the right to share data with third parties under this Regulation, this Regulation should*~~	(84) In order to eliminate the risk that holders of data in databases obtained or generated by means of physical components, such as sensors, of a connected product and a related service claim the ***sui generis***~~*sui generis*~~ right under Article 7 of Directive 96/9/EC ~~*where such databases do not qualify for the sui generis right*~~, and in so doing hinder the effective exercise of the right of users to access and use data and the right to share data with third parties under this Regulation, ~~*this Regulation*~~ ***it*** should ~~*clarify*~~***be clarified*** that the ***sui generis***~~*sui generis*~~ right does not apply ~~*to such databases as the*~~	

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	the requirements for protection would not be fulfilled.	~~*clarify that*~~ ***does not apply to such databases as the requirements for protection of a substantial investment in either the obtaining, verification or presentation of the data as provided for in Article 7(1) of Directive 96/9/EC would not be fulfilled. That does not affect the possible application of*** the sui generis right ~~*does not apply to such*~~***under Article 7 of Directive 96/9/EC to*** databases ~~*as*~~***containing data falling outside the scope of this Regulation provided*** the requirements for protection ~~*would not be*~~***in accordance with Article 7(1) of that Directive are*** fulfilled.	~~*requirements for protection would not be fulfilled*~~***in the situations covered by this Regulation*** .	

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Recital 85				
95	(85) In order to take account of technical aspects of data processing services, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of supplementing this Regulation to introduce a monitoring mechanism on switching charges imposed by data processing service providers on the market, to further specify the essential requirements for operators of data spaces and data processing service providers on interoperability and to publish the	(85) In order to take account of technical aspects of data processing services, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of supplementing this Regulation to introduce a monitoring mechanism on switching charges imposed by data processing service providers on the market, to further specify the essential requirements for ~~operators~~ ***participants*** of data spaces ***that offer data or data services to other participants,*** and	(85) In order to take account of technical aspects of data processing services, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of supplementing this Regulation to introduce a monitoring mechanism on switching charges imposed by data processing service providers on the market, to further specify the essential requirements for operators ~~of~~ ***within*** data spaces and data processing service providers on interoperability and to	

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	reference of open interoperability specifications and European standards for the interoperability of data processing services. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016[1]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access	data processing service providers on interoperability and to publish the reference of open interoperability specifications and European standards for the interoperability of data processing services. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016[1]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at	publish the reference of open interoperability specifications and ~~*European*~~ standards for the interoperability of data processing services. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016[1]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts	

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	to meetings of Commission expert groups dealing with the preparation of delegated acts. _____ 1. OJ L 123, 12.5.2016, p. 1.	the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. _____ 1. OJ L 123, 12.5.2016, p. 1.	systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. _____ 1. *[1]* OJ L 123, 12.5.2016, p. 1.	
Recital 86				
96	(86) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission in respect of	(86) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission in respect of	(86) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission in respect of	

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	supplementing this Regulation to adopt common specifications to ensure the interoperability of common European data spaces and data sharing, the switching between data processing services, the interoperability of smart contracts as well as for technical means, such as application programming interfaces, for enabling transmission of data between parties including continuous or real-time and for core vocabularies of semantic interoperability, and to adopt common specifications for smart contracts. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of	supplementing this Regulation to adopt common specifications to ensure the interoperability of common European data spaces and data sharing, the switching between data processing services, the interoperability of smart contracts as well as for technical means, such as application programming interfaces, for enabling transmission of data between parties including continuous or real-time and for core vocabularies of semantic interoperability, and to adopt common specifications for smart contracts. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of	supplementing this Regulation to adopt common specifications to ensure the interoperability of common European data spaces and data sharing, the switching between data processing services, the interoperability of smart contracts as well as for technical means, such as application programming interfaces, for enabling transmission of data between parties including continuous or real-time and for core vocabularies of semantic interoperability, and to adopt common specifications for smart contracts. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of	

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	the European Parliament and of the Council[1]. _____ 1. Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p.13).	the European Parliament and of the Council[1]. _____ 1. Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p.13).	the European Parliament and of the Council[1]. _____ 1. Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p.13).	
Recital 87				

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97	(87) This Regulation should not affect specific provisions of acts of the Union adopted in the field of data sharing between businesses, between businesses and consumers and between businesses and public sector bodies that were adopted prior to the date of the adoption of this Regulation. To ensure consistency and the smooth functioning of the internal market, the Commission should, where relevant, evaluate the situation with regard to the relationship between this Regulation and the acts adopted prior to the date of adoption of this Regulation regulating data sharing, in order to	(87) This Regulation should not affect specific provisions of acts of the Union adopted in the field of data sharing between businesses, between businesses and consumers and between businesses and public sector bodies that were adopted prior to the date of ~~the~~ adoption of this Regulation. To ensure consistency and the smooth functioning of the internal market, the Commission should, where relevant, evaluate the situation with regard to the relationship between this Regulation and the acts adopted prior to the date of adoption of this Regulation regulating data sharing, in order to	(87) This Regulation should not affect specific provisions of acts of the Union adopted in the field of data sharing between businesses, between businesses and consumers and between businesses and public sector bodies that were adopted prior to the date of the adoption of this Regulation. To ensure consistency and the smooth functioning of the internal market, the Commission should, where relevant, evaluate the situation with regard to the relationship between this Regulation and the acts adopted prior to the date of adoption of this Regulation regulating data sharing, in order to	

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	assess the need for alignment of those specific provisions with this Regulation. This Regulation should be without prejudice to rules addressing needs specific to individual sectors or areas of public interest. Such rules may include additional requirements on technical aspects of the data access, such as interfaces for data access, or how data access could be provided, for example directly from the product or via data intermediation services. Such rules may also include limits on the rights of data holders to access or use user data, or other aspects beyond data access and use, such as governance aspects. This Regulation also should be without	assess the need for alignment of those specific provisions with this Regulation. This Regulation should be without prejudice to rules addressing needs specific to individual sectors or areas of public interest. Such rules may include additional requirements on technical aspects of the data access, such as interfaces for data access, or how data access could be provided, for example directly from the product or via data intermediation services. Such rules may also include limits on the rights of data holders to access or use user data, or other aspects beyond data access and use, such as governance aspects. This Regulation also should be without	assess the need for alignment of those specific provisions with this Regulation. This Regulation should be without prejudice to rules addressing needs specific to individual sectors or areas of public interest. Such rules may include additional requirements on technical aspects of the data access, such as interfaces for data access, or how data access could be provided, for example directly from the product or via data intermediation services. Such rules may also include limits on the rights of data holders to access or use user data, or other aspects beyond data access and use, such as governance aspects ***or cybersecurity requirements***. This	

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	prejudice to more specific rules in the context of the development of common European data spaces.	prejudice to more specific rules in the context of the development of common European data spaces.	Regulation also should be without prejudice to more specific rules in the context of the development of common European data spaces ***as well as to Union and national law providing for access to and authorising the use of data for scientific research purposes***.	
Recital 88				
98	(88) This Regulation should not affect the application of the rules of competition, and in particular Articles 101 and 102 of the Treaty. The measures provided for in this Regulation should not be used to	(88) This Regulation should not affect the application of the rules of competition, and in particular Articles 101 and 102 of the Treaty. The measures provided for in this Regulation should not be used to	(88) This Regulation should not affect the application of the rules of competition, and in particular Articles 101 and 102 of the Treaty. The measures provided for in this Regulation should not be used to	

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	restrict competition in a manner contrary to the Treaty.	restrict competition in a manner contrary to the Treaty.	restrict competition in a manner contrary to the Treaty.	
Recital 89				
99	(89) In order to allow the economic actors to adapt to the new rules laid out in this Regulation, they should apply from a year after entry into force of the Regulation.	(89) In order to allow the economic actors to adapt to the new rules laid out in this Regulation, ***and make the necessary technical arrangements,*** they should apply from ~~*a year*~~***18 months*** after entry into force of the Regulation. ***Only where the data holder and the manufacturer are the same entity the obligations related to the provision of related services provided for the***	(89) In order to allow the economic actors to adapt to the new rules laid out in this Regulation, they should apply from ~~*a year*~~ ***two years*** after entry into force of the Regulation.	

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		connected products already placed in the market within the last five years from the entry into force of this Regulation should apply retroactively. Such obligations should be fulfilled, only when the provider of related services is able to remotely deploy mechanisms to ensure the fulfilment of the requirements pursuant to Article 1 and only when the deployment of such mechanisms would not place a disproportionate burden on the manufacturer.		
Recital 90				
100				

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	(90) The European Data Protection Supervisor and the European Data Protection Board were consulted in accordance with Article 42 of Regulation (EU) 2018/1725 and delivered a joint opinion on [XX XX 2022].	(90) The European Data Protection Supervisor and the European Data Protection Board were consulted in accordance with Article 42 of Regulation (EU) 2018/1725 and delivered a joint opinion on [XX XX 2022].	(90) The European Data Protection Supervisor and the European Data Protection Board were consulted in accordance with Article 42 of Regulation (EU) 2018/1725 and delivered a joint opinion on ~~*[XX XX 2022]*~~ ***4 May 2022***.	
Formula				
101	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION: Text Origin: Commission Proposal

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
CHAPTER I				
102	CHAPTER I GENERAL PROVISIONS	CHAPTER I GENERAL PROVISIONS	CHAPTER I GENERAL PROVISIONS	CHAPTER I GENERAL PROVISIONS Text Origin: Commission Proposal
Article 1				
103	Article 1 Subject matter and scope	Article 1 Subject matter and scope	Article 1 Subject matter and scope	Article 1 Subject matter and scope

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
Article 1(1)				
104	1. This Regulation lays down harmonised rules on making data generated by the use of a product or related service available to the user of that product or service, on the making data available by data holders to data recipients, and on the making data available by data holders to public sector bodies or Union institutions, agencies or bodies, where there is an exceptional need, for the	1. This Regulation lays down harmonised rules on ~~making data generated by the use of a product or related service available to the user of that product or service, on the making data available by data holders to data recipients, and on the making data available by data holders to public sector bodies or Union institutions, agencies or bodies, where there is an exceptional need, for the~~	1. This Regulation lays down harmonised rules on making data generated by the use of a product or related service available to the user of that product or service, on the making data available by data holders to data recipients, ~~and~~ on the making data available by data holders to public sector bodies, ***the Commission, the European Central Bank or Union*** ~~or Union institutions, agencies or~~ bodies,	

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	performance of a task carried out in the public interest:	~~*performance of a task carried out in the public interest*~~:	where there is an exceptional need, for the performance of a task carried out in the public interest~~.~~ ***on facilitating switching between data processing services, on introducing safeguards against unlawful third party access to non-personal data, and on providing for the development of interoperability standards for data to be accessed, transferred and used.***	
Article 1(1a)				
	104a		***(a) the design of connected products to allow access to data***	

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		generated by a connected product or generated during the provision of related services to the user of that product;		
Article 1(1b)				
104b		***(b) data holders making available data they accessed from a connected product or generated during the provision of a related service to data subjects, users or to data recipients, at the request of the user or data subject;***		
Article 1(1c)				

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104c		*(c) fair contractual terms for data sharing agreements;*		*1c. unfair contractual terms as regards data access and use;* Text Origin: EP Mandate
Article 1(1d)				
104d		*(d) the making available of data to public sector bodies or Union institutions, agencies or bodies, where there is an exceptional need in the public interest;*		

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
Article 1(1d), point (a)					
G	104e		***(e) facilitating switching between data processing services;***	***(e) facilitating switching between data processing services;*** Text Origin: EP Mandate	G
Y	104f		***(f) introducing safeguards against unlawful international governmental access to non-personal data; and***		Y

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
Y	104g		***(g) providing for the development of interoperability standards and common specifications for data to be transferred and used.***		Y
	Article 1(1e)				
G	104h		***1a. This Regulation covers personal and non-personal data, including the following types of data or in the following contexts:***	***1a. This Regulation covers personal and non-personal data, including the following types of data or in the following contexts:***	***1a. This Regulation covers personal and non-personal data, including the following types of data or in the following contexts:*** G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: EP Mandate
Article 1(1f)				
104i		***(a) Chapter II applies to accessible data obtained, collected or otherwise generated by connected products or generated during the provision of related services;***	***(a) Chapter II applies to data concerning the performance, use and environment of products and related services.***	
Article 1(1f), point (a)				
104j				

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		(b) Chapter IV applies to any private sector data accessed and used on the basis of contractual agreements between businesses;	***(b) Chapter IV applies to any private sector data accessed and used on the basis of contractual agreements between businesses.***	***(c) Chapter IV applies to any private sector data accessed and used on the basis of contractual agreements between businesses.*** Text Origin: Council Mandate
Y	104k	***(c) Chapter III applies to any private sector data subject to statutory data sharing obligations;***	***(c) Chapter III applies to any private sector data that is subject to statutory data sharing obligations.***	Y

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(1g)				
104l		***(d) Chapter V applies to any private sector non-personal data;***	***(d) Chapter V applies to any private sector data with a focus on non-personal data.***	***1g. Chapter V applies to any private sector data with a focus on non-personal data.*** Text Origin: Council Mandate
Article 1(1h)				
104m		***(e) Chapter VI applies to any data and services processed by data processing services;***	***(e) Chapter VI applies to any data processed by data processing services.***	***1h. Chapter VI applies to any data and services processed by data processing services;***

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: EP Mandate
Article 1(1h), point (a)				
G 104n		***(f) Chapter VII applies to any non-personal data held in the Union by providers of data processing services.***	***(f) Chapter VII applies to any non-personal data held in the Union by providers of data processing services.***	***(f) Chapter VII applies to any non-personal data held in the Union by providers of data processing services.*** Text Origin: EP Mandate
Article 1(2)				
G 105				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	2. This Regulation applies to:	2. This Regulation applies to:	2. This Regulation applies to:	2. This Regulation applies to: Text Origin: Commission Proposal
Article 1(2), point (a)				
106	(a) manufacturers of products and suppliers of related services placed on the market in the Union and the users of such products or services;	(a) manufacturers of ***connected*** products and ~~*suppliers*~~***providers*** of related services placed on the market in the Union ~~*and the*~~***irrespective of their place of establishment and*** users of such ***connected*** products or ***related*** services ***or in the case of personal data, identified or identifiable natural persons the data obtained,***	(a) manufacturers of products and suppliers of related services placed on the market in the Union, ***irrespective of their place of establishment, and the use of data generated in relation to the use*** ~~*and the users*~~ of such products or ***related*** services ***in the Union***;	

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		collected, or generated by the use, relates to;		
Article 1(2), point (b)				
107	(b) data holders that make data available to data recipients in the Union;	(b) ***users of connected products or related services in the Union and*** data holders***, irrespective of their place of establishment,*** that make data available to data recipients in the Union ***or in the case of personal data, identified or identifiable natural persons the data obtained, collected, or generated by the use, relates to***;	(b) data holders***, irrespective of their place of establishment,*** that make data available to data recipients in the Union;	

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Article 1(2), point (c)				
108	(c) data recipients in the Union to whom data are made available;	(c) data recipients in the Union to whom data are made available;	(c) data recipients, ***irrespective of their place of establishment,*** ~~*in the Union*~~ to whom data are made available;	
Article 1(2), point (d)				
109	(d) public sector bodies and Union institutions, agencies or bodies that request data holders to make data available where there is an exceptional need to that data for the performance of a task carried out in the public interest and the	(d) public sector bodies ***of a Member State*** and Union institutions, agencies or bodies that request data holders to make data available where there is an exceptional need to that data for the performance of a ***specific*** task	(d) public sector bodies, ***the Commission, the European Central Bank or Union*** ~~*and Union institutions, agencies or*~~ bodies that request data holders to make data available where there is an exceptional need to that data for	

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	data holders that provide those data in response to such request;	carried out in the public interest and the data holders that provide those data in response to such request;	the performance of a task carried out in the public interest and the data holders that provide those data in response to such request;	
Article 1(2), point (e)				
110	(e) providers of data processing services offering such services to customers in the Union.	(e) providers of data processing services***, irrespective of their place of establishment,*** offering such services to customers in the Union.	(e) providers of data processing services***, irrespective of their place of establishment, providing*** ~~*offering*~~ such services to customers in the Union**-;**	

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	110a		***(ea) operators within data spaces and vendors of applications using smart contracts and persons whose trade, business or profession involves the deployment of smart contracts for others in the context of agreements to make data available.***	
Article 1(2), point (ea)				
	110b		***2a. Where this Regulation refers to products or related services, such reference shall also be***	

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			understood to include virtual assistants insofar as they interact with a product or related service.	
Article 1(3)				
G 111	3. Union law on the protection of personal data, privacy and confidentiality of communications and integrity of terminal equipment shall apply to personal data processed in connection with the rights and obligations laid down in this Regulation. This Regulation shall not affect the applicability of Union law on the protection of personal data, in particular	3. Union law on the protection of personal data, privacy and confidentiality of communications and integrity of terminal equipment shall apply to ***any*** personal data processed in connection with the rights and obligations laid down in this Regulation. ***The obtaining, collection, or generation of personal data through the use of a product or related service shall***	3. Union law ***and national law*** on the protection of personal data, privacy and confidentiality of communications and integrity of terminal equipment shall apply to personal data processed in connection with the rights and obligations laid down in this Regulation. This Regulation ~~*shall not affect the applicability of Union law on the protection of*~~	3. Union ~~*law*~~***and national laws*** on the protection of personal data, privacy and confidentiality of communications and integrity of terminal equipment shall apply to personal data processed in connection with the rights and obligations laid down in this Regulation. This Regulation ~~*shall not affect the applicability of Union law on the protection of personal data, in particular*~~ ***is*** G

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	Regulation (EU) 2016/679 and Directive 2002/58/EC, including the powers and competences of supervisory authorities. Insofar as the rights laid down in Chapter II of this Regulation are concerned, and where users are the data subjects of personal data subject to the rights and obligations under that Chapter, the provisions of this Regulation shall complement the right of data portability under Article 20 of Regulation (EU) 2016/679.	***require a legal basis pursuant to applicable data protection law.*** This Regulation ~~*shall not affect the applicability of*~~ ***does not constitute a legal basis for the processing of personal data. This Regulation is without prejudice to*** Union law on the protection of personal data ***and privacy***, in particular Regulation (EU) 2016/679***, Regulation (EU) 2018/1725,*** and Directive 2002/58/EC, including the ***rules concerning the*** powers and competences of supervisory authorities. ***In the event of a conflict between this Regulation and Union law on the protection of personal data or privacy or national law adopted in accordance with such Union law,***	~~*personal data, in particular Regulation (EU) 2016/679 and Directive 2002/58/EC, including*~~ ***is without prejudice to, in particular Regulations (EU) 2016/679 and (EU) 2018/1725 and Directives 2002/58/EC and (EU) 2016/680, including with regard to*** the powers and competences of supervisory authorities~~*. Insofar as the rights laid down in Chapter II of this Regulation are concerned, and where users are the*~~ ***and to the protection of rights of*** data subjects***. Insofar as data subjects are concerned,*** ~~*of personal data subject to*~~ the rights ~~*and obligations under that*~~***laid down in*** Chapter~~*, the provisions*~~ ***II*** of this Regulation***,*** shall complement the	***without prejudice to those laws, in particular to Regulation (EU) 2016/679,*** Regulation (EU) ~~*2016/679*~~***2018/1725,*** and Directive 2002/58/EC, including ***with regard to*** the powers and competences of supervisory authorities ***and the rights of data subjects***. Insofar ~~*as*~~***the users are data subjects,*** the rights laid down in Chapter II of this Regulation ~~*are concerned, and where users are the data subjects of personal data subject to the rights and obligations under that Chapter, the provisions of*~~ ***shall complement the rights of access and of data portability under Articles 15 and 20 of Regulation (EU) 2016/679. In the event of a conflict between*** this Regulation

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		the relevant Union or national law on the protection of personal data or privacy shall prevail. Insofar as the rights laid down in Chapter II of this Regulation are concerned, and where users are the data subjects of personal data***,*** subject to the rights and obligations under that Chapter, the provisions of this Regulation shall complement ***and particularise*** the right of data portability under Article 20 of Regulation (EU) 2016/679. ***No provision of this Regulation shall be applied or interpreted in such a way as to diminish or limit the right to the protection of personal data or the right to privacy and***	right of data portability under Article 20 of Regulation (EU) 2016/679 ***and shall not adversely affect data protection rights of others***.	~~*shall complement the right of data portability under Article 20 of Regulation (EU) 2016/679*~~***and Union law on the protection of personal data or privacy or national law adopted in accordance with such Union law, the relevant Union or national law on the protection of personal data or privacy shall prevail***.

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		confidentiality of communications.		
Article 1(4)				
112	4. This Regulation shall not affect Union and national legal acts providing for the sharing, access and use of data for the purpose of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including Regulation (EU) 2021/784 of the European Parliament and of the Council[1] and the [e-evidence proposals [COM(2018) 225 and	4. This Regulation shall not affect Union and national legal acts providing for the sharing, access and use of data for the purpose of the prevention, investigation, detection or prosecution of criminal ***or administrative*** offences or the execution of criminal ***or administrative*** penalties, including Regulation (EU) 2021/784 of the European Parliament and of the Council[1] and the [e-evidence	4. ***This Regulation does not apply to, nor pre-empt, voluntary arrangements for the exchange of data between private and public entities.*** This Regulation shall not affect Union and national legal acts providing for the sharing, access and use of data for the purpose of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including	4. ***This Regulation does not apply to, nor pre-empt, voluntary arrangements for the exchange of data between private and public entities, in particular voluntary arrangements for the sharing of data.*** This Regulation shall not affect Union and national legal acts providing for the sharing, access and use of data for the purpose of the prevention, investigation, detection or prosecution of criminal offences or

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	226] once adopted, and international cooperation in that area. This Regulation shall not affect the collection, sharing, access to and use of data under Directive (EU) 2015/849 of the European Parliament and of the Council on the prevention of the use of the financial system for the purposes of money laundering and terrorist financing and Regulation (EU) 2015/847 of the European Parliament and of the Council on information accompanying the transfer of funds. This Regulation shall not affect the competences of the Member States regarding activities concerning public security, defence, national security, customs and tax administration and	proposals [COM(2018) 225 and 226] once adopted, and international cooperation in that area. This Regulation shall not affect the collection, sharing, access to and use of data under Directive (EU) 2015/849 of the European Parliament and of the Council on the prevention of the use of the financial system for the purposes of money laundering and terrorist financing and Regulation (EU) 2015/847 of the European Parliament and of the Council on information accompanying the transfer of funds. This Regulation shall not affect the competences of the Member States regarding activities concerning public security, defence, national security,	Regulation (EU) 2021/784 of the European Parliament and of the Council[1] and the [e-evidence proposals [COM(2018) 225 and 226] once adopted, and international cooperation in that area. This Regulation shall not affect the collection, sharing, access to and use of data under Directive (EU) 2015/849 of the European Parliament and of the Council on the prevention of the use of the financial system for the purposes of money laundering and terrorist financing and Regulation (EU) 2015/847 of the European Parliament and of the Council on information accompanying the transfer of funds. This Regulation ***does not apply to activities or data***	the execution of criminal penalties, including Regulation (EU) 2021/784 of the European Parliament and of the Council[1] and the [e-evidence proposals [COM(2018) 225 and 226] once adopted, and international cooperation in that area. This Regulation shall not affect the collection, sharing, access to and use of data under Directive (EU) 2015/849 of the European Parliament and of the Council on the prevention of the use of the financial system for the purposes of money laundering and terrorist financing and Regulation (EU) 2015/847 of the European Parliament and of the Council on information accompanying the

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	the health and safety of citizens in accordance with Union law. _____ 1. Regulation (EU) 2021/784 of the European Parliament and of the Council of 29 April 2021 on addressing the dissemination of terrorist content online (OJ L 172, 17.5.2021, p. 79).	customs and tax administration and the ***public*** health and ***the*** safety of citizens in accordance with Union law. ***This Regulation shall not apply to data collected or generated in the context of defence-related activities or by defence products or services or by products or services deployed and used for defence purposes.*** _____ 1. Regulation (EU) 2021/784 of the European Parliament and of the Council of 29 April 2021 on addressing the dissemination of terrorist content online (OJ L 172, 17.5.2021, p. 79).	***in areas that fall outside the scope of Union law and in any event*** shall not affect the competences of the Member States regarding activities ***or data*** concerning public security, defence~~,~~ ***or*** national security, ***regardless of the type of entity carrying out the activities or processing the data, or their power to safeguard other essential State functions, including ensuring the territorial integrity of the State and maintaining law and order. This Regulation shall not affect the competences of the Member States regarding activities or data concerning*** customs and tax administration and	transfer of funds. This Regulation ***does not apply to activities or data in areas that fall outside the scope of Union law and in any event*** shall not affect the competences of the Member States regarding activities ***or data*** concerning public security, defence~~,~~ ***or*** national security, ***[regardless of the type of entity carrying out the activities or processing the data, or their power to safeguard other essential State functions, including ensuring the territorial integrity of the State and maintaining law and order.] This Regulation shall not affect the competences of the Member States regarding activities or data concerning*** customs and tax

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			the health and safety of citizens ~~*in accordance with Union law.*~~. _____ 1. Regulation (EU) 2021/784 of the European Parliament and of the Council of 29 April 2021 on addressing the dissemination of terrorist content online (OJ L 172, 17.5.2021, p. 79).	administration and the health and safety of citizens ~~*in accordance with Union law.*~~. ; _____ 1. Regulation (EU) 2021/784 of the European Parliament and of the Council of 29 April 2021 on addressing the dissemination of terrorist content online (OJ L 172, 17.5.2021, p. 79).
Article 1(4a)				
112a			***4a. This Regulation adds generally applicable obligations on cloud switching going beyond***	

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			the self-regulatory approach of Regulation (EU) 2018/1807 on the free flow of non-personal data in the European Union.	
	Article 1(4b)			
Y	112b		***4b. This Regulation does not affect Directive 93/13/EEC on Unfair Terms in Consumer Contracts.***	*deleted*
	Article 1(4c)			
G	*112c*			

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			4c. This Regulation is without prejudice to Union and national legal acts providing for the protection of intellectual property, including 2001/29/EC, 2004/48/EC, and (EU) 2019/790 of the European Parliament and of the Council.	***4c. This Regulation is without prejudice to Union and national legal acts providing for the protection of intellectual property, including 2001/29/EC, 2004/48/EC, and (EU) 2019/790 of the European Parliament and of the Council.*** Text Origin: Council Mandate
Article 1(4d)				
112d		***4a. This Regulation complements and does not affect the applicability of Union law aiming***		***4d. This Regulation complements and does not affect the applicability of Union law aiming***

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		to promote the interests of consumers and to ensure a high level of consumer protection, to protect their health, safety and economic interests, including Directives 2005/29/EC, 2011/83/EU and 93/13/EEC.		***to promote the interests of consumers and to ensure a high level of consumer protection, to protect their health, safety and economic interests, including Directives 2005/29/EC, 2011/83/EU and 93/13/EEC.*** Text Origin: EP Mandate
Article 1(4e)				
112e		***4b. Data holders shall not be obliged to provide access to data to any natural or legal person, entity or body outside the Union,***		

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		unless requested by the user or otherwise provided by the Union law or national law implementing the Union law.		
Article 1(4f)				
G 112f		***4c. The obligations set out in the Regulation shall not preclude voluntary lawful reciprocal non personal data sharing between users, data holders and data recipients, agreed in contracts.***		***4f. This Regulation shall not preclude the conclusion of voluntary lawful data sharing contracts, including contracts concluded on a reciprocal basis, which comply with the requirements set out in this Regulation.*** G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: EP Mandate
Article 2				
113	Article 2 Definitions	Article 2 Definitions	Article 2 Definitions	Article 2 Definitions Text Origin: Commission Proposal
Article 2, first paragraph				
114				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	For the purposes of this Regulation, the following definitions apply:	For the purposes of this Regulation, the following definitions apply:	For the purposes of this Regulation, the following definitions apply:	For the purposes of this Regulation, the following definitions apply: Text Origin: Commission Proposal
Article 2, first paragraph, point (1)				
115	(1) 'data' means any digital representation of acts, facts or information and any compilation of such acts, facts or information, including in the form of sound, visual or audio-visual recording;	(1) 'data' means any digital representation of acts, facts or information and any compilation of such acts, facts or information, including in the form of sound, visual or audio-visual recording; ***content, or data obtained, generated or collected by the***	(1) 'data' means any digital representation of acts, facts or information and any compilation of such acts, facts or information, including in the form of sound, visual or audio-visual recording;	(1) 'data' means any digital representation of acts, facts or information and any compilation of such acts, facts or information, including in the form of sound, visual or audio-visual recording;

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		connected product or transmitted to it on behalf of others for the purpose of storage or processing, shall not be covered by this Regulation.		Text Origin: Council Mandate
Article 2, first paragraph, point (1a)				
G 115a		***(1a) 'personal data' means personal data as defined in Article 4, point (1), of Regulation (EU) 2016/679;***	***(1a) 'personal data' means personal data as defined in Article 4, point (1), of Regulation (EU) 2016/679;***	***(1a) 'personal data' means personal data as defined in Article 4, point (1), of Regulation (EU) 2016/679;*** Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 2, first paragraph, point (1b)				
115b		***(1b) 'non-personal data' means data other than personal data;***	***(1b) 'non-personal data' means data other than personal data;***	***(1b) 'non-personal data' means data other than personal data;*** Text Origin: Council Mandate
Article 2, first paragraph, point (1c)				
115c		***(1c) 'consent' means consent as defined in Article 4, point (11), of Regulation (EU) 2016/679;***	***(1c) 'consent' means consent as defined in Article 4, point (11), of Regulation (EU) 2016/679;***	***(1c) 'consent' means consent as defined in Article 4, point (11), of Regulation (EU) 2016/679;***

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
				Text Origin: Council Mandate	
Article 2, first paragraph, point (1d)					
G 115d		***(1d) 'data subject' means data subject as defined in Article 4, point (1), of Regulation (EU) 2016/679;***	***(1d) 'data subject' means data subject as referred to in Article 4, point (1), of Regulation (EU) 2016/679;***	***(1d) 'data subject' means data subject as referred to in Article 4, point (1), of Regulation (EU) 2016/679;*** Text Origin: Council Mandate	G
Article 2, first paragraph, point (1e)					
Y 115e					Y

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			(1e) 'readily available data' means data generated by the use of a product or related service that the data holder obtains or can obtain without disproportionate effort, going beyond a simple operation;	***(1e) 'readily available data' means product and related service data, that a data holder lawfully obtained, or can lawfully obtain without disproportionate effort;*** Text Origin: Council Mandate
Article 2, first paragraph, point (1f)				
Y	115f			***(1f) 'product data' means data generated by the use of a connected product that, due to the product's design or functionalities, can be retrieved from it by a user, data holder or a***

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				third party, via an electronic communications service, a physical connection or on-device access; see together with a recital
Article 2, first paragraph, point (1g)				
115g		***(1e) 'data user' means a natural or legal person who has lawful access to certain personal or non-personal data and has a right to use that data for commercial or non-commercial purposes;***		*deleted*

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Article 2, first paragraph, point (1h)				
115h			***(1f) 'data generated by the use of a product or a related service' means data recorded intentionally by the user or as a by-product of the user's action, as well as data generated or recorded during the period of lawful use among others in standby mode or while the product is switched off. This shall not include the results of processing that substantially modifies the data, data recorded on the use of the product to access software applications other than related services and data generated on the recording.***	***(1f) 'related service data' means data representing the digitalization of user actions or events related to the connected product, which is generated during the provision of a related service by the provider;*** Text Origin: Comments and homework

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			transmission, displaying or playing of content as well as such content;	
Article 2, first paragraph, point (1i)				
G 115i			***(1g) 'making available on the market' means any supply of a product for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;***	***(1g) 'making available on the market' means any supply of a product for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;*** Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 2, first paragraph, point (1j)				
115j			***(1h) 'placing on the market' means the first making available of a product on the Union market;***	***(1j) 'placing on the market' means the first making available of a product on the Union market;*** Text Origin: Council Mandate
Article 2, first paragraph, point (2)				
116	(2) 'product' means a tangible, movable item, including where	(2) '***connected*** product' means ~~a tangible, movable item, including~~	(2) 'product' means a tangible~~,~~ ~~movable item, including where~~	(2) ***'connected*** 'product' means ~~a tangible, movable item, including where incorporated in an~~

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	incorporated in an immovable item, that obtains, generates or collects, data concerning its use or environment, and that is able to communicate data via a publicly available electronic communications service and whose primary function is not the storing and processing of data;	~~*where incorporated in an immovable*~~ ***an*** item, that obtains, generates or collects, ***accessible*** data concerning its use or environment, and that is able to communicate data via ***an electronic communications service, a physical, connection or on-device access*** ~~*a publicly available electronic communications service*~~ and whose primary function is not the storing***, processing or transmission*** ~~*and processing*~~ of data ***on behalf of others***;	~~*incorporated in an immovable item,*~~ ***item*** that obtains, generates or collects~~,~~ data concerning its use or environment, and that is able to communicate data ***directly or indirectly*** via a publicly available electronic communications service ~~*and whose primary function is not the storing and processing of data*~~***within the meaning of Article 2(4) of Directive (EU) 2018/1972***;	~~*immovable*~~***an*** item, that obtains, generates or collects, data concerning its use or environment, and that is able to communicate ***product*** data via ***an electronic communications service, a physical, connection or on-device access*** ~~*a publicly available electronic communications service*~~ and whose primary function is not the storing***, processing or transmission*** ~~*and processing*~~ of data ***on behalf of third parties, other than the user***; Text Origin: Comments and homework

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 2, first paragraph, point (3)				
117	(3) 'related service' means a digital service, including software, which is incorporated in or inter-connected with a product in such a way that its absence would prevent the product from performing one of its functions;	(3) 'related service' means a digital service, including software ***, but excluding electronic communication services which is*** ~~, which is incorporated in or~~ inter-connected with a product in such a way that its absence would prevent the product from performing one ***or more*** of its functions ***, and which involves accessing data from the connected product by the provider or the service***;	(3) 'related service' means a digital service, ***other than an electronic communications service,*** including software ***and its updates***, which is ~~incorporated in or~~ ***at the time of the purchase, rent or lease agreement*** inter-connected with a product in such a way that its absence would prevent the product from performing one of its functions;	(3) 'related service' means a digital service ***other than an electronic communications service***, including software, which is ~~incorporated in or inter-connected with a product~~***inter-connected with the product at the time of the purchase*** in such a way that its absence would prevent the product from performing one ***or more*** of its functions ***, or which is subsequently connected to the product by the manufacturer or a third party to add to, update or adapt the functions of the product***;

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Comments and homework
Article 2, first paragraph, point (4)				
G 118	(4) 'virtual assistants' means software that can process demands, tasks or questions including based on audio, written input, gestures or motions, and based on those demands, tasks or questions provides access their own and third party services or control their own and third party devices;	(4) 'virtual assistants' means software that can process demands, tasks or questions including ***those*** based on audio, written input, gestures or motions, and based on those demands, tasks or questions provides access ~~*their own and third party*~~***to other*** services or control ~~*their own and third party devices*~~***the functions of products***;	(4) 'virtual assistants' means ***a*** software that can process demands, tasks or questions including ***those*** based on audio, written input, gestures or motions, and ***that,*** based on those demands, tasks or questions, provides access ~~*their own and third party*~~ ***to other*** services or ~~*control their own and third party*~~ ***controls connected physical*** devices;	(4) 'virtual assistants' means software that can process demands, tasks or questions including ***those*** based on audio, written input, gestures or motions, and ***that,*** based on those demands, tasks or questions provides access ~~*their own and third party*~~***to other*** services or control ~~*their own and third party devices*~~***the functions of connected products***; G

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				Text Origin: EP Mandate
Article 2, first paragraph, point (4a)				
G 118a		*(4a) 'consumer' means any natural person who, is acting for purposes which are outside that person's trade, business, craft or profession;*		*(4a) 'consumer' means any natural person who, is acting for purposes which are outside that person's trade, business, craft or profession;* G Text Origin: EP Mandate
Article 2, first paragraph, point (5)				

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119	(5) 'user' means a natural or legal person that owns, rents or leases a product or receives a services;	(5) 'user' means a natural or legal person that owns *a connected product or receives a related service or to whom the owner of a connected product has transferred, on the basis of a rental or leasing agreement, temporary rights to use a connected* ~~, rents or leases a~~ product or ~~receives a~~*receive related* services *and, where the connected product or related service involves the processing of personal data, the data subject*;	(5) 'user' means a natural or legal person*, including a data subject,* that owns, rents or leases a product or receives a ~~services~~*related service*;	(5) 'user' means a natural or legal person that owns*[*, rents or leases*]* *a connected* ~~a~~ product*, or to whom the owner of a connected product has transferred temporary rights to use a connected product and that* ~~or~~ receives ~~a~~*related* services; *[Where the user is not the data subject, this Regulation does not create a legal basis to provide access to personal data or make it available to a third party].*
Article 2, first paragraph, point (6)				

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120	(6) 'data holder' means a legal or natural person who has the right or obligation, in accordance with this Regulation, applicable Union law or national legislation implementing Union law, or in the case of non-personal data and through control of the technical design of the product and related services, the ability, to make available certain data;	(6) 'data holder' means a legal or natural person, who has ***accessed data from the connected product or has generated data during the provision of a related service and who has the contractually agreed right to use such data, and the obligation, in accordance with this Regulation, applicable Union law or national legislation implementing Union law*** ~~the right or obligation, in accordance with this Regulation, applicable Union law or national legislation implementing Union law, or in the case of non-personal data and through control of the technical design of the product and related~~	(6) 'data holder' means a legal or natural person who - has the right or obligation, in accordance with this Regulation, applicable Union law or national legislation implementing Union law, ~~or in the case of non-personal data and~~ ***to make available certain data or*** ***- can enable access to the data*** through control of the technical design ***or means of access, in the case of non-personal*** ~~of the product and related services, the ability, to make available certain~~ data;	(6) ~~'~~data holder~~'~~ means a legal or natural person who has ***obtained or has*** the right or obligation, in accordance with this Regulation, applicable Union law or national legislation implementing Union law, ~~or in the case of non-personal data and through control of the technical design of the~~***to make available or has the obligation to enable access to certain*** product ~~and~~***data or*** related ~~services, the ability, to make available certain~~***service*** data; Text Origin: Council Mandate

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		~~*services, the ability,*~~ to make available certain data ***to the user or a data recipient***;		
Article 2, first paragraph, point (7)				
121	(7) 'data recipient' means a legal or natural person, acting for purposes which are related to that person's trade, business, craft or profession, other than the user of a product or related service, to whom the data holder makes data available, including a third party following a request by the user to the data holder or in accordance with a legal obligation under Union	(7) 'data recipient' means a legal or natural person~~, *acting for purposes which are related to that person's trade, business, craft or profession,*~~ other than the user of a ***connected*** product or related service, to whom ~~*the*~~***a*** data holder makes ***available data accessed from a connected product or generated during the provision of a related service*** ~~*data available,*~~	(7) 'data recipient' means a legal or natural person, acting for purposes which are related to that person's trade, business, craft or profession, other than the user of a product or ***a*** related service, to whom the data holder makes data available, including a third party following a request by the user to the data holder or in accordance with a legal obligation under Union	(7) 'data recipient' means a legal or natural person~~,~~ ***I***acting for purposes which are related to that person's trade, business, craft or profession,***I*** other than the user of a ***connected*** product or related service, to whom ~~*the*~~***a*** data holder makes ~~*data*~~ available~~, *including a third party*~~ ***product or related service data*** following a request by the user ~~*to the data holder*~~ or in accordance with a legal obligation

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	law or national legislation implementing Union law;	~~including a third party~~ following ~~a~~***an explicit*** request by the user ~~to the data holder~~ or in accordance with a legal obligation under Union law or national legislation implementing Union law;	law or national legislation implementing Union law;	under Union law or national legislation implementing Union law;
Article 2, first paragraph, point (8)				
G 122	(8) 'enterprise' means a natural or legal person which in relation to contracts and practices covered by this Regulation is acting for purposes which are related to that person's trade, business, craft or profession;	(8) 'enterprise' means a natural or legal person which in relation to contracts and practices covered by this Regulation is acting for purposes which are related to that person's trade, business, craft or profession;	(8) 'enterprise' means a natural or legal person which in relation to contracts and practices covered by this Regulation is acting for purposes which are related to that person's trade, business, craft or profession;	(8) 'enterprise' means a natural or legal person which in relation to contracts and practices covered by this Regulation is acting for purposes which are related to that person's trade, business, craft or profession; G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
Article 2, first paragraph, point (9)				
G 123	(9) ‘public sector body’ means national, regional or local authorities of the Member States and bodies governed by public law of the Member States, or associations formed by one or more such authorities or one or more such bodies;	(9) ‘public sector body’ means national, regional or local authorities of the Member States and bodies governed by public law of the Member States, or associations formed by one or more such authorities or one or more such bodies;	(9) ‘public sector body’ means national, regional or local authorities of the Member States and bodies governed by public law of the Member States, or associations formed by one or more such authorities or one or more such bodies;	(9) ‘public sector body’ means national, regional or local authorities of the Member States and bodies governed by public law of the Member States, or associations formed by one or more such authorities or one or more such bodies; Text Origin: Commission Proposal G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 2, first paragraph, point (10)				
124	(10) 'public emergency' means an exceptional situation negatively affecting the population of the Union, a Member State or part of it, with a risk of serious and lasting repercussions on living conditions or economic stability, or the substantial degradation of economic assets in the Union or the relevant Member State(s);	(10) 'public emergency' means an exceptional situation***, limited in time such as public health emergencies, emergencies resulting from natural disasters, as well as human-induced major disasters, including major cybersecurity incidents,*** negatively affecting the population of the Union, a Member State or part of it, with a risk of serious and lasting repercussions on living conditions or economic stability, ***financial stability,*** or the substantial ***and immediate*** degradation of economic assets in the Union or	(10) 'public emergency' means an exceptional situation ***such as public health emergencies, emergencies resulting from natural disasters, as well as human-induced major disasters, such as major cybersecurity incidents,*** negatively affecting the population of the Union, a Member State or part of it, with a risk of serious and lasting repercussions on living conditions or economic stability, or the substantial degradation of economic assets in the Union or the relevant Member State(s) ***and the existence or likely***	(10) 'public emergency' means an exceptional situation***, limited in time such as public health emergencies, emergencies resulting from natural disasters, as well as human-induced major disasters, including major cybersecurity incidents,*** negatively affecting the population of the Union, a Member State or part of it, with a risk of serious and lasting repercussions on living conditions or economic stability, ***financial stability,*** or the substantial ***and immediate*** degradation of economic assets in the Union or the relevant Member State(s) ***and***

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		the relevant Member State(s) ***and which is determined and officially declared according to the relevant procedures under Union or national law***;	***occurrence of which is determined or officially declared according to the respective procedures under Union or national law***;	***which is determined or officially declared according to the relevant procedures under Union or national law***; Text Origin: EP Mandate
Article 2, first paragraph, point (10a)				
124a		***(10a) 'official statistics' means 'European statistics' within the meaning of Regulation (EC) No 223/2009[1];*** _____	***(10a) 'official statistics' means European statistics according to Regulation 223/2009 and statistics considered official according to national legislation;***	*deleted*

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		1. Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical		

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		Programmes of the European Communities (OJ L 87, 31.3.2009, p. 164).		
Article 2, first paragraph, point (11)				
125	*(11)* ‘processing’ means any operation or set of operations which is performed on data or on sets of data in electronic format, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making	(11) ‘processing’ means any operation or set of operations which is performed on data or on sets of data in electronic format, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making	(11) ‘processing’ means any operation or set of operations which is performed on data or on sets of data ~~*in electronic format*~~, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making	(11) ‘processing’ means any operation or set of operations which is performed on data or on sets of data ~~*in electronic format*~~, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making

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	available, alignment or combination, restriction, erasure or destruction;	available, alignment or combination, restriction, erasure or destruction;	available, alignment or combination, restriction, erasure or destruction;	available, alignment or combination, restriction, erasure or destruction; Text Origin: Council Mandate
Article 2, first paragraph, point (12)				
126	(12) 'data processing service' means a digital service other than an online content service as defined in Article 2(5) of Regulation (EU) 2017/1128, provided to a customer, which enables on-demand administration and broad remote access to a	(12) 'data processing service' means a digital service other than an online content service as defined in Article 2(5) of Regulation (EU) 2017/1128, provided to a customer, which enables on-demand administration and broad remote access to a	(12) 'data processing service' means a digital service other than an online content service as defined in Article 2(5) of Regulation (EU) 2017/1128, provided to a customer, which enables on-demand administration and broad remote access to a	(12) 'data processing service' means a digital service ~~other than an online content service as defined in Article 2(5) of Regulation (EU) 2017/1128, provided to a customer, which enables on-demand administration and broad remote access to a~~

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	scalable and elastic pool of shareable computing resources of a centralised, distributed or highly distributed nature;	scalable and elastic pool of shareable computing resources of a centralised, distributed or highly distributed nature;	scalable and elastic pool of shareable computing resources of a centralised, distributed or highly distributed nature;	~~*scalable and elastic pool of shareable computing resources of a centralised, distributed or highly distributed nature*~~***enabling ubiquitous, and on-demand network access to a shared pool of configurable, scalable and elastic computing resources of a centralised, distributed or highly distributed nature, provided to a customer, that can be rapidly provisioned and released with minimal management effort or service provider interaction***; Text Origin: Comments and homework

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 2, first paragraph, point (12a)				
126a			***(12a) 'customer' means a natural or legal person that has entered into a contractual relationship with a provider of data processing services with the objective of using one or more data processing services;***	***(12a) 'customer' means a natural or legal person that has entered into a contractual relationship with a provider of data processing services with the objective of using one or more data processing services;*** Text Origin: Council Mandate
Article 2, first paragraph, point (12b)				
126b				

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			(12b) 'digital assets' mean elements in digital format for which the customer has the right of use, independently from the contractual relationship of the data processing service it intends to switch away from, including data, applications, virtual machines and other manifestations of virtualisation technologies, such as containers;	***(12b) 'digital assets' mean elements in digital format, including applications, for which the customer has the right of use, independently from the contractual relationship of the data processing service it intends to switch from;***
Article 2, first paragraph, point (12c)				
126c			***(12c) 'on-premise' means a digital data processing infrastructure operated by the***	***(12c) 'on-premise' means an ICT infrastructure and computing resources leased, rented or owned by the customer, located in its***

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			customer itself to serve its own needs;	***own data centre and operated by the customer or by a third-party;***
Article 2, first paragraph, point (13)				
127	(13) 'service type' means a set of data processing services that share the same primary objective and basic data processing service model;	(13) 'service type' means a set of data processing services that share the same primary objective and basic data processing service model;	(13) 'service type' means a set of data processing services that share the same primary objective and ~~*basic data processing service model*~~***main functionalities***;	(13) '***same*** service type' means a set of data processing services that share the same primary objective ~~*and basic*~~**,** data processing service model**, *and main functionalities***; Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 2, first paragraph, point (13a)				
Y 127a				Y
Article 2, first paragraph, point (13b)				
G 127b				***(13b) 'switching' means the process involving a source provider of data processing services, a customer of a data processing service and a destination provider of data processing services, whereby the customer of a data processing service changes from using one data processing service to using another data processing service of the same service type, or other*** G

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				service, offered by a different provider of data processing services, including through extracting, transforming and uploading the data; Text Origin: Comments and homework
Article 2, first paragraph, point (13c)				
G 127c			***(13a) 'data egress charges' mean charges imposed by a data processing provider on a customer for the transfer of data to the systems of another provider or to on-premise infrastructures;***	***(13c) 'data egress charges' refers to data transfer fees charged to the customers of a provider of data processing services for extracting their data through the network from the ICT*** G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				infrastructure of a provider of data processing services to the systems of another provider or to on-premise infrastructures, Text Origin: Comments and homework
Article 2, first paragraph, point (13d)				
127d			***(13b) 'switching charges' mean charges, other than data egress charges and early termination penalties, imposed by a data processing provider on a customer for the switching to the systems of***	***(13b) 'switching charges' mean charges, other than standard service fees, imposed by a data processing provider on a customer for the actions mandated by this Regulation for the switching to the systems of***

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			another provider, as mandated by this Regulation;	***another provider, and other than early termination penalties. Switching charges also include data egress charges;*** Text Origin: Council Mandate
Article 2, first paragraph, point (14)				
128	(14) 'functional equivalence' means the maintenance of a minimum level of functionality in the environment of a new data processing service after the switching process, to such an extent that, in response to an input	(14) 'functional equivalence' means the maintenance of a minimum level of functionality in the environment of a new data processing service after the switching process, to such an extent that, in response to an input	(14) 'functional equivalence' means the maintenance of a minimum level of functionality in the environment of a new data processing service after the switching process, to such an extent that, in response to an input	(14) 'functional equivalence' means ***re-establishing on the basis of the customer's exportable data and digital assets,*** ~~*the maintenance of*~~ a minimum level of functionality in the environment of a new data processing service

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	action by the user on core elements of the service, the destination service will deliver the same output at the same performance and with the same level of security, operational resilience and quality of service as the originating service at the time of termination of the contract;	action by the user on core elements of the service, the destination service will deliver the same output at the same performance and with the same level of security, operational resilience and quality of service as the originating service at the time of termination of the contract;	action by the user on core elements of the service, the destination service will deliver the same output at the same performance and with the same level of security, operational resilience and quality of service as the originating service at the time of termination of the contract;	~~*after the switching process, to such an extent that, in response to an input action by the user on core elements of the service*~~***of the same service type after the switching process***, ***where*** the destination service ~~*will deliver the same output at the same performance and with*~~***delivers materially comparable outcome in response to*** the same ~~*level of security, operational resilience and quality of service as the originating service at the time of termination of the contract*~~***input for shared features supplied to the customer under the contractual agreement***;
Article 2, first paragraph, point (14a)				

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128a				***(14a) exportable data' for the purpose of Chapter VI and Article 29 means the input and output data, including metadata, directly or indirectly generated, or cogenerated, by the customer's use of the data processing service, excluding any data processing service provider's or third party's assets or data protected by intellectual property rights or constituting a trade secret;***
Article 2, first paragraph, point (15)				
129				(15) 'open interoperability specifications' mean ICT technical

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	(15) 'open interoperability specifications' mean ICT technical specifications, as defined in Regulation (EU) No 1025/2012, which are performance oriented towards achieving interoperability between data processing services;	(15) 'open ~~*interoperability specifications' mean ICT*~~***standards', mean*** technical specifications, ~~*as defined in Regulation (EU) No 1025/2012,*~~ which are performance oriented towards achieving interoperability between data processing services ***and which are adopted through an inclusive, collaborative, consensus-based and transparent process from which materially affected and interested parties cannot be excluded***;	(15) 'open interoperability specifications' mean ICT technical specifications, as defined in Regulation (EU) No 1025/2012, which are performance oriented towards achieving interoperability between data processing services;	specifications, as defined in Regulation (EU) No 1025/2012, which are performance oriented towards achieving interoperability between data processing services; Text Origin: Commission Proposal
Article 2, first paragraph, point (15a)				
129a				

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			(15a) 'operators within data spaces' mean legal persons that facilitate or engage in data sharing within and across the common European data spaces;	*deleted*
Article 2, first paragraph, point (16)				
130	*(16)* 'smart contract' means a computer program stored in an electronic ledger system wherein the outcome of the execution of the program is recorded on the electronic ledger;	(16) ~~*'smart contract' means a computer program stored in an electronic ledger system wherein the outcome of the execution of the program is recorded on the electronic ledger;*~~	(16) 'smart contract' means a computer program stored in an electronic ledger system wherein the outcome of the execution of the program is recorded on the electronic ledger;	(16) 'smart contract' means a computer program ~~*stored in an electronic ledger system wherein the outcome of the execution of the program is recorded on the electronic ledger*~~***used for the automated execution of an agreement or part thereof, using a sequence of electronic data records and ensuring their***

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				integrity and the accuracy of their chronological ordering; Text Origin: Council Mandate
Article 2, first paragraph, point (17)				
131	(17) 'electronic ledger' means an electronic ledger within the meaning of Article 3, point (53), of Regulation (EU) No 910/2014;	(17) ~~*'electronic ledger' means an electronic ledger within the meaning of Article 3, point (53), of Regulation (EU) No 910/2014;*~~	(17) 'electronic ledger' -means ~~*an*~~***a sequence of*** electronic ~~*ledger within the meaning of Article 3, point (53), of Regulation (EU) No 910/2014*~~***data records which ensures their integrity and the accuracy of their chronological ordering***;	*deleted*

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Article 2, first paragraph, point (18)				
G *132*	*(18)* ‘common specifications’ means a document, other than a standard, containing technical solutions providing a means to comply with certain requirements and obligations established under this Regulation;	(18) ‘common specifications’ means a document, other than a standard, containing technical solutions providing a means to comply with certain requirements and obligations established under this Regulation;	(18) ‘common specifications’ means a document, other than a standard, containing technical solutions providing a means to comply with certain requirements and obligations established under this Regulation;	(18) ‘common specifications’ means a document, other than a standard, containing technical solutions providing a means to comply with certain requirements and obligations established under this Regulation; Text Origin: Commission Proposal G
Article 2, first paragraph, point (19)				

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133	(19) 'interoperability' means the ability of two or more data spaces or communication networks, systems, products, applications or components to exchange and use data in order to perform their functions;	(19) 'interoperability' means the ability of two or more ***data-based serviced, including*** data spaces or communication networks, systems, products, applications or components to ***process,*** exchange and use data in order to perform their functions ***in an accurate, effective and consistent manner***;	(19) 'interoperability' means the ability of two or more data spaces or communication networks, systems, products, applications or components to exchange and use data in order to perform their functions;	(19) 'interoperability' means the ability of two or more data spaces or communication networks, systems, products, applications or components to exchange and use data in order to perform their functions; Text Origin: Commission Proposal
Article 2, first paragraph, point (19a)				
133a		***(19a) 'portability' means the ability of a customer to move***		*deleted*

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		imported or directly generated data that can be clearly assigned to the customer between their own system and cloud services, and between cloud services of different cloud service providers;		
Article 2, first paragraph, point (20)				
134	*(20)* 'harmonised standard' means a harmonised standard as defined in Article 2, point (1)(c), of Regulation (EU) No 1025/2012.	(20) 'harmonised standard' means a harmonised standard as defined in Article 2, point (1)(c), of Regulation (EU) No 1025/2012~~.~~**;**	(20) 'harmonised standard' means a harmonised standard as defined in Article 2, point (1)(c), of Regulation (EU) No 1025/2012.	(20) 'harmonised standard' means a harmonised standard as defined in Article 2, point (1)(c), of Regulation (EU) No 1025/2012. Text Origin: Commission Proposal

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 2, first paragraph, point (20a)				
G 134a		***(20a) 'common European data spaces' means purpose- or sector-specific or cross-sectoral interoperable frameworks of common standards and practices to share or jointly process data for, inter alia, development of new products and services, scientific research or civil society initiatives;***		*deleted* G
Article 2, first paragraph, point (20b)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	134b	***(20b) 'metadata' means a structured description of the contents of the use of data facilitating the discovery or use of that data;***		***(20b) 'metadata' means a structured description of the contents or the use of data facilitating the discovery or use of that data;*** Text Origin: EP Mandate
	Article 2, first paragraph, point (20c)			
	134c	***(20c) 'data intermediation service' means data intermediation service as referred***		***(20c) 'data intermediation service' means data intermediation service as referred***

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		to in Article 2, point (8), of Regulation (EU) 2022/868;		***to in Article 2, point (8), of Regulation (EU) 2022/868;*** Text Origin: EP Mandate
Article 2, first paragraph, point (20d)				
G 134d		***(20d) 'data altruism' means the voluntary sharing of data as defined in Article 2(16)of Regulation (EU) 2022/868;***		*deleted* G
Article 2, first paragraph, point (20e)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
G	*134e*		***(20e) 'trade secret' means information which meets all the requirements of Article 2, point (1) of Directive (EU) 2016/943;***	***(20e) 'trade secret' means information which meets all the requirements of Article 2, point (1) of Directive (EU) 2016/943;*** Text Origin: EP Mandate	G
	Article 2, first paragraph, point (20f)				
R	134f		***(20f) 'trade secret holder' should be understood as per Article 2, point (2) of Directive (EU) 2016/943.***	***(20f) 'trade secret holder' should be understood as per Article 2, point (2) of Directive (EU) 2016/943.***	R

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				Text Origin: EP Mandate
Article 2, first paragraph, point (20g)				
G 134g			***(20a) 'Union bodies' means the Union bodies, offices and agencies set up in acts adopted on the basis of the Treaties.***	***(20a) 'Union bodies' means the Union bodies, offices and agencies set up in acts adopted on the basis of the Treaties.*** Text Origin: Council Mandate
CHAPTER II				
Y 135				

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	CHAPTER II BUSINESS TO CONSUMER AND BUSINESS TO BUSINESS DATA SHARING	CHAPTER II BUSINESS TO CONSUMER AND BUSINESS TO BUSINESS DATA SHARING	CHAPTER II ~~*BUSINESS TO CONSUMER AND BUSINESS TO BUSINESS DATA SHARING*~~ ***RIGHT OF USERS TO USE DATA OF CONNECTED PRODUCTS AND RELATED SERVICES***	
Article 3				
136	Article 3 Obligation to make data generated by the use of products or related services accessible	Article 3 Obligation to make data ***accessed from connected products or*** generated ~~*by the use of products or*~~ ***during the provision of*** related services accessible ***to the user.***	Article 3 Obligation to make data generated by the use of products or related services accessible ***to the user***	

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Article 3(1)				
137	1. Products shall be designed and manufactured, and related services shall be provided, in such a manner that data generated by their use are, by default, easily, securely and, where relevant and appropriate, directly accessible to the user.	1. ***Connected*** products shall be designed and manufactured~~, and related services shall be provided, in such a manner that data generated by their use~~ ***in such a manner that data they collect, generate or otherwise obtain, which are accessible to data holders or data recipients*** are, by default ***free of charge to the user, and*** ~~,~~ easily, securely and, where relevant and ~~appropriate~~***technically feasible***, directly accessible to ***it, in a***	1. Products shall be designed and manufactured, and related services shall be ***designed and*** provided, in such a manner that data generated by their use ***that are readily available to the data holder, as well as metadata that is necessary to interpret and use that data,*** are, by default ***and free of charge***, easily, securely and, where relevant and appropriate, directly accessible to the user***, in a structured, commonly used and machine-readable format***.	1. ***Connected*** products shall be designed and manufactured, and related services shall be provided, in such a manner that ~~data generated by their use~~***product and related service data*** are, by default, easily, securely***, free of charge,*** and, where relevant and ~~appropriate~~***technically feasible***, directly accessible to the user***, in a comprehensive, structured, commonly used and machine-readable format, including the relevant metadata***

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		comprehensive, structured, commonly used and machine-readable format. Data shall be available in the form in which they have been collected, obtained or generated by the connected product, along with only the minimal adaptations necessary to make them useable by a third party, including related metadata necessary to interpret and use the data. Information derived or inferred from this data by means of complex proprietary algorithms, in particular where it combines the output of multiple sensors in the connected product, shall not be considered within the scope of a data holder's obligation to share data with users or data		***necessary to interpret and use the data***. Text Origin: Council Mandate

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		recipients unless agreed differently between the user ***and the data holder. In case that user is a data subject, connected products shall offer possibilities to directly exercise the data subjects' rights, where technically feasible. Connected products shall be designed and manufactured in such a way that a data subject, irrespective of their legal title over the connected product, is offered the possibility to use the products covered by this Regulation in the least privacy-invasive way possible. The requirements set out in the first subparagraph shall be met without inhibiting the functionality of the connected product and related services and***		

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		in accordance with data security requirements as laid down by Union law.		
Article 3(1a)				
G 137a		***1a. Data holders may reject a request for data if access to the data is prohibited by Union or national law.***		*deleted* G
Article 3(2)				
Y *138*				2. Before concluding a contract for the purchase~~, rent or lease~~ of a Y

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	2. Before concluding a contract for the purchase, rent or lease of a product or a related service, at least the following information shall be provided to the user, in a clear and comprehensible format:	2. Before concluding a contract for the purchase~~, rent or lease of a product or a related service,~~ ***of a connected product, the manufacturer, or where relevant the vendor, shall provide*** at least the following information~~ shall be provided~~ to the user, ***in a simple manner and*** in a clear and comprehensible format:	2. Before concluding a contract for the purchase, rent or lease of a product or a related service, ***the data holder shall*** at least ***provide*** the following information~~ shall be provided~~ to the user, in a clear and comprehensible format:	***connected*** product***, the manufacturer, or where relevant the vendor*** ~~or a related service~~, ***shall provide*** at least the following information~~ shall be provided~~ to the user, in a clear and comprehensible format: Text Origin: Council Mandate
Article 3(2), point (a)				
139	(a) the nature and volume of the data likely to be generated by the use of the product or related service;	(a) the ~~nature and~~ ***type of data, format, sampling frequency, the in-device storage capacity, and the estimated*** volume of ~~the data likely~~	(a) ~~the nature and~~ ***type of data and the estimated*** volume of the data likely to be generated by the use of the product or related service;	(a) ***the type, format, sampling frequency and estimated volume of product data, which the connected***~~the nature and volume~~

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		~~to be generated by the use of the product or related service~~***accessible data which the connected product is capable of collecting, generating or otherwise obtaining***;		~~of the data likely to be generated by the use of the~~ product ~~or related service~~***is capable of generating***; Text Origin: Council Mandate
Article 3(2), point (b)				
140	(b) whether the data is likely to be generated continuously and in real-time;	(b) whether the ~~data is likely to be generated~~***connected product is capable of generating data*** continuously and in real-time;	(b) whether the data is ~~likely to be~~ generated continuously and in real-time;	(b) whether the ~~data is likely to be generated~~***connected product is capable of generating data*** continuously and in real-time; Text Origin: Council Mandate

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Article 3(2), point (ba)				
140a		***(ba) whether data will be stored on-device or on a remote server, including the period during which it shall be stored;***		***(ba) whether the connected product is capable of storing data on-device or on a remote server, including the intended duration of retention;*** Text Origin: EP Mandate
Article 3(2), point (c)				
141				(c) how the user may access, ***retrieve, or where relevant, delete***

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	(c) how the user may access those data;	(c) how the user may access ***free of charge, and, where relevant, retrieve and request the deletion of*** those data;	(c) how the user may access those data ***including in view of the data holder's data storage and retention policy***;	those data***, including the technical means to do so, such as Software Development Kits or application programming interfaces, as well as their terms of use and quality of service***; Text Origin: Comments and homework
Article 3(2), point (ca)				
141a		***(ca) The technical means to access the data, such as Software Development Kits or application programming interfaces, and their terms of use and quality of service***		*deleted*

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		shall be sufficiently described to enable the development of such means of access;		
Article 3(2), point (cb)				
141b		***(cb) Whether a data holder is the holder of trade secrets or other intellectual property rights contained in the data likely to be accessed from the connected product or generated during the provision of related service, and, if not, the identity of the trade secret holder, such as its trading name and the geographical address at which it is established.***		***(cb) whether any product data contains trade secrets or intellectual property rights and if yes, list the relevant data sets and the identity of the corresponding trade secret or intellectual property holders, including their trading names and the geographical address at which they are established.***

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				Text Origin: Comments and homework
Article 3(2), point (cc)				
Y	141c			***(cc) 2a. An agreement for the provision of a related service between a user and a data holder, who is providing such services, shall include:***
Article 3(2), point (cd)				
Y	141d			***(cd) 2a(a) the nature, estimated volume and collection frequency of product data that the data***

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				holder can obtain and, where relevant, the modalities for the user to access or retrieve such data, including the data holder's data storage and retention policy. Council text from 141
Article 3(2), point (ce)				
141e				***(ce) 2a(b) the nature and estimated volume of related service data to be generated, as well as the modalities for the user to access or retrieve such data, , including the data holder's data storage and retention policy;***

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				Council text from 141
Article 3(2), point (d)				
142	(d) whether the manufacturer supplying the product or the service provider providing the related service intends to use the data itself or allow a third party to use the data and, if so, the purposes for which those data will be used;	(d) ~~whether the manufacturer supplying the product or the service provider providing the related service intends to use the data itself or allow a third party to use the data and, if so, the purposes for which those data will be used;~~	(d) whether the ~~manufacturer supplying the product or the service provider providing the related service~~ ***data holder*** intends to use the data itself or allow a third party to use the data and~~, if so,~~ ***in either case*** the purposes for which those data will be used;	(d) ***2a(c)*** whether the ~~manufacturer supplying the product or the service provider providing the related service intends to use the data itself or allow a third party to use the data and, if so, the purposes for which those data will be used~~***data holder intends to use readily available data itself and the purposes for which those data will be used, and whether it intends to allow one or more third parties to use the data***

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				for purposes agreed upon with the user; Merge of lines 142 and 146f Text Origin: Council Mandate
Article 3(2), point (e)				
143	(e) whether the seller, renter or lessor is the data holder and, if not, the identity of the data holder, such as its trading name and the geographical address at which it is established;	(e) ~~*whether the seller, renter or lessor is the data holder and, if not, the identity of the data holder, such as its trading name and the geographical address at which it is established;*~~	(e) ~~*whether the seller, renter or lessor is the data holder and, if not,*~~ the identity of the data holder, such as its trading name and the geographical address at which it is established;	(e) ~~*whether the seller, renter or lessor is the data holder and, if not,*~~ the identity of the data holder, such as its trading name, ***its legal entity identifier,*** and the geographical address at which it is

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				established ***and where applicable, other data processing parties***; Merge of CSL line 143 EP line 146g Text Origin: Council Mandate
Article 3(2), point (f)				
144	(f) the means of communication which enable the user to contact the data holder quickly and communicate with that data holder efficiently;	(f) ~~*the means of communication which enable the user to contact the data holder quickly and communicate with that data holder efficiently;*~~	(f) the means of communication which ~~*enable the user*~~ ***make it possible*** to contact the data holder quickly and communicate with that data holder efficiently;	(f) the means of communication which ~~*enable the user*~~***make it possible*** to contact the data holder quickly and communicate with that data holder efficiently;

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				EP drops 146h Text Origin: Council Mandate
Article 3(2), point (g)				
145	(g) how the user may request that the data are shared with a third-party;	(g) ~~how the user may request that the data are shared with a third-party;~~	(g) how the user may request that the data are shared with a third-party;	(g) how the user may request that the data are shared with a ~~third-party~~***data recipient, and, where relevant, withdraw the consent for data sharing***; Text Origin: Council Mandate

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Article 3(2), point (h)				
146	(h) the user's right to lodge a complaint alleging a violation of the provisions of this Chapter with the competent authority referred to in Article 31.	(h) ~~*the user's right to lodge a complaint alleging a violation of the provisions of this Chapter with the competent authority referred to in Article 31.*~~	(h) the user's right to lodge a complaint alleging a violation of the provisions of this Chapter with the competent authority referred to in Article 31.	(h) the user's right to lodge a complaint alleging a violation of the provisions of this Chapter with the competent authority referred to in Article 31~~.~~**;** Text Origin: Council Mandate
Article 3(2), point (ha)				
146a		***2a. Related services shall be provided in such a manner that***		***(ha) 2a(i) whether any related service data contains trade secrets or intellectual property rights,***

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		data generated during their provision, which represent the digitalisation of user actions or events, are free of charge to the user and, by default, easily, securely and, where relevant and technically feasible, directly accessible to the user in a structured, commonly used and machine-readable format, along with the relevant metadata necessary to interpret and use it.		***and if yes, list the relevant data sets and, where the data holder is not the trade secret or intellectual property holder, the identity of the corresponding trade secret or intellectual property holders, including their trading names, legal identity identifiers and the geographical address at which they are established;*** ***2a(j) how the user is able to manage permissions to allow the use and sharing of data, where feasible with granular permission options, and including the option to withdraw permissions;*** ***2a(k) the duration of the agreement between the user and the data holder, as well as the***

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				modalities to terminate such an agreement prematurely; Text from 146j, 146k
Article 3(2a)				
146b		***2b. Before the user concludes an agreement with a provider of related services, which involves the provider's access to data from the connected product during the provision of such services, in line with Article 4(6) of this Regulation, the agreement shall address:***		Text Origin: Comments and homework

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	146c	***(a) the nature, volume, collection frequency and format of data accessed by the provider of related services from the connected product and, where relevant, the modalities for the user to access or retrieve such data, including the period during which it shall be stored;***		
	146d			

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		(b) the nature and estimated volume of data generated during the provision of the related service, as well as modalities for the user to access or retrieve such data;		
Y	146e	***(c) granular, meaningful consent options for data processing, within the meaning of Article 4(11) of Regulation (EU) 2016/679;***		Y

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146f		*(d) whether the service provider providing the related service, in its role as data holder, intends to use the data accessed from the connected product itself or allow one or more third parties to use the data for purposes agreed upon with the user;*		
146g		*(e) the trading name of the provider of the related service, its legal entity identifier, contact details and the geographical*		

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		address at which it is established; and where applicable, other data processing parties;		
	146h	***(f) where relevant, the means of communication which enable the user to contact the provider quickly and communicate with its staff efficiently;***		
	146i			

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		(g) how the user may request that the data are shared with a data recipient, and, where relevant, withdraw the consent for data sharing;		
	146j	***(h) Whether a data holder is the holder of trade secrets or other intellectual property rights contained in the data likely to be accessed from the connected product or generated during the provision of related service, and, if not, the identity of the trade secret holder, such as its trading name,***		

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		legal identity identifier and the geographical address at which it is established;		
Y	146k	***(i) how the user is able to manage permissions to allow the use of data, where possible with granular permission options, and including the option to withdraw permissions to a data holder for the use of the user's data, to the third parties nominated by a data holder, or to exclude geographical addresses;***		Y

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	146l	***(j) the duration of the agreement between the user and the provider of the related service, as well as the modalities to terminate such an agreement prematurely; as well as the minimal period for which the related service is guaranteed to receive security and functionality updates;***		
	146m			

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		(k) the user's right to lodge a complaint alleging a violation of the provisions of this Chapter with the data coordinator referred to in Article 31.		
Article 3a				
146n		***Article 3a*** ***Data Literacy***		*deleted*
Article 3a(1)				
146o				

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		1. When implementing this Regulation, the Union and the Member States shall promote measures and tools for the development of data literacy, across sectors and taking into account the different needs of groups of users, consumers and businesses, including through education and training, skilling and reskilling programmes and while ensuring a proper gender and age balance, in view of allowing a fair data society and market.		*deleted*
Article 4				

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147	Article 4 The right of users to access and use data generated by the use of products or related services	Article 4 The ~~right~~***rights and obligations*** of users ***and data holders*** to access, ***use and make available data accessed from connected products or*** ~~and use data~~ generated ~~by the use of products or~~***during the provision of*** related services	Article 4 The right of users to access and use data generated by the use of products or related services	
Article 4(1)				
148	1. Where data cannot be directly accessed by the user from the product, the data holder shall make available to the user the data	1. Where data cannot be directly accessed by the user from the product, ~~the data holder~~***data holders*** shall make available to the	1. Where data cannot be directly accessed by the user from the product ***or related service***, the data holder shall make available to the	1. Where data cannot be directly accessed by the user from the product ***or related service***, ~~the data holder~~***data holders*** shall make ***any readily available data*** available to

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	generated by its use of a product or related service without undue delay, free of charge and, where applicable, continuously and in real-time. This shall be done on the basis of a simple request through electronic means where technically feasible.	user ~~*the data generated by its use of a*~~ ***any data accessed by them from a connected*** product or ***generated during the provision of a*** related service without undue delay, ***easily, securely, in a comprehensive, structured, commonly used and machine-readable format,*** free of charge and, where ~~*applicable*~~***relevant and technically feasible***, continuously and in real-time***, including making any personal data derived from such data available to a data subject pursuant to Article 15 of Regulation (EU) 2016/679, accompanied with relevant metadata. Data shall be provided in the form in which they have***	user the data generated by ~~*its*~~ ***the*** use of a product or related service ***that are readily available to the data holder, as well as the metadata that is necessary to interpret and use that data,*** without undue delay, free of charge***, easily, securely, in a structured, commonly used and machine-readable format*** and, where applicable***, of the same quality as is available to the data holder***, continuously and in real-time. This shall be done on the basis of a simple request through electronic means where technically feasible.	the user***, as well as the metadata that is necessary to interpret and use that data,*** ~~*the data generated by its use of a product or related service*~~ without undue delay, ***easily, securely, in a comprehensive, structured, commonly used and machine-readable format,*** free of charge and, where ~~*applicable*~~***relevant and technically feasible, of the same quality as is available to the data holder***, continuously and in real-time. ***Data holders shall make any personal data derived from such data available to a data subject pursuant to Article 15 of Regulation (EU) 2016/679, accompanied with relevant***

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		been accessed from the connected product or generated by the related service, with only the minimal adaptations necessary to make them useable by a third party, including related metadata necessary to interpret and use the data. Information ***derived or inferred from this data by means of complex proprietary algorithms, in particular where it combines the output of multiple sensors in the connected product,*** ~~*This*~~ shall ***not be considered within the scope of a data holder's obligation to share data with users or data recipients, unless agreed differently between the user and the data holder. Any data access***		***metadata.*** This shall be done on the basis of a simple request through electronic means where technically feasible. Text Origin: Council Mandate

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		request to a data holder should be done on the basis of a simple request through electronic means where technically feasible ***and, where appropriate, indicate the type, nature or scope of data requested***.		
Article 4(1a)				
Y 148a		***1a. Data holders may reject a request for data if access to the data is prohibited by Union or national law;***		***1a. Readily available data shall be provided in the form in which they have been retrieved or generated, with only the minimal adaptations necessary to make them useable. Information derived or inferred from this data by means of complex proprietary*** Y

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				algorithms, in particular where they combine the output of multiple sensors in the connected product, shall not be considered within the scope of a data holder's obligation to share data with users or data recipients, unless agreed differently between the user and the data holder. Any data access request to a data holder should be done on the basis of a simple request through electronic means where technically feasible and, where appropriate, indicate the type, nature or scope of data requested.
Article 4(1b)				

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148b		***1b. Users and data holders may agree contractually on restricting or prohibiting the access, use of or further sharing of data, which could undermine security of the product as laid down by law. Each party may refer the case to the data coordinator, to assess whether such restriction is justified, in particular in light of serious adverse effect on the health, safety or security of human beings. Sectoral competent authorities will be given the possibility to provide technical expertise in this context.***		***1b. Users and data holders may agree contractually on restricting or prohibiting the access, use of or further sharing of data, if such processing could undermine security requirements of the product as laid down by Union or national law. Where parties disagree, each party may refer the case to [the data coordinator/competent authority], to assess whether such restriction is justified, in particular in light of serious adverse effect on the health, safety or security of human beings]. Sectoral competent authorities will be***	

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				given the possibility to provide technical expertise in this context. Text Origin: EP Mandate
Article 4(1c)				
148c		***1c. Where in compliance with all the provisions established within this Regulation, and the terms and conditions agreed in the contractual agreement between the parties, a data holder shall not be liable towards the user for any damage arising from data made available, provided that the data***		***1c. Where in compliance with the relevant provisions established within this Regulation, and the terms and conditions agreed in the contractual agreement between the parties, a data holder shall not be liable towards the user for any damage arising from data made available, provided***

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		holder has processed the data lawfully in accordance with Union and national law and has complied with relevant cybersecurity requirements and where applicable, with the technical and organisational measures to preserve the confidentiality of the shared data. When complying with this Regulation, a user, who lawfully makes available data accessed from the connected product or received following a request under Article 4 paragraph 1 to a third party, or a data recipient, who is lawfully sharing data made available to it by a data holder, to a third party, shall not be liable for damage arising from sharing		***that the data holder has processed the data lawfully in accordance with Union and national law and has complied with relevant cybersecurity requirements and where applicable, with the technical and organisational measures to preserve the confidentiality of the shared data. Users and data recipients, who lawfully make available or receive product or related service data to third parties, shall not be liable for damage arising from such sharing, provided that the user or data recipient have processed the data in accordance with Union and national laws, including this Regulation, and have complied with relevant cybersecurity***

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		such data, provided that the user or data recipient have processed the data in accordance with Union and national laws and have complied with relevant cybersecurity requirement and where applicable, with the technical and organisational measures to preserve the confidentiality of the shared data.		***requirement and where applicable, with the technical and organisational measures to preserve the confidentiality of the data.***
Article 4(1d)				
148d		***1d. Data holders shall not make the exercise of the rights or choices of users unduly difficult, including by offering choices to***		***1d. Data holders shall not make the exercise of the choices or rights under this Article of the user or the data subject where the data subject is not the user,***

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		the users in a non-neutral manner or by subverting or impair the autonomy, decision-making or free choices of the user via the structure, design, function or manner of operation of a user interface or a part thereof.		***unduly difficult, including by offering choices to the users in a non-neutral manner or by subverting or impairing the autonomy, decision-making or choices of the user or the data subject via the structure, design, function or manner of operation of a user interface or a part thereof.***
Article 4(1e)				
Y 148e			***1a. Any agreement between the data holder and the user shall not be binding when it narrows the***	***1e. Any agreement between the data holder and the user shall not be binding when it narrows the access rights pursuant to paragraph 1.*** Y

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			access rights pursuant to paragraph 1.	
Article 4(2)				
149	2. The data holder shall not require the user to provide any information beyond what is necessary to verify the quality as a user pursuant to paragraph 1. The data holder shall not keep any information on the user's access to the data requested beyond what is necessary for the sound execution of the user's access request and for the security and the maintenance of the data infrastructure.	2. ~~*The data holder*~~***Data holders*** shall not require the user to provide any information beyond what is necessary to verify the quality as a user pursuant to paragraph 1. ~~*The data holder*~~***Data holders*** shall not keep any information on the user's access to the data requested beyond what is necessary for the sound execution of the user's access request and for the security and the maintenance of the data	2. The data holder shall not require the user to provide any information beyond what is necessary to verify the quality as a user pursuant to paragraph 1. The data holder shall not keep any information***, in particular log data,*** on the user's access to the data requested beyond what is necessary for the sound execution of the ***individual*** user's access request and for the security and the	2. ~~*The data holder*~~***Data holders*** shall not require the user to provide any information beyond what is necessary to verify the quality as a user pursuant to paragraph 1. ~~*The data holder*~~***Data holders*** shall not keep any information***, in particular log data,*** on the user's access to the data requested beyond what is necessary for the sound execution of the user's access request and for the security and the maintenance

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		infrastructure. ***Where identification is legally requires, data holders shall enable the possibility for users to identify and authenticate through the European Digital Identity Wallets, pursuant to Regulation (EU) No 914/2014.***	maintenance of the data infrastructure.	of the data infrastructure. ***Where identification is legally requires, data holders shall enable the possibility for users to identify and authenticate through the European Digital Identity Wallets, pursuant to Regulation (EU) No 914/2014.*** Text Origin: Council Mandate
149a			***2a. The data holder shall not coerce, deceive or manipulate in any way and at any time the user***	

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			or the data subject where the data subject is not the user, by subverting or impairing the autonomy, decision-making or choices of the user or the data subject, including by means of a digital interface with the user or the data subject, to hinder the exercise of the user's rights under this Article.	
Article 4(3)				
150	3. Trade secrets shall only be disclosed provided that all specific necessary measures are taken to preserve the confidentiality of	3. Trade secrets shall ***be preserved and shall*** only be disclosed provided that all specific necessary measures ***pursuant to Directive***	3. Trade secrets shall only be disclosed provided that ~~*all specific*~~ ***the data holder and the user take all*** necessary measures ***prior to***	3. Trade secrets shall ***be preserved and shall*** only be disclosed provided that ~~*all specific*~~***the data holder and the user take all*** necessary measures ~~*are taken*~~***prior***

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	trade secrets in particular with respect to third parties. The data holder and the user can agree measures to preserve the confidentiality of the shared data, in particular in relation to third parties.	*(EU) 2016/943* are taken *in advance* to preserve ~~the~~*their* confidentiality ~~of trade secrets~~*,* in particular with respect to third parties. The data holder ~~and the user~~*or the trade secret holder if it is not simultaneously the data holder, shall identify the data which are protected as trade secrets and* can agree *with the user any technical and organisational* measures to preserve the confidentiality of the shared data, in particular in relation to third parties*, as well as on liability provisions. Such technical and organisational measures include, as appropriate, model contractual terms, confidential agreements, strict access protocols, technical*	*the disclosure* ~~are taken~~ to preserve the confidentiality of trade secrets in particular with respect to third parties. *Where the data holder can show that such measures do not suffice,* the data holder and the user *shall agree on necessary additional* ~~can agree~~ measures*, such as technical and organisational measures,* to preserve the confidentiality of the shared data, in particular in relation to third parties. *The data holder shall identify the data which are protected as trade secrets, including in the relevant metadata.*	*to the disclosure* to preserve ~~the~~*their* confidentiality ~~of trade secrets~~ in particular with respect to third parties. The data holder *[or the trade secret holder when it is not the same legal person as the data holder] shall identify the data which are protected as trade secrets, including in the relevant metadata, and shall agree with* ~~and~~ the user ~~can agree~~*proportionate technical and organisational* measures *necessary* to preserve the confidentiality of the shared data, in particular in relation to third parties*, such as model contractual terms, confidentiality agreements, strict access protocols, technical*

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		standards and the application of codes of conduct. In cases where the user fails to implement those measures or undermines the confidentiality of trade secrets, the data holder shall be able to suspend the sharing of data identified as trade secrets. In such cases, the data holder must immediately notify the data coordinator of the Member State in which the data holder is established, pursuant to Article 31 of this Regulation, that it has suspended the sharing of data and identify which measures have not been implemented or which trade secrets have had their confidentiality undermined. Where the user wishes to		***standards and the application of codes of conduct***. Remaining brackets

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		challenge the data holder's decision to suspend the sharing of data, the data coordinator shall decide, within a reasonable period of time, whether the data sharing shall be resumed or not and if yes, indicate under which conditions.		
Article 4(3a)				
G 150a				***3a. Where there is no agreement on the necessary measures or if the user fails to implement the agreed measures or undermines the confidentiality of the trade secrets, the data holder may withhold or, as the case may be, suspend the sharing of data*** G

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				identified as trade secrets. The decision of the ***data holder shall be duly substantiated and provided in writing without undue*** ***delay to the user.*** ***In such cases, the data holder shall notify the [data coordinator/national competent authority] designated in accordance with Article 31 that it has withheld or suspended the sharing of data and identify which measures have not been agreed or implemented and, where relevant, which trade secrets have had their confidentiality compromised.***

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Article 4(3b)				
150b				***3b. 3b. Without prejudice to the user's right to seek redress at any stage before a court or a tribunal of a Member State, the user wishing to challenge the data holder's decision to withhold or suspend the sharing of data may:*** ***- lodge in accordance with Article 31(3), point b), a complaint with the[the data coordinator/national***

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				competent authority], which shall, within a reasonable period of time, decide whether and under which conditions the data sharing shall start or resume; or ***- agree*** ***with the data holder to refer the matter to a dispute settlement body in*** ***accordance with Article 10(1a).***
Article 4(3c)				
R	150c		***3a. In exceptional circumstances, when the data holder can demonstrate that it is highly likely to suffer serious damage from the***	NO AGREEMENT - political level

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			disclosure of trade secrets , despite the technical and organisational measures taken by the user, the data holder may refuse the request for access. Such demonstration shall be duly substantiated, provided in writing and without undue delay. When the data holder refuses to share data pursuant to this Article, it shall notify the national competent authority designated in accordance with Article 31.	Text Origin: Council Mandate
Article 4(4)				
151				4. The user shall not use the data obtained pursuant to a request

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	4. The user shall not use the data obtained pursuant to a request referred to in paragraph 1 to develop a product that competes with the product from which the data originate.	4. The user shall not use ~~*the*~~ data obtained pursuant to a request referred to in paragraph 1 to develop a product that ***directly*** competes with the product, from which the data originate ***and shall not use such data to derive insights about the economic situation, assets and production methods of the manufacturer***.	4. The user shall not use the data obtained pursuant to a request referred to in paragraph 1 to develop a product that competes with the product from which the data originate, ***nor share the data with another third party for that purpose***.	referred to in paragraph 1 to develop a product that ***directly,*** competes with the product from which the data originate, ***nor share the data with another third party for that purpose and shall not use such data to derive insights about the economic situation, assets and production methods of the manufacturer or, where applicable the data holder***. Text Origin: Council Mandate
Article 4(4a)				
151a				

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		4a. The user shall not deploy coercive means or abuse gaps in the technical infrastructure of a data holder designed to protect the data in order to obtain access to data.	***4a. The user shall not deploy coercive means or abuse evident gaps in the technical infrastructure of the data holder designed to protect the data in order to obtain access to data.***	***4a. The user shall not deploy coercive means or abuse evident gaps in the technical infrastructure of a data holder designed to protect the data in order to obtain access to data.*** Text Origin: Council Mandate
Article 4(4b)				
Y	151b	***4b. Users have the right to either directly share, through a data holder or through providers of data intermediation services as set in the Regulation (EU) 2022/868,***		***4a. Users have the right to share non-personal product data to any data recipient or third party for commercial or non-commercial purposes, either directly or***

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		non-personal data accessed from the connected product or obtained pursuant to a request referred in paragraph 1 to any data recipient for commercial or non-commercial purposes. The data sharing between a user and a data recipient shall be carried out by means of contractual agreements; the provisions of Chapter IV on fair, reasonable and non-discriminatory terms shall apply mutatis mutandis to the contractual agreements between users and data recipients.		***through a provider of data intermediation services as set in the Regulation (EU) 2022/868, including by means of contractual agreements.*** Text Origin: Comments and homework
Article 4(5)				

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152	5. Where the user is not a data subject, any personal data generated by the use of a product or related service shall only be made available by the data holder to the user where there is a valid legal basis under Article 6(1) of Regulation (EU) 2016/679 and, where relevant, the conditions of Article 9 of Regulation (EU) 2016/679 are fulfilled.	5. Where the user is not a data subject, any personal data generated by the use of a product or related service shall only be made available by the data holder to the user where ***all conditions and rules provided by the applicable data protection law are complied with, in particular where*** there is a valid legal basis under Article ~~6(1)~~***6*** of Regulation (EU) 2016/679 and, where relevant, the conditions of Article 9 of Regulation (EU) 2016/679 ***and Article 5(3) of Directive 2002/58/EC*** are fulfilled.	5. Where the user is not ***the data subject whose personal data is requested*** ~~*a data subject*~~, any personal data generated by the use of a product or related service shall only be made available by the data holder to the user where there is a valid legal basis under Article ~~6(1)~~***6*** of Regulation (EU) 2016/679 and, where relevant, the conditions of Article 9 of Regulation (EU) 2016/679 ***and Article 5(3) of Directive (EU) 2002/58*** are fulfilled.	5. Where the user is not ~~a~~***the*** data subject ***whose personal data is requested***, any personal data generated by the use of a product or related service shall only be made available by the data holder to the user where there is a valid legal basis under Article ~~6(1)~~***6*** of Regulation (EU) 2016/679 and, where relevant, the conditions of Article 9 of Regulation (EU) 2016/679 ***and Article 5(3) of Directive (EU) 2002/58*** are fulfilled. Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 4(6)				
153	6. The data holder shall only use any non-personal data generated by the use of a product or related service on the basis of a contractual agreement with the user. The data holder shall not use such data generated by the use of the product or related service to derive insights about the economic situation, assets and production methods of or the use by the user that could undermine the commercial position of the user in the markets in which the user is active.	6. ~~*The data holder*~~***Data holders*** shall only use any non-personal data ***accessed from a connected product or*** generated ~~*by the use of a product or*~~ ***during the provision of a*** related service on the basis of a contractual agreement with the user. The data holder shall not ***make the use of the product or related service dependent on the user allowing it to process data not required for the functionality of the product or provision of the related service. The data holder shall delete the data when they are***	6. The data holder shall only use any non-personal data generated by the use of a product or related service on the basis of a contractual agreement with the user. The data holder shall not use such data generated by the use of the product or related service to derive insights about the economic situation, assets and production methods of or the use by the user that could undermine the commercial position of the user in the markets in which the user is active.	6. ~~*The data holder*~~***Data holders*** shall only use any ***readily available data, that is*** non-personal***, on the basis of a contractual agreement with the user. The data holder shall not make*** ~~*data generated by*~~ the use of ~~*a*~~***the connected*** product or related service ***dependent*** on the ~~*basis of a contractual agreement with the user*~~***user allowing it to process data not required for the functionality of the product or the provision of the related service***. The data holder shall ~~*not use such*~~

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		no longer necessary for the purpose contractually agreed. Data holders and the users shall not use such data ***obtained, collected or*** generated by the use of the product or related service to derive insights about the economic situation, assets and production methods of or the use ***of the product or related service*** by the ~~*user*~~***other party*** that could undermine the commercial position of the ~~*user*~~***other party*** in the markets in which the user is active.		~~*data generated by the use of the product or related service*~~***delete the data when they are no longer necessary for the purpose contractually agreed. The data holder shall not use such readily available data*** to derive insights about the economic situation, assets and production methods of or the use ***of the connected product or related service*** by the user that could undermine the commercial position of the user in the markets in which the user is active. Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 4(6a)				
153a		***6a. Data holders shall not make available non-personal data accessed by them from the connected product, referred to in point (a) of Article 3(2), to third parties for commercial or non-commercial purposes other than the fulfilment of their contractual obligations to the user. Where relevant, data holders shall contractually bind third parties not to further share data received from them.***		***6a. Data holders shall only make available readily available data, that is non-personal, to third parties for the fulfilment of their contractual obligations to the user. Where relevant, data holders shall contractually bind third parties not to further share data received from them.*** Text Origin: EP Mandate
Article 4(6b)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
153b		***6b. Where the contractual agreement between the user and a data holder allows for the use of non personal data accessed by them from the connected product, referred to in point (a) of Article 3(2a), the data holder shall be able to use that data for any of the following purposes:***		***6b. Data holders shall be able to use readily available data, that is non-personal, for any of the following purposes, unless the contractual agreement between the user and the data holder explicitly prevents them from doing so:*** 153b-e, reworded and re-ordered for the purpose of better understanding of the text
Article 4(6b), point (a)				
153c				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		(a) improving the functioning of the connected product or related services;		***(a) improving the functioning of the connected product or related services;*** Text Origin: EP Mandate
Article 4(6b), point (b)				
153d		***(b) developing new products or services;***		***(b) developing new products or services;*** Text Origin: Comments and homework

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 4(6b), point (c)				
153e		***(c) enriching or manipulating it or aggregating it with other data, including with the aim of making available the resulting data set to third parties, as long as such derived data set does not allow the identification of the specific data items transmitted to the data holder from the connected product, or allow a third party to derive those data items from the data set.***		***(c) enriching, or manipulating readily available data or aggregating or combining it with other data, as well as making available the resulting data set to third parties, as long as such derived data set does not allow for the identification of the specific data items, obtained from the connected product or related services.*** Text Origin: EP Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 4(6c)				
153f		***6c. Users, in business-to-business relations, have the right to make data available to data recipients or data holders under any lawful contractual condition, including by agreeing to limit or restrict further sharing of such data, and to be compensated proportionately in exchange for foregoing their right to use or share such data lawfully. Data recipients or data holders shall not make the offer of a related service, or its commercial terms, including pricing, contingent on such agreement by the user, or***		***6c. Users, in business-to-business relations, have the right to make data available to data recipients or data holders under any lawful contractual condition, including by agreeing to limit or restrict further sharing of such data, and to be compensated proportionately in exchange for foregoing their right to use or share such data lawfully. Data recipients or data holders shall not make the offer of a related service, or its commercial terms, including pricing, contingent on such agreement by the user, or coerce, deceive or manipulate in***

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		coerce, deceive or manipulate in any other way the user to make available data under such contractual conditions.		***any other way the user to make available data under such contractual conditions.*** Text Origin: EP Mandate
Article 5				
G 154	Article 5 Right to share data with third parties	Article 5 Right ***of the user*** to share data with third parties	Article 5 Right ***of the user*** to share data with third parties	Article 5 Right ***of the user*** to share data with third parties Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 5(1)				
155	1. Upon request by a user, or by a party acting on behalf of a user, the data holder shall make available the data generated by the use of a product or related service to a third party, without undue delay, free of charge to the user, of the same quality as is available to the data holder and, where applicable, continuously and in real-time.	1. Upon request by a user, or by a party acting on behalf of a user, ***such as an authorised data intermediation service in the meaning of the Regulation (EU) 2022/868, data holders*** ~~*the data holder*~~ shall make available the data ~~*generated by the use of a*~~ ***accessed by them from a connected*** product or ***generated during the provision of a*** related service to a third party, without undue delay, ***easily, securely, in a comprehensive, structured, commonly used and machine-readable format,*** free of	1. Upon request by a user, or by a party acting on behalf of a user, the data holder shall make available the data generated by the use of a product or related service ***that are readily available to the data holder*** to a third party, ***as well as the metadata that is necessary to interpret and use that data,*** without undue delay, free of charge to the user, of the same quality as is available to the data holder, ***easily, securely, in a structured, commonly used and machine-readable format*** and, where applicable, continuously and	1. Upon request by a user, or by a party acting on behalf of a user, the data holder shall make available ~~*the data generated by the use of a product or related service to a third party*~~***readily available data, as well as the metadata that is necessary to interpret and use that data, to a data recipient***, without undue delay, free of charge to the user, of the same quality as is available to the data holder, ***easily, securely, in a comprehensive, structured, commonly used and machine-readable format*** and, where ~~*applicable*~~***relevant and***

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		charge to the user, of the same quality as is available to the data holder and, where ~~applicable,~~ ***relevant and technically feasible*** continuously and in real-time. ***Where the user is a data subject, personal data shall be processed for purposes specified by the data subject, such as the following:***	in real-time. ***The making available of the data by the data holder to the third party shall be done in accordance with the conditions and compensation rules set in Articles 8 and 9.***	***technically feasible***, continuously and in real-time. ***The making available of the data by the data holder to the third party shall be done in accordance with the conditions and compensation rules set in Articles 8 and 9.*** Text Origin: Council Mandate
Article 5(1), point (a)				
G 155a		***(a) the provision of after-market services, such as the maintenance and repair of the product, including after-market services in***		*deleted* G

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		competition with a connected product or service provided by a data holder;		
Article 5(1), point (b)				
155b		***(b) enabling the user to update the software of the connected product or related services in particular to fix security and usability problems;***		*deleted*
Article 5(1), point (c)				
155c				

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		(c) specific data intermediation services recognised in the Union or specific services provided by data altruism organisations recognised in the Union under the conditions and requirements of Chapters III and IV of Regulation (EU) 2022/868.		*deleted*
Article 5(1), point (d)				
155d		***Data shall be provided in the form in which they have accessed from the product, with only the minimal adaptations necessary to make them useable by a third party, including related metadata***		***(d) 1aa Data shall be provided in the form in which they have retrieved or generated, with only the minimal adaptations necessary to make them useable by a third party, including the relevant metadata necessary to***

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		necessary to interpret and use the data. Information ***derived or inferred from this data by means of complex proprietary algorithms, in particular where it combines the output of multiple sensors in the connected product, shall not be considered within the scope of a data holder's obligation to share data with users or data recipients, unless agreed differently between the user and the data holder.***		***interpret and use the data. Information derived or inferred from this data by means of complex proprietary algorithms, in particular where it combines the output of multiple sensors in the connected product, shall not be considered within the scope of a data holder's obligation to share data with users or data recipients, unless agreed differently between the user and the data holder.***
Article 5(1a)				
Y	155e			Y

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		1a. The right under paragraph 1 shall not apply to data resulting from the use of a product or related service in the context of testing of other new products, substances or processes that are not yet placed on the market unless use by a third party is permitted by the agreement with the enterprise with whom the user agreed to use one of its products for testing of other new products, substances or processes.		*(e) 1a The right under paragraph 1 shall not apply to readily available data in the context of testing of other new products, substances or processes that are not yet placed on the market unless use by a third party is permitted by the agreement with the enterprise with whom the user agreed to use one of its products for testing of other new products, substances or processes.*
Article 5(2)				
156				

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	2. Any undertaking providing core platform services for which one or more of such services have been designated as a gatekeeper, pursuant to Article […] of [Regulation XXX on contestable and fair markets in the digital sector (Digital Markets Act)[1]], shall not be an eligible third party under this Article and therefore shall not: _____ 1. OJ […].	2. Any undertaking providing core platform services for which one or more of such services have been designated as a gatekeeper, pursuant to Article […] of ~~[~~ Regulation ~~XXX on contestable and fair markets in the digital sector (Digital Markets Act)[1]~~]~~ ***EU) 2022/1925***, shall not be an eligible ~~third party~~***data recipient*** under this Article and therefore shall not: _____ ~~1. OJ […].~~	2. Any undertaking ~~providing core platform services for which one or more of such services have been~~ designated as a gatekeeper, pursuant to Article ~~[…] of [~~***3 of*** Regulation ***(EU) 2022/1925*** ~~XXX~~ on contestable and fair markets in the digital sector (Digital Markets Act)[1]~~]~~, shall not be an eligible third party under this Article and therefore shall not: _____ ~~1. OJ […].~~	
Article 5(2), point (a)				
157				

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	(a) solicit or commercially incentivise a user in any manner, including by providing monetary or any other compensation, to make data available to one of its services that the user has obtained pursuant to a request under Article 4(1);	(a) solicit or commercially incentivise a user in any manner, including by providing monetary or any other compensation, to make data available to one of its services that the user has obtained pursuant to a request under Article 4(1);	(a) solicit or commercially incentivise a user in any manner, including by providing monetary or any other compensation, to make data available to one of its services that the user has obtained pursuant to a request under Article 4(1);	(a) solicit or commercially incentivise a user in any manner, including by providing monetary or any other compensation, to make data available to one of its services that the user has obtained pursuant to a request under Article 4(1); Text Origin: Commission Proposal
Article 5(2), point (b)				
158	(b) solicit or commercially incentivise a user to request the data holder to make data available	(b) solicit or commercially incentivise a user to request the data holder to make data available	(b) solicit or commercially incentivise a user to request the data holder to make data available	(b) solicit or commercially incentivise a user to request the data holder to make data available

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	to one of its services pursuant to paragraph 1 of this Article;	to one of its services pursuant to paragraph 1 of this Article;	to one of its services pursuant to paragraph 1 of this Article;	to one of its services pursuant to paragraph 1 of this Article; Text Origin: Commission Proposal
Article 5(2), point (c)				
159	(c) receive data from a user that the user has obtained pursuant to a request under Article 4(1).	(c) receive data from a user that the user has obtained pursuant to a request under Article 4(1).	(c) receive data from a user that the user has obtained pursuant to a request under Article 4(1).	(c) receive data from a user that the user has obtained pursuant to a request under Article 4(1). Text Origin: Commission Proposal

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Article 5(3)				
160	3. The user or third party shall not be required to provide any information beyond what is necessary to verify the quality as user or as third party pursuant to paragraph 1. The data holder shall not keep any information on the third party's access to the data requested beyond what is necessary for the sound execution of the third party's access request and for the security and the maintenance of the data infrastructure.	3. The user or ~~*third party*~~***the data recipient*** shall not be required to provide any information beyond what is necessary to verify the quality as user or as ~~*third party*~~***data recipient*** pursuant to paragraph 1. ~~*The data holder*~~***Data holders*** shall not keep any information on the ~~*third party*~~***data recipient***'s access to the data requested beyond what is necessary for the sound execution of the ~~*third party*~~***data recipient***'s access request and for the security and the maintenance of the data infrastructure.	3. The user or third party shall not be required to provide any information beyond what is necessary to verify the quality as user or as third party pursuant to paragraph 1. The data holder shall not keep any information on the third party's access to the data requested beyond what is necessary for the sound execution of the third party's access request and for the security and the maintenance of the data infrastructure.	

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Article 5(4)				
161	4. The third party shall not deploy coercive means or abuse evident gaps in the technical infrastructure of the data holder designed to protect the data in order to obtain access to data.	4. The ~~third party~~***data recipient*** shall not deploy coercive means or abuse ~~evident~~ gaps in the technical infrastructure of ~~the~~***a*** data holder designed to protect the data in order to obtain access to data.	4. The third party shall not deploy coercive means or abuse evident gaps in the technical infrastructure of the data holder designed to protect the data in order to obtain access to data.	
Article 5(5)				
162	5. The data holder shall not use any non-personal data generated by the use of the product or related service to derive insights about the economic situation, assets and	5. The data holder shall not use any non-personal data ***obtained, collected or*** generated by the use of the product or related service to derive insights about the economic	5. The data holder shall not use any non-personal data generated by the use of the product or related service to derive insights about the economic situation, assets and	5. ~~The~~***A*** data holder shall not use any ~~non-personal data generated by the use of the product or related service~~***readily available data*** to derive insights about the economic

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	production methods of or use by the third party that could undermine the commercial position of the third party on the markets in which the third party is active, unless the third party has consented to such use and has the technical possibility to withdraw that consent at any time.	situation, assets and production methods of or use by the third party that could undermine the commercial position of the third party on the markets in which the third party is active, unless the third party has ***expressly*** consented to such use and has the technical possibility to ***easily*** withdraw that consent at any time.	production methods of or use by the third party that could undermine the commercial position of the third party on the markets in which the third party is active, unless the third party has ***given permission*** ~~consented~~ to such use and has the technical possibility to withdraw that consent at any time.	situation, assets and production methods of or use by the ~~third party~~***data recipient*** that could undermine the commercial position of the third party on the markets in which the third party is active, unless the third party has ~~consented~~***given permission*** to such use and has the technical possibility to ***easily*** withdraw that ~~consent~~***permission*** at any time. Text Origin: Council Mandate
Article 5(6)				
163				

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	6. Where the user is not a data subject, any personal data generated by the use of a product or related service shall only be made available where there is a valid legal basis under Article 6(1) of Regulation (EU) 2016/679 and where relevant, the conditions of Article 9 of Regulation (EU) 2016/679 are fulfilled.	6. ~~*Where the user is not*~~***In the case of*** a data subject ***who is not the user requesting access***, any personal data ***obtained, collected, or*** generated by ~~*the*~~***their*** use of a product or related service***, and data derived and inferred from that use,*** shall only be made available ***by the data holder to the third party*** where there is a valid legal basis under Article ~~*6(1)*~~***6*** of Regulation (EU) 2016/679 and where relevant, the conditions of Article 9 of Regulation (EU) 2016/679 ***and Article 5(3) of Directive 2002/58/EC*** are fulfilled.	6. Where the user is not ~~*a*~~ ***the*** data subject ***whose personal data is requested***, any personal data generated by the use of a product or related service shall only be made available where there is a valid legal basis under Article ~~*6(1)*~~***6*** of Regulation (EU) 2016/679 and where relevant, the conditions of Article 9 of Regulation (EU) 2016/679 ***and Article 5(3) of Directive (EU) 2002/58*** are fulfilled.	6. Where the user is not ***the data subject whose personal data is requested*** ~~*a data subject*~~, any personal data generated by the use of a product or related service***, including data derived and inferred from that use,*** shall only be made available where there is a valid legal basis under Article ~~*6(1)*~~***6*** of Regulation (EU) 2016/679 and where relevant, the conditions of Article 9 of Regulation (EU) 2016/679 ***and Article 5(3) of Directive (EU) 2002/58*** are fulfilled. Text Origin: Council Mandate

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Article 5(7)				
164	7. Any failure on the part of the data holder and the third party to agree on arrangements for transmitting the data shall not hinder, prevent or interfere with the exercise of the rights of the data subject under Regulation (EU) 2016/679 and, in particular, with the right to data portability under Article 20 of that Regulation.	7. Any failure on the part of the data holder and the third party to agree on arrangements for transmitting the data shall not hinder, prevent or interfere with the exercise of the rights of the data subject under Regulation (EU) 2016/679 and, in particular, with the right to data portability under Article 20 of that Regulation.	7. Any failure on the part of the data holder and the third party to agree on arrangements for transmitting the data shall not hinder, prevent or interfere with the exercise of the rights of the data subject under Regulation (EU) 2016/679 and, in particular, with the right to data portability under Article 20 of that Regulation.	7. Any failure on the part of the data holder and the third party to agree on arrangements for transmitting the data shall not hinder, prevent or interfere with the exercise of the rights of the data subject under Regulation (EU) 2016/679 and, in particular, with the right to data portability under Article 20 of that Regulation. Text Origin: Commission Proposal

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Article 5(8)				
165	8. Trade secrets shall only be disclosed to third parties to the extent that they are strictly necessary to fulfil the purpose agreed between the user and the third party and all specific necessary measures agreed between the data holder and the third party are taken by the third party to preserve the confidentiality of the trade secret. In such a case, the nature of the data as trade secrets and the measures for preserving the confidentiality shall be specified in	8. Trade secrets shall only be disclosed to third parties to the extent that they are strictly necessary to fulfil the purpose ***of the request*** agreed between the user and the third party and all specific necessary measures agreed between the data holder***, or between the trade secrets holder if it is not simultaneously the data holder,*** and the third party are taken ***prior to the disclosure*** by the third party to preserve the confidentiality of the trade secret. In such a case, the ~~*nature of*~~***data holder or the trade secret holder,***	8. Trade secrets shall only be disclosed to third parties to the extent that they are strictly necessary to fulfil the purpose agreed between the user and the third party and all specific necessary measures ***including technical and organisational measures*** agreed between the data holder and the third party are taken by the third party to preserve the confidentiality of the trade secret. ~~*In such a case, the nature of the data as trade secrets and the measures for preserving the confidentiality*~~***Where the data***	

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	the agreement between the data holder and the third party.	***shall identify*** the data ***which are protected*** as trade secrets and the ***technical and organisational*** measures for preserving ~~*the*~~***their*** confidentiality***, as well as on liability provisions. Such technical and organisational measures*** shall be specified in the agreement between the data ***or trade secret*** holder and the third party***, including, as appropriate through model contractual terms, strict access protocols, confidential agreements, technical standards and the application of codes of conduct. In cases where the third party fails to implement those measures or undermines the confidentiality of trade secrets, the data holder shall be able to***	***holder can show that such measures do not suffice, the data holder and the third party*** shall ~~*be specified in the agreement between*~~***agree on necessary additional measures. The data holder shall identify*** the data ~~*holder and the third party*~~***which are protected as trade secrets, including in the relevant metadata***.	

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		suspend the sharing of data identified as trade secrets. In such cases, the data holder must immediately notify the data coordinator of the Member State in which the data holder is established, pursuant to Article 31, that it has suspended the sharing of data and identify which measures have not been implemented or which trade secrets have had their confidentiality undermined. Where the third party wishes to challenge the data holder's decision to suspend the sharing of data, the data coordinator shall decide, within a reasonable period of time, whether the data sharing		

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		shall be resumed or not and if yes, indicate under which conditions.		
Article 5(8a)				
R 165a			***8a. In exceptional circumstances, when the data holder can demonstrate that it is highly likely to suffer serious damage from the disclosure of trade secrets , despite the technical and organisational measures taken by the third party, the data holder may refuse the request for access. Such demonstration shall be duly substantiated, provided in writing and without undue delay. When***	Trilogue, similar to 150a R

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			the data holder refuses to share data pursuant to this Article, it shall notify the national competent authority designated in accordance with Article 31.	
Article 5(9)				
166	9. The right referred to in paragraph 1 shall not adversely affect data protection rights of others.	9. The right referred to in paragraph 1 shall not adversely affect ~~*data protection*~~***the*** rights of ***data subjects of*** others ***pursuant to the applicable data protection law***.	~~*9. The right referred to in paragraph 1 shall not adversely affect data protection rights of others.*~~	9. The right referred to in paragraph 1 shall not adversely affect ~~*data protection*~~***the*** rights of ~~*others*~~***other data subjects pursuant to the applicable data protection law***. Text Origin: EP Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 6				
167	Article 6 Obligations of third parties receiving data at the request of the user	Article 6 Obligations of ~~third parties~~***data recipients*** receiving data at the request of the user	Article 6 Obligations of third parties receiving data at the request of the user	
Article 6(1)				
168	1. A third party shall process the data made available to it pursuant to Article 5 only for the purposes and under the conditions agreed with the user, and subject to the	1. A ~~third party~~***data recipient*** shall process ~~the~~ data made available to it pursuant to Article 5 only for the purposes and under the conditions agreed with the user,	1. A third party shall process the data made available to it pursuant to Article 5 only for the purposes and under the conditions agreed with the user, and subject to the	1. A ***[***third ~~party~~***party/data recipient]*** shall process the data made available to it pursuant to Article 5 only for the purposes and under the conditions agreed with the user, and ***where all conditions***

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	rights of the data subject insofar as personal data are concerned, and shall delete the data when they are no longer necessary for the agreed purpose.	and ***where all conditions and rules provided by the applicable data protection law are complied with, notably where there is a valid legal basis under Article 6(1) of Regulation (EU) 2016/679 and, where relevant, the conditions of Article 9 of Regulation (EU) 2016/679 and Article 5(3) of Directive 2002/58/EC are fulfilled, and*** subject to the rights of the data subject insofar as personal data are concerned~~, and~~. ***The data recipient*** shall delete the data when they are no longer necessary for the agreed purpose***, unless otherwise agreed with the user***.	rights of the data subject insofar as personal data are concerned, and shall delete the data when they are no longer necessary for the agreed purpose.	***and rules provided by the applicable data protection law are complied with,*** subject to the rights of the data subject insofar as personal data are concerned~~, and~~. ***The [third party/data recipient]*** shall delete the data when they are no longer necessary for the agreed purpose. Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 6(2)				
169	2. The third party shall not:	2. The ~~third party~~***data recipient*** shall not:	2. The third party shall not:	
Article 6(2), point (a)				
170	(a) coerce, deceive or manipulate the user in any way, by subverting or impairing the autonomy, decision-making or choices of the user, including by means of a digital interface with the user;	(a) ***make the exercise of the rights or choices of users unduly difficult including by offering choices to the users in a non-neutral manner, or*** coerce, deceive or manipulate the user in any way, ***or*** by subverting or impairing the autonomy, decision-making or choices of the	(a) coerce, deceive or manipulate ***in any way and at any time*** the user ~~in any way~~***or the data subject where the data subject is not the user,*** , by subverting or impairing the autonomy, decision-making or choices of the user ***or the data subject***, including by means of a	(a) coerce, deceive or manipulate ***in any way and at any time*** the user ~~in any way~~***or the data subject where the data subject is not the user,*** , by subverting or impairing the autonomy, decision-making or choices of the user ***or the data subject***, including by means of a digital interface with the user ***or***

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		user, including by means of a digital interface with the user ***or a part thereof, including its structure, design, function or manner of operation***;	digital interface with the user ***or the data subject***;	***the data subject [or a part thereof, including its structure, design, function or manner of operation]***; Text Origin: Council Mandate
Article 6(2), point (b)				
G 171	(b) use the data it receives for the profiling of natural persons within the meaning of Article 4(4) of Regulation (EU) 2016/679, unless it is necessary to provide the service requested by the user;	(b) use the data it receives for the profiling of natural persons within the meaning of Article ~~4(4)~~***4, point (4),*** of Regulation (EU) 2016/679, ~~unless it is necessary to provide the service requested by the user~~***other than in accordance with that Regulation***;	(b) use the data it receives for the profiling of natural persons within the meaning of Article 4(4) of Regulation (EU) 2016/679, unless it is ***objectively*** necessary ***for a purpose that is integral to the delivery of*** ~~*to provide*~~ the service requested by the user;	(b) use the data it receives for the profiling of natural persons within the meaning of Article 4(4) of Regulation (EU) 2016/679, unless it is necessary to provide the service requested by the user; G

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				Text Origin: Commission Proposal
Article 6(2), point (c)				
172	(c) make the data available it receives to another third party, in raw, aggregated or derived form, unless this is necessary to provide the service requested by the user;	(c) make the data ~~available~~ it receives ***available*** to another third party~~, in raw, aggregated or derived form, unless this is necessary to provide the service requested~~ ***without making the user aware in a clear and easily accessible way and seeking its the explicit contractual permission*** by the user;	(c) make the data ~~available~~ it receives ***available to other~~to another~~ third~~party*** ***parties***, in raw, aggregated or derived form, unless this is necessary to provide the service requested by the user ***and provided that the other third parties take all necessary measures agreed between the data holder and the third party to preserve the confidentiality of trade secrets***;	

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 6(2), point (d)				
173	(d) make the data available it receives to an undertaking providing core platform services for which one or more of such services have been designated as a gatekeeper pursuant to Article […] of [Regulation on contestable and fair markets in the digital sector (Digital Markets Act)];	(d) make the data available it receives to an undertaking providing core platform services for which one or more of such services have been designated as a gatekeeper pursuant to Article ~~[…]~~**3** of [Regulation ~~on contestable and fair markets in the digital sector~~**(EU) 2022/1925** (Digital Markets Act)];	(d) make the data ~~available~~ it receives **available** to an undertaking ~~providing core platform services for which one or more of such services have been~~ designated as a gatekeeper pursuant to Article ~~[…] of [~~**3 of** Regulation ~~on contestable and fair markets in the digital sector (Digital Markets Act~~**EU**~~)]~~ **2022/1925**;	
Article 6(2), point (e)				

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174	(e) use the data it receives to develop a product that competes with the product from which the accessed data originate or share the data with another third party for that purpose;	(e) use the data it receives to develop a product that competes with the product from which the accessed data originate or share the data with another third party for that purpose; ***data recipients shall also not use any non-personal data generated by the use of the product or related service to derive insights about the economic situation, assets and production methods of or use by the data holder that could undermine the commercial position of the data holder on the markets in which the data holder is active;***	(e) use the data it receives to develop a product that competes with the product from which the accessed data originate or share the data with another third party for that purpose;	

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
174a		***(ea) use the data it receives in a manner that adversely impacts the security of the product or related service(s);***		
Article 6(2), point (ea)				
174b		***(eb) where relevant, disregard the specific measures agreed with a data holder or with the trade secrets holder pursuant to article 5 (8) of this Regulation and break***		***(eb) disregard the specific measures agreed with a data holder [or with the trade secrets holder] pursuant to article 5(8) of this Regulation and break the confidentiality of trade secrets;***

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		the confidentiality of trade secrets;		Text Origin: EP Mandate
	174c	***(ec) use the data to disrupt sensitive critical infrastructure protection information within the meaning of Article 2(d) of Directive 2008/114/EC.***		
	Article 6(2), point (f)			
	175			

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	(f) prevent the user, including through contractual commitments, from making the data it receives available to other parties.	(f) ~~*prevent the user, including through contractual commitments, from making the data it receives available to other parties.*~~	(f) prevent the user, including through contractual commitments, from making the data it receives available to other parties.	
Y	175a	***2a. The third party shall bear the responsibility to ensure the security and protection of the data it receives from a data holder.***		
	Article 7			
G	176			Article 7

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 7 Scope of business to consumer and business to business data sharing obligations	Article 7 Scope of business to consumer and business to business data sharing obligations	Article 7 Scope of business to consumer and business to business data sharing obligations	Scope of business to consumer and business to business data sharing obligations Text Origin: Commission Proposal
Article 7(1)				
177	1. The obligations of this Chapter shall not apply to data generated by the use of products manufactured or related services provided by enterprises that qualify as micro or small enterprises, as defined in Article 2 of the Annex to Recommendation 2003/361/EC,	1. The obligations of this Chapter shall not apply to ~~data generated by the use of products manufactured or related services provided by~~ enterprises that qualify as micro or small enterprises, as defined in Article 2 of the Annex to Recommendation 2003/361/EC,	1. The obligations of this Chapter shall not apply to data generated by the use of products manufactured or related services provided by enterprises that qualify as micro or small enterprises, as defined in Article 2 of the Annex to Recommendation 2003/361/EC,	

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	provided those enterprises do not have partner enterprises or linked enterprises as defined in Article 3 of the Annex to Recommendation 2003/361/EC which do not qualify as a micro or small enterprise.	provided those enterprises do not have partner enterprises or linked enterprises as defined in Article 3 of the Annex to Recommendation 2003/361/EC which do not qualify as a micro or small enterprise ***and where the micro and small enterprise is not subcontracted to manufacture or design a product or provide a related service***.	provided those enterprises do not have partner enterprises or linked enterprises as defined in Article 3 of the Annex to Recommendation 2003/361/EC which do not qualify as a micro or small enterprise. ***The same shall apply to data generated by the use of products manufactured or related services provided by enterprises that qualify as medium-sized enterprises as defined in that same Recommendation, for either medium-sized enterprises that meet the threshold of that category for less than one year or that where it concerns products that a medium-sized enterprise***	

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			has been placed on the market for less than one year.	
Article 7(2)				
178	2. Where this Regulation refers to products or related services, such reference shall also be understood to include virtual assistants, insofar as they are used to access or control a product or related service.	2. Where this Regulation refers to products or related services, such reference shall also be understood to include virtual assistants, insofar as they are used to access or control a product or related service.	~~*2. Where this Regulation refers to products or related services, such reference shall also be understood to include virtual assistants, insofar as they are used to access or control a product or related service.*~~	

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Y	178a		***2a. Any contractual term which, to the detriment of the user, excludes the application of, derogates from or varies the effect of the user's rights under this Chapter shall not be binding on the user.***		Y
	CHAPTER III				
G	179	CHAPTER III OBLIGATIONS FOR DATA HOLDERS LEGALLY OBLIGED TO MAKE DATA AVAILABLE	CHAPTER III OBLIGATIONS FOR DATA HOLDERS LEGALLY OBLIGED TO MAKE DATA AVAILABLE	CHAPTER III OBLIGATIONS FOR DATA HOLDERS LEGALLY OBLIGED TO MAKE DATA AVAILABLE	G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
Article 8				
G 180	Article 8 Conditions under which data holders make data available to data recipients	Article 8 Conditions under which data holders make data available to data recipients	Article 8 Conditions under which data holders make data available to data recipients	Article 8 Conditions under which data holders make data available to data recipients Text Origin: Commission Proposal G
Article 8(1)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
181	1. Where a data holder is obliged to make data available to a data recipient under Article 5 or under other Union law or national legislation implementing Union law, it shall do so under fair, reasonable and non-discriminatory terms and in a transparent manner in accordance with the provisions of this Chapter and Chapter IV.	1. Where a data holder is obliged to make data available to a data recipient under Article 5 or under other Union law or national legislation implementing Union law, it shall ***agree, with a data recipient the modalities for making the data available and shall*** do so under fair, reasonable and non-discriminatory terms and in a transparent manner in accordance with the provisions of this Chapter and Chapter IV.	1. Where***, in business-to-business relations,*** a data holder is obliged to make data available to a data recipient under Article 5 or under other Union law or national legislation ***adopted in accordance with*** ~~*implementing*~~ Union law, it shall do so under fair, reasonable and non-discriminatory terms and in a transparent manner in accordance with the provisions of this Chapter and Chapter IV.	1. Where***, in business-to-business relations,*** a data holder is obliged to make data available to a data recipient under Article 5 or under other Union law or national legislation ***adopted in accordance with*** ~~*implementing*~~ Union law, it shall ***agree, with a data recipient the modalities for making the data available and shall*** do so under fair, reasonable and non-discriminatory terms and in a transparent manner in accordance with the provisions of this Chapter and Chapter IV. Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 8(2)				
182	2. A data holder shall agree with a data recipient the terms for making the data available. A contractual term concerning the access to and use of the data or the liability and remedies for the breach or the termination of data related obligations shall not be binding if it fulfils the conditions of Article 13 or if it excludes the application of, derogates from or varies the effect of the user's rights under Chapter II.	2. ~~*A data holder shall agree with a data recipient the terms for making the data available.*~~ A contractual term concerning the access to and use of the data or the liability and remedies for the breach or the termination of data related obligations shall not be binding if it fulfils the conditions of Article 13 or if it excludes the application of, derogates from or varies the effect of the user's rights under Chapter II.	2. A data holder shall agree with a data recipient the terms for making the data available. A contractual term concerning the access to and use of the data or the liability and remedies for the breach or the termination of data related obligations shall not be binding if it fulfils the conditions of Article 13 or if***, to the detriment of the user,*** it excludes the application of, derogates from or varies the effect of the user's rights under Chapter II.	2. ~~*A data holder shall agree with a data recipient the terms for making the data available.*~~ A contractual term concerning the access to and use of the data or the liability and remedies for the breach or the termination of data related obligations shall not be binding if it fulfils the conditions of Article 13 or if***, to the detriment of the user,*** it excludes the application of, derogates from or varies the effect of the user's rights under Chapter II.

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: EP Mandate
Article 8(3)				
183	3. A data holder shall not discriminate between comparable categories of data recipients, including partner enterprises or linked enterprises, as defined in Article 3 of the Annex to Recommendation 2003/361/EC, of the data holder, when making data available. Where a data recipient considers the conditions under which data has been made available to it to be discriminatory,	3. A data holder shall not discriminate ***with respect to the modalities of data sharing*** between comparable categories of data recipients, including partner enterprises or linked enterprises, as defined in Article 3 of the Annex to Recommendation 2003/361/EC, of the data holder, when making data available. Where a data recipient ~~considers~~***holds reasonable doubt that*** the	3. A data holder shall not discriminate between comparable categories of data recipients, including partner enterprises or linked enterprises, as defined in Article 3 of the Annex to Recommendation 2003/361/EC, of the data holder, when making data available. Where a data recipient considers the conditions under which data has been made available to it to be discriminatory,	3. A data holder shall not discriminate ***with respect to the modalities of making data available*** between comparable categories of data recipients, including partner enterprises or linked enterprises, as defined in Article 3 of the Annex to Recommendation 2003/361/EC, of the data holder, when making data available. Where a data recipient considers the conditions under which data has been made

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	it shall be for the data holder to demonstrate that there has been no discrimination.	conditions under which data has been made available to it to be discriminatory, ~~it~~***the data holder*** shall***, without undue delay,*** ***provide*** ~~be for~~ the data ~~holder to demonstrate~~***recipient with the evidence demonstrating*** that there has been no discrimination.	***the data holder*** ~~it~~ shall ~~be for~~***without undue delay provide*** the data ~~holder to demonstrate~~ ***recipient, upon its request, with information showing*** that there has been no discrimination.	available to it to be discriminatory, ***the data holder*** ~~it~~ shall ~~be for~~***without undue delay provide*** the data ~~holder to demonstrate~~ ***recipient, upon its reasoned request, with information showing*** that there has been no discrimination. Text Origin: Council Mandate
Article 8(4)				
184	4. A data holder shall not make data available to a data recipient on	4. ~~A data holder shall not make data available to a data recipient on an exclusive basis unless~~	4. A data holder shall not make data available to a data recipient on	4. A data holder shall not make data available to a data recipient, ***including*** on an exclusive basis,

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	an exclusive basis unless requested by the user under Chapter II.	~~*requested by the user under Chapter II.*~~	an exclusive basis unless requested by the user under Chapter II.	unless requested by the user under Chapter II. Text Origin: Commission Proposal
Article 8(5)				
G 185	5. Data holders and data recipients shall not be required to provide any information beyond what is necessary to verify compliance with the contractual terms agreed for making data available or their obligations under this Regulation or other applicable Union law or	5. Data holders and data recipients shall not be required to provide any information beyond what is necessary to verify compliance with the contractual terms agreed for making data available or their obligations under this Regulation or other applicable Union law or	5. Data holders and data recipients shall not be required to provide any information beyond what is necessary to verify compliance with the contractual terms agreed for making data available or their obligations under this Regulation or other applicable Union law or national legislation ***adopted in***	5. Data holders and data recipients shall not be required to provide any information beyond what is necessary to verify compliance with the contractual terms agreed for making data available or their obligations under this Regulation or other applicable Union law or national legislation ***adopted in*** G

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	national legislation implementing Union law.	national legislation implementing Union law.	***accordance with*** ~~*implementing*~~ Union law.	***accordance with*** ~~*implementing*~~ Union law. Text Origin: Council Mandate
G 185a		***5a. Data holders and data recipients shall take all necessary legal, organisational and technical measures to ensure the security and integrity of the data transfers.***		G

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Article 8(6)				
186	6. Unless otherwise provided by Union law, including Article 6 of this Regulation, or by national legislation implementing Union law, an obligation to make data available to a data recipient shall not oblige the disclosure of trade secrets within the meaning of Directive (EU) 2016/943.	6. Unless otherwise provided by Union law, including ~~*Article*~~ ***Articles 4(3), 5(8) and*** 6 of this Regulation, or by national legislation implementing Union law, an obligation to make data available to a data recipient shall not oblige the disclosure of trade secrets within the meaning of Directive (EU) 2016/943.	6. Unless otherwise provided by Union law, including ~~*Article*~~ ***Articles 4(3), 5(8) and*** 6 of this Regulation, or by national legislation ***adopted in accordance with*** ~~*implementing*~~ Union law, an obligation to make data available to a data recipient shall not oblige the disclosure of trade secrets within the meaning of Directive (EU) 2016/943.	6. Unless otherwise provided by Union law, including ~~*Article 6*~~ ***Articles 4(3), 5(8)*** of this Regulation, or by national legislation ***adopted in accordance with*** ~~*implementing*~~ Union law, an obligation to make data available to a data recipient shall not oblige the disclosure of trade secrets within the meaning of Directive (EU) 2016/943. Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
Article 9					
G 187	Article 9 Compensation for making data available	Article 9 Compensation for making data available	Article 9 Compensation for making data available	Article 9 Compensation for making data available Text Origin: Commission Proposal	G
Article 9(1)					
Y 188	1. Any compensation agreed between a data holder and a data recipient for making data available shall be reasonable.	1. Any compensation agreed between a data holder and a data recipient for making data available ***in business- to- business relations***	1. Any compensation agreed ***upon*** between a data holder and a data recipient for making data available ***in business-to-business relations***		Y

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		shall be ***non - discriminatory and*** reasonable. ***A data holder, a data recipient or a third party shall not directly or indirectly charge consumers or data subjects a fee, compensation or costs for sharing data or accessing it.***	shall be reasonable ***and may include a margin***.	
Y	188a		***1a. The data holder and the data recipient shall take into account in particular:***	Y
Article 9(1), point (a)				

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G	188b		***(a) the costs incurred and investments required for making the data available, including, in particular, the costs necessary for the formatting of data, dissemination via electronic means and storage;***	***(a) the costs incurred for making the data available, including, in particular, the costs necessary for the formatting of data, dissemination via electronic means and storage;*** Text Origin: Council Mandate	G
Y	188c		***(b) the investments in data collection and production, taking into account whether other parties***		Y

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			contributed to the obtaining, generating or collecting the data in question.	
	188d		***Such compensation may also depend on the volume, format and nature of the data.***	
	Article 9(2)			
	189	2. Where the data recipient is a micro, small or medium enterprise,	2. Where the data recipient is a ~~*micro, small or medium*~~	2. Where the data recipient is a micro, small or medium enterprise,	

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	as defined in Article 2 of the Annex to Recommendation 2003/361/EC, any compensation agreed shall not exceed the costs directly related to making the data available to the data recipient and which are attributable to the request. Article 8(3) shall apply accordingly.	~~*enterprise*~~***non- profit research organisation or a SME***, as defined in Article 2 of the Annex to Recommendation 2003/361/EC, ***provided those enterprises do not have partner enterprises or linked enterprises as defined in Article 3 of the Annex to Recommendation 2003/361/EC and do not qualify as an SME,*** any compensation agreed shall not exceed the costs directly related to making the data available to the data recipient and which are attributable to the request. Article 8(3) shall apply accordingly. ***In case of an SME, the data holder shall actively inform of the obligation to provide***	as defined in Article 2 of the Annex to Recommendation 2003/361/EC, ~~*any compensation agreed shall not exceed the costs directly related to making the data available to the data recipient and*~~***provided those enterprises do not have partner enterprises or linked enterprises as defined in Article 3 of the Annex to Recommendation 2003/361/EC*** which ~~*are attributable to the request. Article 8(3) shall apply accordingly*~~***do not qualify as a micro, small or medium enterprise, any compensation agreed shall not exceed the costs set out in paragraph 1a(a)***.	

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		the data preferably on the basis of a cost-based model.		
Article 9(2a)				
G 189a		***2a. The Commission shall develop guidelines to determine criteria for categories of costs related to making data available, which shall be the basis for awarding compensation pursuant to paragraph 1.***		***2a. The Commission shall adopt guidelines on the calculation of reasonable compensation, taking into account the opinion of the European Data Innovation Board established under Regulation (EU) 2022/868.*** G
Article 9(3)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
190	3. This Article shall not preclude other Union law or national legislation implementing Union law from excluding compensation for making data available or providing for lower compensation.	3. This Article shall not preclude other Union law or national legislation implementing Union law from excluding compensation for making data available or providing for lower compensation.	3. This Article shall not preclude other Union law or national legislation ***adopted in accordance with*** ~~*implementing*~~ Union law from excluding compensation for making data available or providing for lower compensation.	3. This Article shall not preclude other Union law or national legislation ***adopted in accordance with*** ~~*implementing*~~ Union law from excluding compensation for making data available or providing for lower compensation. Text Origin: Council Mandate
Article 9(4)				
191	4. The data holder shall provide the data recipient with information	4. The data holder shall provide the data recipient with information	4. The data holder shall provide the data recipient with information	4. The data holder shall provide the data recipient with information setting out the basis for the

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	setting out the basis for the calculation of the compensation in sufficient detail so that the data recipient can verify that the requirements of paragraph 1 and, where applicable, paragraph 2 are met.	setting out the basis for the calculation of the compensation in sufficient detail so that the data recipient can verify that the requirements of paragraph 1 and, where applicable, paragraph 2 are met.	setting out the basis for the calculation of the compensation in sufficient detail so that the data recipient can ~~*verify that*~~ ***assess whether*** the requirements of paragraph 1 and, where applicable, paragraph 2 are met.	calculation of the compensation in sufficient detail so that the data recipient can ~~*verify that*~~ ***assess whether*** the requirements of paragraph 1 and, where applicable, paragraph 2 are met. Text Origin: Council Mandate
G	191a		***4a. The Commission shall adopt guidelines on the calculation of reasonable compensation, taking into account the opinion of the European Data Innovation Board***	G

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			established under Regulation (EU) 2022/868.	
Article 10				
192	Article 10 Dispute settlement	Article 10 Dispute settlement	Article 10 Dispute settlement	Article 10 Dispute settlement Text Origin: Commission Proposal
Article 10(1)				
193				1. ***Users,*** data holders and data recipients shall have access to

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	1. Data holders and data recipients shall have access to dispute settlement bodies, certified in accordance with paragraph 2 of this Article, to settle disputes in relation to the determination of fair, reasonable and non-discriminatory terms for and the transparent manner of making data available in accordance with Articles 8 and 9.	1. ***Users,*** data holders and data recipients shall have access to dispute settlement bodies, certified in accordance with paragraph 2 of this Article, to settle disputes in relation to ***fulfilment of the data holder's obligation to make data available to the data recipient, upon the request of the user,*** the determination of fair, reasonable and non-discriminatory terms for and the transparent manner of making data available in accordance with Articles 8***, 9 and 13*** ~~***and 9***~~.	1. Data holders and data recipients shall have access to dispute settlement bodies, certified in accordance with paragraph 2 of this Article, to settle disputes in relation to ~~***the determination of***~~ fair, reasonable and non-discriminatory terms for and the transparent manner of making data available in accordance with ~~***Articles 8 and 9***~~***Article 5(8), this Chapter and Chapter IV***.	dispute settlement bodies, certified in accordance with paragraph 2 of this Article, to settle disputes in relation to the ~~***determination of***~~ ***fulfilment of the data holder's obligation to make data available to the data recipient as well as to the*** fair, reasonable and non-discriminatory terms for and the transparent manner of making data available in accordance with ~~***Articles 8 and 9***~~***[Article 5(8), this Chapter and Chapter IV]***. Remaining brackets Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 10(1a)				
193a			***1a. Users and data recipients shall have access to dispute settlement bodies, certified in accordance with paragraph 2 of this Article, to settle disputes in relation to Articles 4(3a) and 5(8a).***	***1a. Dispute settlement bodies shall make the fees, or the mechanisms used to determine the fees, known to the parties concerned before those parties request a decision.*** TM 6/6: green, swap with 193b Text Origin: Council Mandate
Article 10(1b)				

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193b			*1b. Dispute settlement bodies shall make the fees, or the mechanisms used to determine the fees, known to the parties concerned before those parties request a decision.*	*1b. Users and data recipients shall have access to dispute settlement bodies, certified in accordance with paragraph 2 of this Article, to settle disputes in relation to [Articles 4(3a) and 5(8a)].* TM 6/6: green, swap with 193a Remaining brackets
Article 10(1c)				
193c				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			1c. For disputes referred to in paragraph 1a, where the dispute settlement body decides the dispute in favour of the user or the data recipient, the data holder shall bear all the fees charged by the dispute settlement body, and shall reimburse that user or data recipient for any other reasonable expenses that it has paid in relation to the dispute settlement. If the dispute settlement body decides the dispute in favour of the data holder, the user or data recipient shall not be required to reimburse any fees or other expenses that the data holder paid or is to pay in relation to the dispute settlement, unless the dispute settlement body finds that	***1c. For disputes referred to in paragraph 1a, where the dispute settlement body decides the dispute in favour of the user or the data recipient, the data holder shall bear all the fees charged by the dispute settlement body, and shall reimburse that user or data recipient for any other reasonable expenses that it has paid in relation to the dispute settlement. If the dispute settlement body decides the dispute in favour of the data holder, the user or data recipient shall not be required to reimburse any fees or other expenses that the data holder paid or is to pay in relation to the dispute settlement, unless the dispute settlement body finds that***

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			the user or data recipient manifestly acted in bad faith.	***the user or data recipient manifestly acted in bad faith.*** Text Origin: Council Mandate
Article 10(1d)				
193d				***1d. Customers and providers of data processing services shall have access to dispute settlement bodies, certified in accordance with paragraph 2, to settle disputes in relation to breaches of the rights of customers and the obligations of providers of data***

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				processing services, in accordance with Chapter VI. linked to deletion of 321e, f and g
Article 10(2), first subparagraph				
G 194	2. The Member State where the dispute settlement body is established shall, at the request of that body, certify the body, where the body has demonstrated that it meets all of the following conditions:	2. The Member State where the dispute settlement body is established shall, at the request of that body, certify the body, where the body has demonstrated that it meets all of the following conditions:	2. The Member State where the dispute settlement body is established shall, at the request of that body, certify the body, where the body has demonstrated that it meets all of the following conditions:	2. The Member State where the dispute settlement body is established shall, at the request of that body, certify the body, where the body has demonstrated that it meets all of the following conditions: Text Origin: Commission Proposal G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 10(2), first subparagraph, point (a)				
195	(a) it is impartial and independent, and it will issue its decisions in accordance with clear and fair rules of procedure;	(a) it is impartial and independent, and it will issue its decisions in accordance with clear and fair rules of procedure;	(a) it is impartial and independent, and it will issue its decisions in accordance with clear, ***non-discriminatory*** and fair rules of procedure;	(a) it is impartial and independent, and it will issue its decisions in accordance with clear, ***non-discriminatory*** and fair rules of procedure; Text Origin: Council Mandate
Article 10(2), first subparagraph, point (b)				
196				(b) it has the necessary expertise, ***in particular*** in relation to the

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	(b) it has the necessary expertise in relation to the determination of fair, reasonable and non-discriminatory terms for and the transparent manner of making data available, allowing the body to effectively determine those terms;	(b) it has the necessary expertise in relation to the determination of fair, reasonable and non-discriminatory terms for and the transparent manner of making data available, allowing the body to effectively determine those terms;	(b) it has the necessary expertise in relation to the determination of fair, reasonable and non-discriminatory terms, ***including compensation,*** for and the transparent manner of making data available, allowing the body to effectively determine those terms;	determination of fair, reasonable and non-discriminatory terms, ***including compensation,*** for and the transparent manner of making data available, allowing the body to effectively determine those terms; Text Origin: Council Mandate
Article 10(2), first subparagraph, point (c)				
197	(c) it is easily accessible through electronic communication technology;	(c) it is easily accessible through electronic communication technology;	(c) it is easily accessible through electronic communication technology;	(c) it is easily accessible through electronic communication technology;

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
Article 10(2), first subparagraph, point (d)				
G 198	(d) it is capable of issuing its decisions in a swift, efficient and cost-effective manner and in at least one official language of the Union.	(d) it is capable of issuing its decisions in a swift, efficient and cost-effective manner and in at least one official language of the ~~Union~~***Member State where the body is established***.	(d) it is capable of issuing its decisions in a swift, efficient and cost-effective manner and in at least one official language of the Union.	(d) it is capable of issuing its decisions in a swift, efficient and cost-effective manner and in at least one official language of the Union. Text Origin: Commission Proposal G
Article 10(2), second subparagraph				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
199	If no dispute settlement body is certified in a Member State by [date of application of the Regulation], that Member State shall establish and certify a dispute settlement body that fulfils the conditions set out in points (a) to (d) of this paragraph.	If no dispute settlement body is certified in a Member State by [date of application of the Regulation], that Member State shall establish and certify a dispute settlement body that fulfils the conditions set out in points (a) to (d) of this paragraph.	~~*If no dispute settlement body is certified in a Member State by [date of application of the Regulation], that Member State shall establish and certify a dispute settlement body that fulfils the conditions set out in points (a) to (d) of this paragraph.*~~	*deleted*
Article 10(3)				
200	*3.* Member States shall notify to the Commission the dispute settlement bodies certified in accordance with paragraph 2. The	3. Member States shall notify to the Commission the dispute settlement bodies certified in accordance with paragraph 2. The	3. Member States shall notify to the Commission the dispute settlement bodies certified in accordance with paragraph 2. The	3. Member States shall notify to the Commission the dispute settlement bodies certified in accordance with paragraph 2. The Commission shall publish a list of

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Commission shall publish a list of those bodies on a dedicated website and keep it updated.	Commission shall publish a list of those bodies on a dedicated website and keep it updated.	Commission shall publish a list of those bodies on a dedicated website and keep it updated.	those bodies on a dedicated website and keep it updated. Text Origin: Commission Proposal
Article 10(4)				
G 201	4. Dispute settlement bodies shall make the fees, or the mechanisms used to determine the fees, known to the parties concerned before those parties request a decision.	4. Dispute settlement bodies shall make the fees, or the mechanisms used to determine the fees, known to the parties concerned before those parties request a decision.	~~4. Dispute settlement bodies shall make the fees, or the mechanisms used to determine the fees, known to the parties concerned before those parties request a decision.~~	*deleted* G
Article 10(5)				

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202	*5.* Dispute settlement bodies shall refuse to deal with a request to resolve a dispute that has already been brought before another dispute settlement body or before a court or a tribunal of a Member State.	5. Dispute settlement bodies shall refuse to deal with a request to resolve a dispute that has already been brought before another dispute settlement body or before a court or a tribunal of a Member State.	5. Dispute settlement bodies shall refuse to deal with a request to resolve a dispute that has already been brought before another dispute settlement body or before a court or a tribunal of a Member State.	5. Dispute settlement bodies shall refuse to deal with a request to resolve a dispute that has already been brought before another dispute settlement body or before a court or a tribunal of a Member State. Text Origin: Commission Proposal
Article 10(6)				
203	6. Dispute settlement bodies shall grant the parties the possibility,	6. Dispute settlement bodies shall grant the parties the possibility,	6. Dispute settlement bodies shall grant the parties the possibility,	6. Dispute settlement bodies shall grant the parties the possibility, within a reasonable period of time,

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	within a reasonable period of time, to express their point of view on matters those parties have brought before those bodies. In that context, dispute settlement bodies shall provide those parties with the submissions of the other party and any statements made by experts. Those bodies shall grant the parties the possibility to comment on those submissions and statements.	within a reasonable period of time, to express their point of view on matters those parties have brought before those bodies. In that context, dispute settlement bodies shall provide those parties with the submissions of the other party and any statements made by experts. Those bodies shall grant the parties the possibility to comment on those submissions and statements.	within a reasonable period of time, to express their point of view on matters those parties have brought before those bodies. In that context, dispute settlement bodies shall provide those parties with the submissions of the other party and any statements made by experts. Those bodies shall grant the parties the possibility to comment on those submissions and statements.	to express their point of view on matters those parties have brought before those bodies. In that context, dispute settlement bodies shall provide those parties with the submissions of the other party and any statements made by experts. Those bodies shall grant the parties the possibility to comment on those submissions and statements. Text Origin: Commission Proposal
Article 10(7)				
204				

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	7. Dispute settlement bodies shall issue their decision on matters referred to them no later than 90 days after the request for a decision has been made. Those decisions shall be in writing or on a durable medium and shall be supported by a statement of reasons supporting the decision.	7. Dispute settlement bodies shall issue their decision on matters referred to them no later than 90 days after the request for a decision has been made. Those decisions shall be in writing or on a durable medium and shall be supported by a statement of reasons supporting the decision.	7. Dispute settlement bodies shall issue their decision on matters referred to them no later than 90 days after the request for a decision has been made. Those decisions shall be in writing or on a durable medium and shall be supported by a statement of reasons supporting the decision.	7. Dispute settlement bodies shall issue their decision on matters referred to them no later than 90 days after the request for a decision has been made. Those decisions shall be in writing or on a durable medium and shall be supported by a statement of reasons supporting the decision. Text Origin: Commission Proposal
Article 10(7), point (a)				
204a		*7a. Dispute settlement bodies shall make annual activity reports*	*7a. Dispute settlement bodies shall make publicly available*	*7a. Dispute settlement bodies shall make publicly available*

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		publicly available. Each annual report shall include in particular the following information:	***annual activity reports. The annual report shall include in particular the following general information:***	***annual activity reports. The annual report shall include in particular the following general information:*** Text Origin: Council Mandate
G	204b		***(a) the number of disputes received;***	***(a) the number of disputes received;***	G
Article 10(7), point (b)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
204c		***(b) an aggregation of the outcomes of those disputes;***	***(b) the outcomes of those disputes;***	***(b) an aggregation of the outcomes of those disputes;*** Text Origin: EP Mandate
Article 10(7), point (c)				
204d		***(c) the average time taken to resolve the disputes;***	***(c) the average time taken to resolve the disputes;***	***(c) the average time taken to resolve the disputes;*** Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
Article 10(7), point (d)					
G 204e		***(d) the most common reasons that lead to disputes between the parties.***	***(d) common problems that occur frequently and lead to disputes between the parties; such information may be accompanied by recommendations as to how such problems can be avoided or resolved, in order to facilitate the exchange of information and best practices.***	***(d) the most common reasons that lead to disputes between the parties.*** Text Origin: EP Mandate	G
Article 10(7b)					
G 204f		***7b. In order to facilitate the exchange of information and best***		***7b. In order to facilitate the exchange of information and best***	G

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		practices, the public dispute settlement body may decide to include recommendations as to how such problems can be avoided or resolved.		***practices, the public dispute settlement body may decide to include recommendations as to how such problems can be avoided or resolved.*** Text Origin: EP Mandate
Article 10(8)				
G 205	8. The decision of the dispute settlement body shall only be binding on the parties if the parties have explicitly consented to its binding nature prior to the start of the dispute settlement proceedings.	8. The decision of the dispute settlement body shall only be binding on the parties if the parties have explicitly consented to its binding nature prior to the start of the dispute settlement proceedings.	8. The decision of the dispute settlement body shall only be binding on the parties if the parties have explicitly consented to its binding nature prior to the start of the dispute settlement proceedings.	8. The decision of the dispute settlement body shall only be binding on the parties if the parties have explicitly consented to its binding nature prior to the start of the dispute settlement proceedings. G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
Article 10(9)				
G 206	9. This Article does not affect the right of the parties to seek an effective remedy before a court or tribunal of a Member State.	9. This Article does not affect the right of the parties to seek an effective remedy before a court or tribunal of a Member State.	9. This Article does not affect the right of the parties to seek an effective remedy before a court or tribunal of a Member State.	9. This Article does not affect the right of the parties to seek an effective remedy before a court or tribunal of a Member State. Text Origin: Commission Proposal G
Article 11				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
G 207	Article 11 Technical protection measures and provisions on unauthorised use or disclosure of data	Article 11 Technical protection measures and provisions on unauthorised use or disclosure of data	Article 11 Technical protection measures and provisions on unauthorised use or disclosure of data	Article 11 Technical protection measures and provisions on unauthorised use or disclosure of data Text Origin: Commission Proposal G
Article 11(1)				
Y 208	1. The data holder may apply appropriate technical protection measures, including smart contracts, to prevent unauthorised access to the data and to ensure	1. The data holder may apply appropriate technical protection measures, including smart contracts ***and encryption***, to prevent unauthorised ***disclosure of***	1. The data holder may apply appropriate technical protection measures, including smart contracts, to prevent unauthorised access to the data and to ensure	1. The data holder may apply appropriate technical protection measures, including smart contracts ***and encryption***, to prevent unauthorised ***disclosure of*** Y

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	compliance with Articles 5, 6, 9 and 10, as well as with the agreed contractual terms for making data available. Such technical protection measures shall not be used as a means to hinder the user's right to effectively provide data to third parties pursuant to Article 5 or any right of a third party under Union law or national legislation implementing Union law as referred to in Article 8(1).	***and*** access to the data***, including metadata,*** and to ensure compliance with Articles ***4, 5, 6, 8,*** ~~5, 6,~~ 9 and 10, as well as with the agreed contractual terms for making data available. Such technical protection measures shall ~~not be used as a means to~~***neither discriminate between data recipients nor*** hinder***,*** the user's right to effectively ***obtain a copy, retrieve, use or access data or*** provide data to third parties pursuant to Article 5 or any right of a third party under Union law or national legislation implementing Union law as referred to in Article 8(1)***. Where a user or data holder provides tangible relevant evidence for unlawful use or***	compliance with Articles 5, 6, 9 and 10, as well as with the agreed contractual terms for making data available. Such technical protection measures shall not be used as a means to ***discriminate between data recipients or to*** hinder the user's right to effectively provide data to third parties pursuant to Article 5 or any right of a third party under Union law or national legislation implementing Union law as referred to in Article 8(1)***. Users and data recipients shall not alter or remove such technical protection measures.***	***and*** access to the data***, including metadata,*** and to ensure compliance with Articles ***4, 5, 6, 8,*** ~~5, 6,~~ 9 and 10, as well as with the agreed contractual terms for making data available. Such technical protection measures shall ~~not be used as a means to~~***neither discriminate between data recipients nor*** hinder***,*** the user's right to effectively ***obtain a copy, retrieve, use or access data or*** provide data to third parties pursuant to Article 5 or any right of a third party under Union law or national legislation implementing Union law as referred to in Article 8(1)***. Users and data recipients shall not alter or remove such technical protection measures***

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		unauthorised disclosure to a third party by the data recipient, the data recipient shall, upon request of the user or data holder, provide information on how the data has been used, or with whom it has been shared.		***unless agreed by the data holder. [Where a user or data holder provides tangible relevant evidence for unlawful use or unauthorised disclosure to a third party by the data recipient, the data recipient shall, upon request of the user or data holder, provide information on how the data has been used, or with whom it has been shared.]*** Text Origin: EP Mandate
Article 11(2)				
209				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	2. A data recipient that has, for the purposes of obtaining data, provided inaccurate or false information to the data holder, deployed deceptive or coercive means or abused evident gaps in the technical infrastructure of the data holder designed to protect the data, has used the data made available for unauthorised purposes or has disclosed those data to another party without the data holder's authorisation, shall without undue delay, unless the data holder or the user instruct otherwise:	2. ***Where*** a data recipient that has, for the purposes of obtaining data, provided ~~*inaccurate or*~~ false information to the data holder, deployed deceptive or coercive means or abused evident gaps in the technical infrastructure of the data holder designed to protect the data, has used the data made available for unauthorised purposes***, including the development of a competing product within the meaning of Article 6 (2) (e)*** or has ***unlawfully*** disclosed ~~*those*~~ data to another party ~~*without*~~***,*** the data ~~*holder's authorisation,*~~ ***recipient shall be liable for the damages to the party suffering from the misuse or disclosure of such data and*** shall	2. ***Where*** a data recipient ~~*that has,*~~ ***has,*** ***-*** for the purposes of obtaining data, provided inaccurate or ~~*false*~~***incomplete*** information to the data holder, deployed deceptive or coercive means or abused evident gaps in the technical infrastructure of the data holder designed to protect the data, ~~*has*~~ ***-*** used the data made available for unauthorised purposes***, including the development of a competing product in the sense of Article 6(2)(e),*** ***-*** ~~*or has*~~ disclosed those data to another party without the data holder's authorisation,	

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		comply without undue delay~~,~~ ~~*unless*~~ ***with the requests of*** the data holder or the ~~*user instruct otherwise*~~***trade secret holder when they are not the same legal person to***:	***- not maintained the technical and organisational measures taken by the data recipient in agreement with*** ~~*shall without undue delay, unless*~~ the data holder ***in order to preserve trade secrets in accordance with Article 5(8), or*** ***- altered or removed technical protection measures applied by the data holder in accordance with Article 11(1),*** ***the data holder may*** ~~*or the user instruct otherwise*~~:	
Article 11(2), point (a)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
210	(a) destroy the data made available by the data holder and any copies thereof;	(a) ~~destroy~~***erase*** the data made available ~~*by the data holder*~~ and any copies thereof;	(a) ~~destroy~~***request the data recipient to, without undue delay, erase*** the data made available by the data holder and any copies thereof;	
Article 11(2), point (b)				
211	(b) end the production, offering, placing on the market or use of goods, derivative data or services produced on the basis of knowledge obtained through such data, or the importation, export or storage of infringing goods for	(b) end the production, offering, placing on the market or use of goods, derivative data or services produced on the basis of knowledge obtained through such data, or the importation, export or storage of infringing goods for	(b) ***request the data recipient to, without undue delay,*** end the production, offering, placing on the market or use of goods, derivative data or services produced on the basis of knowledge obtained through such data, or the	(b) end the production, offering, placing on the market or use of goods, derivative data or services produced on the basis of knowledge obtained through such data, or the importation, export or storage of infringing goods for those purposes, and destroy any

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	those purposes, and destroy any infringing goods.	those purposes, and destroy any infringing goods.	importation, export or storage of infringing goods for those purposes, and destroy any infringing goods-.	infringing goods-. ***where there is a serious risk that the unlawful use of those data will cause a significant harm to the data holder or the user;*** Text Origin: EP Mandate
	211a	***(ba) inform the user of the unauthorised use or disclosure of the data and measures taken to put an end to the unauthorised use or disclosure of the data.***		

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 11(2), point (ba)				
211b		***(bb) notify the data holder about the disclosure of such data.***		*deleted*
211c			***(c) seek compensation from the data recipient.***	

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
Y	211d		***2a. The user shall enjoy the same prerogatives as the data holder, and the data recipient, the same obligation as those stated in paragraph 2 when the data recipient has infringed Article 6 (2) (a) and (b).***		Y
	Article 11(2), point (bb)				
G	211e			***2a. Where a user violates the obligation in Article 4(4), alters or removes technical protection measures applied by the data holder or does not maintain the***	***2a. Where a user alters or removes technical protection measures applied by the data holder or does not maintain the technical and organisational measures taken by the user in*** G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			technical and organisational measures taken by the user in agreement with the data holder in order to preserve trade secrets, the data holder shall have the same rights against the user's behaviour under paragraph 2 and 3. The same shall apply to any other party having received the data from user violating the obligation in Article 4(4).	***agreement with the data holder [or the trade secrets holder, if it is not the data holder] in order to preserve trade secrets, the data holder shall have the same rights against the user's behaviour under paragraphs 2 and 3. The same shall apply to any other third party having received the data from the user in violation of this Regulation.*** Text Origin: Council Mandate
Y	211f			Y

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			2b. Where the data recipient has acted in violation of Article 6(2)(a) and 6(2)(b), users shall have the same rights as data holders under paragraph 2. Paragraph 3 shall apply mutatis mutandis.	
Article 11(3)				
212	3. Paragraph 2, point (b), shall not apply in either of the following cases:	3. ~~*Paragraph 2, point (b), shall not apply in either of the following cases:*~~	3. Paragraph 2, point (b), shall not apply in either of the following cases:	*deleted*
Article 11(3), point (a)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
Y	213	*(a)* use of the data has not caused significant harm to the data holder;	(a) ~~*use of the data has not caused significant harm to the data holder;*~~	(a) use of the data has not caused significant harm to the data holder ***or the user respectively***; ***or***	*deleted*	Y
	Article 11(3), point (b)					
Y	214	*(b)* it would be disproportionate in light of the interests of the data holder.	(b) ~~*it would be disproportionate in light of the interests of the data holder.*~~	(b) it would be disproportionate in light of the interests of the data holder ***or the user***.	*deleted*	Y
	Article 12					
G	215	Article 12	Article 12	Article 12	Article 12	G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Scope of obligations for data holders legally obliged to make data available	Scope of obligations for data holders legally obliged to make data available	Scope of obligations for data holders legally obliged to make data available	Scope of obligations for data holders legally obliged to make data available Text Origin: Commission Proposal
Article 12(1)				
216	1. This Chapter shall apply where a data holder is obliged under Article 5, or under Union law or national legislation implementing Union law, to make data available to a data recipient.	1. This Chapter shall apply where a data holder is obliged under Article 5, or under Union law or national legislation implementing Union law, to make data available to a data recipient.	1. This Chapter shall apply where, ***in business-to-business relations,*** a data holder is obliged under Article 5, or under Union law or national legislation ***adopted in accordance with*** ~~*implementing*~~ Union law, to make data available to a data recipient.	1. This Chapter shall apply where, ***[in business-to-business relations,]*** a data holder is obliged under Article 5, or under Union law or national legislation ***adopted in accordance with*** ~~*implementing*~~ Union law, to make data available to a data recipient.

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
Article 12(2)				
217	2. Any contractual term in a data sharing agreement which, to the detriment of one party, or, where applicable, to the detriment of the user, excludes the application of this Chapter, derogates from it, or varies its effect, shall not be binding on that party.	2. Any contractual term in a data sharing agreement which, to the detriment of one party, or, where applicable, to the detriment of the user, excludes the application of this Chapter, derogates from it, or varies its effect, shall ~~not be binding on that party.~~ ***be void.***	2. Any contractual term in a data sharing agreement which, to the detriment of one party, or, where applicable, to the detriment of the user, excludes the application of this Chapter, derogates from it, or varies its effect, shall not be binding on that party.	
Article 12(2a)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
G 217a		***2a. Any contractual term in a data sharing agreement between data holders and data recipients which, to the detriment of the data subjects, undermines the application of their rights to privacy and data protection, derogates from it, or varies its effect, shall be void.***		*deleted* G
Article 12(3)				
G *218*	*3.* This Chapter shall only apply in relation to obligations to make data available under Union law or	3. This Chapter shall only apply in relation to obligations to make data available under Union law or	3. This Chapter shall only apply in relation to obligations to make data available under Union law or	3. This Chapter shall only apply in relation to obligations to make data available under Union law or national legislation ***adopted in*** G

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	national legislation implementing Union law, which enter into force after [date of application of the Regulation].	national legislation implementing Union law, which enter into force after [date of application of the Regulation].	national legislation ***adopted in accordance with*** ~~*implementing*~~ Union law, which enter into force after [date of application of the Regulation].	***accordance with*** ~~*implementing*~~ Union law, which enter into force after [date of application of the Regulation]. Text Origin: Council Mandate
CHAPTER IV				
219	CHAPTER IV UNFAIR TERMS RELATED TO DATA ACCESS AND USE BETWEEN ENTERPRISES	CHAPTER IV UNFAIR TERMS RELATED TO DATA ACCESS AND USE BETWEEN ENTERPRISES	CHAPTER IV UNFAIR ***CONTRACTUAL*** TERMS RELATED TO DATA ACCESS AND USE ~~*BETWEEN ENTERPRISES*~~	

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 13				
220	Article 13 Unfair contractual terms unilaterally imposed on a micro, small or medium-sized enterprise	Article 13 Unfair contractual terms unilaterally imposed on a ~~*micro, small or medium-sized*~~ enterprise	Article 13 Unfair contractual terms unilaterally imposed on ~~*a micro, small or medium-sized*~~ ***another*** enterprise	Article 13 Unfair contractual terms unilaterally imposed on ~~*a micro, small or medium-sized*~~ ***another*** enterprise Text Origin: Council Mandate
Article 13(1)				
221	1. A contractual term, concerning the access to and use of data or the	1. A contractual term, concerning the access to and use of data or the	1. A contractual term, concerning the access to and use of data or the	1. A contractual term, concerning the access to and use of data or the liability and remedies for the

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	liability and remedies for the breach or the termination of data related obligations which has been unilaterally imposed by an enterprise on a micro, small or medium-sized enterprise as defined in Article 2 of the Annex to Recommendation 2003/361/EC shall not be binding on the latter enterprise if it is unfair.	liability and remedies for the breach or the termination of data related obligations which has been unilaterally imposed by an enterprise on ~~*a micro, small or medium-sized*~~***another*** enterprise ~~*as defined in Article 2 of the Annex to Recommendation 2003/361/EC*~~ shall not be binding on the latter enterprise***, the data recipient or user respectively,*** if it is unfair.	liability and remedies for the breach or the termination of data related obligations which has been unilaterally imposed by an enterprise ~~*on a micro, small or medium-sized*~~ ***on another*** enterprise ~~*as defined in Article 2 of the Annex to Recommendation 2003/361/EC*~~**,** shall not be binding on the latter enterprise if it is unfair.	breach or the termination of data related obligations which has been unilaterally imposed by an enterprise ~~*on a micro, small or medium-sized*~~ ***on another*** enterprise ~~*as defined in Article 2 of the Annex to Recommendation 2003/361/EC*~~**,** shall not be binding on the latter enterprise if it is unfair. Text Origin: Council Mandate
Article 13(1a)				
221a				

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		1a. A contractual term is not to be considered unfair where it arises from applicable Union law.		***1a. A contractual term which reflects mandatory provisions of Union law or provisions of Union law, which would apply if the contractual terms did not regulate the matter, is not to be considered unfair.*** Text Origin: EP Mandate
Article 13(2)				
222	2. A contractual term is unfair if it is of such a nature that its use grossly deviates from good commercial practice in data access	2. A contractual term is unfair if it is of such a nature that ***objectively impairs the ability of the party upon whom the term has been***	2. A contractual term is unfair if it is of such a nature that its use grossly deviates from good commercial practice in data access	2. A contractual term is unfair if it is of such a nature that its use grossly deviates from good commercial practice in data access

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	and use, contrary to good faith and fair dealing.	***unilaterally imposed to protect its legitimate commercial interest in the data in question or*** its use grossly deviates from good commercial practice in data access and use, contrary to good faith and fair dealing. ***or creates a significant imbalance between the rights and the obligations of the parties in the contract.***	and use, contrary to good faith and fair dealing.	and use, contrary to good faith and fair dealing. Text Origin: Commission Proposal
Article 13(3)				
223	3. A contractual term is unfair for the purposes of this Article if its object or effect is to:	3. A contractual term is unfair for the purposes of this Article if its object or effect is to:	3. ~~A~~***In particular*** contractual term is unfair for the purposes of ***paragraph 2,*** ~~*this Article*~~ if its object or effect is to:	3. ~~A~~***In particular*** contractual term is unfair for the purposes of ***paragraph 2,*** ~~*this Article*~~ if its object or effect is to:

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
Article 13(3), point (a)				
224	(a) exclude or limit the liability of the party that unilaterally imposed the term for intentional acts or gross negligence;	(a) exclude or limit the liability of the party that unilaterally imposed the term for intentional acts or gross negligence;	(a) exclude or limit the liability of the party that unilaterally imposed the term for intentional acts or gross negligence;	(a) exclude or limit the liability of the party that unilaterally imposed the term for intentional acts or gross negligence; Text Origin: Commission Proposal
Article 13(3), point (b)				

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225	(b) exclude the remedies available to the party upon whom the term has been unilaterally imposed in case of non-performance of contractual obligations or the liability of the party that unilaterally imposed the term in case of breach of those obligations;	(b) exclude the remedies available to the party upon whom the term has been unilaterally imposed in ***the*** case of non-performance of contractual obligations or the liability of the party that unilaterally imposed the term in ***the*** case of ***a*** breach of those obligations;	(b) exclude the remedies available to the party upon whom the term has been unilaterally imposed in case of non-performance of contractual obligations or the liability of the party that unilaterally imposed the term in case of breach of those obligations;	(b) exclude the remedies available to the party upon whom the term has been unilaterally imposed in ***the*** case of non-performance of contractual obligations or the liability of the party that unilaterally imposed the term in ***the*** case of ***a*** breach of those obligations; Text Origin: EP Mandate
Article 13(3), point (c)				
226				

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	(c) give the party that unilaterally imposed the term the exclusive right to determine whether the data supplied are in conformity with the contract or to interpret any term of the contract.	(c) give the party that unilaterally imposed the term the exclusive right to determine whether the data supplied are in conformity with the contract or to interpret any term of the contract.	(c) give the party that unilaterally imposed the term the exclusive right to determine whether the data supplied are in conformity with the contract or to interpret any term of the contract.	(c) give the party that unilaterally imposed the term the exclusive right to determine whether the data supplied are in conformity with the contract or to interpret any term of the contract. Text Origin: Commission Proposal
Article 13(4)				
227	4. A contractual term is presumed unfair for the purposes of this Article if its object or effect is to:	4. A contractual term is presumed unfair for the purposes of this Article if its object or effect is to:	4. A contractual term is presumed unfair for the purposes of ~~*this Article*~~ ***paragraph 2*** if its object or effect is to:	4. A contractual term is presumed unfair for the purposes of ~~*this Article*~~ ***paragraph 2*** if its object or effect is to:

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				Text Origin: Council Mandate
Article 13(4), point (a)				
228	(a) inappropriately limit the remedies in case of non-performance of contractual obligations or the liability in case of breach of those obligations;	(a) inappropriately limit the remedies in ***the*** case of non-performance of contractual obligations or the liability in ***the*** case of ***a*** breach of those obligations;	(a) inappropriately limit the remedies in case of non-performance of contractual obligations or the liability in case of breach of those obligations***, or extend the liability of the enterprise upon whom the term has been imposed***;	(a) inappropriately limit the remedies in ***the*** case of non-performance of contractual obligations or the liability in ***the*** case of ***a*** breach of those obligations***, or extend the liability of the enterprise upon whom the term has been imposed***; Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 13(4), point (b)				
229	(b) allow the party that unilaterally imposed the term to access and use data of the other contracting party in a manner that is significantly detrimental to the legitimate interests of the other contracting party;	(b) allow the party that unilaterally imposed the term to access and use data of the other contracting party in a manner that is significantly detrimental to the legitimate interests of the other contracting party***, including when such data contains commercially sensitive data or are protected by trade secrets or by intellectual property rights, without the prior consent of the relevant parties***;	(b) allow the party that unilaterally imposed the term to access and use data of the other contracting party in a manner that is significantly detrimental to the legitimate interests of the other contracting party;	(b) allow the party that unilaterally imposed the term to access and use data of the other contracting party in a manner that is significantly detrimental to the legitimate interests of the other contracting party***, in particular when such data contains commercially sensitive data or are protected by trade secrets or by intellectual property rights***; Text Origin: EP Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 13(4), point (c)				
230	(c) prevent the party upon whom the term has been unilaterally imposed from using the data contributed or generated by that party during the period of the contract, or to limit the use of such data to the extent that that party is not entitled to use, capture, access or control such data or exploit the value of such data in a proportionate manner;	(c) prevent the party upon whom the term has been unilaterally imposed from using the data contributed or generated by that party during the period of the contract, or to limit the use of such data to the extent that that party is not entitled to use, capture, access or control such data or exploit the value of such data in a proportionate manner;	(c) prevent the party upon whom the term has been unilaterally imposed from using the data contributed or generated by that party during the period of the contract, or to limit the use of such data to the extent that that party is not entitled to use, capture, access or control such data or exploit the value of such data in a ~~proportionate~~ ***reasonable*** manner;	(c) prevent the party upon whom the term has been unilaterally imposed from using the data contributed or generated by that party during the period of the contract, or to limit the use of such data to the extent that that party is not entitled to use, capture, access or control such data or exploit the value of such data in ~~a~~ ~~proportionate~~***an adequate*** manner; Text Origin: Council Mandate

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Article 13(4), point (ca)				
230a		***(ca) impose the unilateral choice of the competent jurisdiction or the payment of the cost related to the procedure;***		*deleted*
Article 13(4), point (cb)				
230b		***(cb) prevent the party upon whom the term has been unilaterally imposed for terminating the agreement within a reasonable time period;***		***(cb) prevent the party upon whom the term has been unilaterally imposed from terminating the agreement within a reasonable time period;***

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: EP Mandate
Article 13(4), point (d)				
G 231	(d) prevent the party upon whom the term has been unilaterally imposed from obtaining a copy of the data contributed or generated by that party during the period of the contract or within a reasonable period after the termination thereof;	(d) prevent the party upon whom the term has been unilaterally imposed from obtaining a copy of the data contributed or generated by that party during the period of the contract or within a reasonable period after the termination thereof;	(d) prevent the party upon whom the term has been unilaterally imposed from obtaining a copy of the data contributed or generated by that party during the period of the contract or within a reasonable period after the termination thereof;	(d) prevent the party upon whom the term has been unilaterally imposed from obtaining a copy of the data contributed or generated by that party during the period of the contract or within a reasonable period after the termination thereof; Text Origin: Commission Proposal G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 13(4), point (e)				
232	(e) enable the party that unilaterally imposed the term to terminate the contract with an unreasonably short notice, taking into consideration the reasonable possibilities of the other contracting party to switch to an alternative and comparable service and the financial detriment caused by such termination, except where there are serious grounds for doing so.	(e) ***enable the party that unilaterally imposed the term to substantially vary the upfront price payable under the contract, or any other substantial condition on the data to be shared, without the right of the other party to terminate the contract, or*** enable the party that unilaterally imposed the term to terminate the contract with an unreasonably short notice, taking into consideration the reasonable possibilities of the other contracting party to switch to an alternative and comparable service and the financial detriment caused	(e) enable the party that unilaterally imposed the term to terminate the contract with an unreasonably short notice, taking into consideration the reasonable possibilities of the other contracting party to switch to an alternative and comparable service and the financial detriment caused by such termination, except where there are serious grounds for doing so.	(e) enable the party that unilaterally imposed the term to terminate the contract with an unreasonably short notice, taking into consideration the reasonable possibilities of the other contracting party to switch to an alternative and comparable service and the financial detriment caused by such termination, except where there are serious grounds for doing so. Text Origin: Commission Proposal

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		by such termination, except where there are serious grounds for doing so.		
Article 13(4), point (ea)				
G 232a				***(f) enable the party that unilaterally imposed the term to substantially alter the price stipulated in the contract or any other substantive condition related to the nature, format, quality or quantity of the data to be shared, without a valid reason which is specified in the contract and without the right of the other party to terminate the contract in case of such alteration. This shall*** G

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				not affect terms by which the party that unilaterally imposed the term reserves the right to unilaterally alter the terms of a contract of an indeterminate duration, provided that there is a valid reason specified in that contract, that the party that unilaterally imposed the term is required to inform the other contracting party with reasonable notice, and that the other contracting party is free to terminate the contract at no cost in the case of such an alteration.
Article 13(5)				
233				

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	5. A contractual term shall be considered to be unilaterally imposed within the meaning of this Article if it has been supplied by one contracting party and the other contracting party has not been able to influence its content despite an attempt to negotiate it. The contracting party that supplied a contractual term bears the burden of proving that that term has not been unilaterally imposed.	5. A contractual term shall be considered to be unilaterally imposed within the meaning of this Article if it has been supplied by one contracting party and the other contracting party has not been able to influence its content despite an attempt to negotiate it. The contracting party that supplied a contractual term bears the burden of proving that that term has not been unilaterally imposed.	5. A contractual term shall be considered to be unilaterally imposed within the meaning of this Article if it has been supplied ~~-~~ _ by one contracting party and the other contracting party has not been able to influence its content despite an attempt to negotiate it. The contracting party that supplied ~~a~~ ***the*** contractual term bears the burden of proving that that term has not been unilaterally imposed.	5. A contractual term shall be considered to be unilaterally imposed within the meaning of this Article if it has been supplied by one contracting party and the other contracting party has not been able to influence its content despite an attempt to negotiate it. The contracting party that supplied a ***the*** contractual term bears the burden of proving that that term has not been unilaterally imposed. ***The party that supplied the***

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				contested term may not argue that the term is an unfair term. Text Origin: Council Mandate
Article 13(6)				
234	6. Where the unfair contractual term is severable from the remaining terms of the contract, those remaining terms shall remain binding.	6. Where the unfair contractual term is severable from the remaining terms of the contract, those remaining terms shall remain binding.	6. Where the unfair contractual term is severable from the remaining terms of the contract, those remaining terms shall remain binding.	6. Where the unfair contractual term is severable from the remaining terms of the contract, those remaining terms shall remain binding.

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				Text Origin: Commission Proposal
Article 13(6a)				
234a		***6a. The party that supplied the contested term may not argue that the term is an unfair term.***		*deleted*
Article 13(7)				
235	*7.* This Article does not apply to contractual terms defining the main subject matter of the contract or to	7. This Article does not apply to contractual terms defining the main subject matter of the contract ~~*or to contractual terms determining*~~***and***	7. This Article does not apply to contractual terms defining the main subject matter of the contract ~~*or to contractual terms determining*~~ ***nor***	7. This Article does not apply to contractual terms defining the main subject matter of the contract ~~*or to contractual terms*~~

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	contractual terms determining the price to be paid.	***shall not affect the parties' ability to negotiate*** the price to be paid.	***to the adequacy of*** the price***, as against the data supplied in exchange*** ~~*to be paid*~~.	~~*determining*~~ ***nor to the adequacy of*** the price***, as against the data supplied in exchange*** ~~*to be paid*~~. Text Origin: Council Mandate
Article 13(8)				
G 236	8. The parties to a contract covered by paragraph 1 may not exclude the application of this Article, derogate from it, or vary its effects.	8. The parties to a contract covered by paragraph 1 ~~*may*~~***shall*** not exclude the application of this Article, derogate from it, or vary its effects.	8. The parties to a contract covered by paragraph 1 may not exclude the application of this Article, derogate from it, or vary its effects.	8. The parties to a contract covered by paragraph 1 ~~*may*~~***shall*** not exclude the application of this Article, derogate from it, or vary its effects. G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: EP Mandate
Article 13(8a)				
G 236a		***8a. This Article shall apply to all new contracts entered into after ... [date of entry into force of this Regulation. Businesses shall be given three-years following that date to review existing contractual obligations that are subject to this Regulation.***		*deleted* G
Article 13(8b)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	236b	***8b. Given the rapidity in which innovations occur in the markets, the list of unfair contractual terms within Article 13 shall be reviewed regularly by the Commission and be updated to new business practices if necessary.***		*deleted*
	CHAPTER V			
	237	CHAPTER V MAKING DATA AVAILABLE TO PUBLIC SECTOR BODIES AND UNION INSTITUTIONS,	CHAPTER V MAKING DATA AVAILABLE TO PUBLIC SECTOR BODIES AND UNION INSTITUTIONS,	CHAPTER V MAKING DATA AVAILABLE TO PUBLIC SECTOR BODIES, ***THE COMMISSION, THE EUROPEAN CENTRAL BANK***	CHAPTER V MAKING DATA AVAILABLE TO PUBLIC SECTOR BODIES, ***THE COMMISSION, THE EUROPEAN CENTRAL BANK OR UNION*** ~~*AND UNION*~~

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	AGENCIES OR BODIES BASED ON EXCEPTIONAL NEED	AGENCIES OR BODIES BASED ON EXCEPTIONAL NEED	***OR UNION*** ~~*AND UNION INSTITUTIONS, AGENCIES OR*~~ BODIES BASED ON EXCEPTIONAL NEED	~~*INSTITUTIONS, AGENCIES OR*~~ BODIES BASED ON EXCEPTIONAL NEED Text Origin: Council Mandate
Article 14				
238	Article 14 Obligation to make data available based on exceptional need	Article 14 Obligation to make data available based on exceptional need	Article 14 Obligation to make data available based on exceptional need	Article 14 Obligation to make data available based on exceptional need Text Origin: Commission Proposal

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 14(1)				
239	1. 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.	1. Upon ***a specified duly justified*** request ***limited in time and scope***, a data holder ***that is a legal person*** shall make ***non-personal data which are available at the time of the request, including metadata*** ~~*data*~~ available to a public sector body or to a Union institution, agency or body demonstrating an exceptional need to use the data requested.	1. Upon request, a data holder shall make data***, which could include metadata that is necessary to interpret and use that data,*** available to a public sector body or to ***the Commission, the European Central Bank or Union bodies*** ~~*a Union institution, agency or body*~~ demonstrating an exceptional need***, as laid out in Article 15,*** to use the data requested ***in order to carry out their statutory duties in the public interest***.	1. ~~*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*~~***Where a public sector body, or the Commission, the European Central Bank or Union bodies demonstrates an exceptional need, as laid out in Article 15, to use certain data, including metadata necessary to interpret and use those data, to carry out its statutory duties in the public interest, data holders that are legal persons, other than public***

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				sectors bodies, which hold those data shall make them available upon a duly justified request. Text Origin: Council Mandate
Article 14(2)				
240	2. This Chapter shall not apply to small and micro enterprises as defined in Article 2 of the Annex to Recommendation 2003/361/EC.	2. This Chapter shall not apply to small and micro enterprises as defined in Article 2 of the Annex to Recommendation 2003/361/EC.	~~*2. This Chapter shall not apply to small and micro enterprises as defined in Article 2 of the Annex to Recommendation 2003/361/EC.*~~	*deleted*
Article 14(2a)				

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G	*240a*		***2a. This Chapter shall not preclude voluntary arrangements between businesses and public sector bodies and union institutions, agencies or bodies for the sharing of data for purpose of delivering public services, including for exceptional needs if stipulated in their contracts.***		*deleted* G
	Article 15				
G	*241*	Article 15 Exceptional need to use data	Article 15 Exceptional need to use data	Article 15 Exceptional need to use data	Article 15 Exceptional need to use data G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
Article 15, first paragraph				
G 242	An exceptional need to use data within the meaning of this Chapter shall be deemed to exist in any of the following circumstances:	An exceptional need to use ***non-personal*** data within the meaning of this Chapter shall be ***limited in time and scope and shall be*** deemed to exist in ~~*any of*~~ the following circumstances:	***1.*** ~~*An*~~ Exceptional need to use data within the meaning of this Chapter shall be ***limited in time and scope and*** deemed to exist ***only in*** ~~*in any of*~~ the following circumstances:	An exceptional need to use data within the meaning of this Chapter shall be ***limited in time and scope and shall be*** deemed to exist ***only*** in any of the following circumstances: Text Origin: EP Mandate
Article 15, first paragraph, point (a)				

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243	(a) where the data requested is necessary to respond to a public emergency;	(a) where the data requested is necessary to respond to ~~a~~ public emergency;	(a) where the data requested is necessary to respond to a public emergency ***and the public sector body, the Commission, the European Central Bank or Union body is unable to obtain such data by alternative means in a timely and effective manner under equivalent conditions***;	(a) where the data requested is necessary to respond to a public emergency ***and the public sector body, the Commission, the European Central Bank or Union body is unable to obtain such data by alternative means in a timely and effective manner under equivalent conditions***; Text Origin: Council Mandate
Article 15, first paragraph, point (b)				
244				

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	(b) where the data request is limited in time and scope and necessary to prevent a public emergency or to assist the recovery from a public emergency;	(b) ***in non-emergency situations,*** where the ***public sector body or Union institution, agency or body is acting on the basis of Union or national law and has identified specific data, which is unavailable to it and which is*** ~~*data request is limited in time and scope and*~~ necessary to ~~*prevent a*~~ ***fulfil, a specific task in the*** public ~~*emergency or to assist the*~~ ***interest that has been explicitly provided by law such as the prevention or*** recovery from a public emergency ***and which the public sector body or Union institution, agency or body has been unable to obtain by any of the following means: voluntary agreement; by purchasing the data on the market***	(b) where the data request is ~~*limited in time and scope and*~~ necessary to ~~*prevent*~~ ***mitigate*** a public emergency or to assist the recovery from a public emergency ***and the public sector body, the Commission, the European Central Bank or Union body is unable to obtain such data by alternative means in a timely and effective manner under equivalent conditions; or***	(b) ***in circumstances not covered by paragraph 1(a) and only in so far as non-personal data is concerned,*** where***:*** ***- a public sector body, the Commission, the European Central Bank or a Union body is acting on the basis of Union or national law and have identified specific data, the lack of which prevents it from fulfilling a specific task in the*** ~~*the data request is limited in time and scope and necessary to prevent a*~~ public ~~*emergency or to assist the*~~ ***interest, that has been explicitly provided by law, such as official statistics or the mitigation or***

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		or by relying on existing obligations to make data available.		recovery from a public emergency; ***and*** ***- the public sector body, the Commission, the European Central Bank or Union agency or body has exhausted all other means at its disposal to obtain such data, including, but not limited to, purchase of the data on the market by offering market rates or relying on existing obligations to make data available, or the adoption of new legislative measures which could guarantee the timely availability of the data.***

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				Text Origin: Comments and homework
Article 15, first paragraph, point (c)				
G 245	(c) where the lack of available data prevents the public sector body or Union institution, agency or body from fulfilling a specific task in the public interest that has been explicitly provided by law; and	(c) ~~*where the lack of available data prevents the public sector body or Union institution, agency or body from fulfilling a specific task in the public interest that has been explicitly provided by law; and*~~	(c) where the lack of available data prevents the public sector body***, the Commission, the European Central Bank or Union bodies*** ~~*or Union institution, agency or body*~~ from fulfilling a specific task in the public interest***, such as official statistics,*** that has been explicitly provided by law; and ***the public sector body the Commission, the European Central Bank or Union body has***	*deleted* G

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			exhausted all other means at its disposal to obtain such data , including, but not limited to, purchase of the data on the market by offering market rates or relying on existing obligations to make data available, or the adoption of new legislative measures which could guarantee the timely availability of the data.	
Article 15, first paragraph, point (c)(1)				
246	*(1)* the public sector body or Union institution, agency or body has been unable to obtain such data by alternative means, including by	(1) ~~*the public sector body or Union institution, agency or body has been unable to obtain such data by alternative means,*~~	~~*(1) the public sector body or Union institution, agency or body has been unable to obtain such data by alternative means,*~~	*deleted*

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	purchasing the data on the market at market rates or by relying on existing obligations to make data available, and the adoption of new legislative measures cannot ensure the timely availability of the data; or	~~including by purchasing the data on the market at market rates or by relying on existing obligations to make data available, and the adoption of new legislative measures cannot ensure the timely availability of the data; or~~	~~including by purchasing the data on the market at market rates or by relying on existing obligations to make data available, and the adoption of new legislative measures cannot ensure the timely availability of the data; or~~	
Article 15, first paragraph, point (c)(2)				
G 247	*(2)* obtaining the data in line with the procedure laid down in this Chapter would substantively reduce the administrative burden for data holders or other enterprises.	(2) ~~obtaining the data in line with the procedure laid down in this Chapter would substantively reduce the administrative burden for data holders or other enterprises.~~	~~(2)~~ ~~obtaining the data in line with the procedure laid down in this Chapter would substantively reduce the administrative burden for data holders or other enterprises.~~	*deleted* G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
	Article 15, first paragraph, point (c)(2a)				
G	*247a*		***2. Letters (b) and (c) of paragraph 1 shall not apply to small and micro enterprises as defined in article 2 of the Annex to Recommendation 2003/361/EC.***	*deleted* Text Origin: Council Mandate	G
	Article 15, first paragraph, point (c)(2b)				
Y	*247b*		***3. The obligation to demonstrate that the public sector body was unable to obtain data by***		Y

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			purchasing of the data on the market shall not apply in case the specific task in the public interest is the production of official statistics and where the purchase of data is not allowed by national law.	
Article 15, first paragraph, point (c)(2c)				
G 247c		***Article 15a*** ***Single point to handle public sector bodies' request***		*deleted* G
Article 15, first paragraph, point (c)(2d)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
247d		***1. The data coordinator designated pursuant to Article 31 shall be responsible for coordinating the requests pursuant Article 14(1) from the sector bodies of the Member State concerned, in order to ensure that the requests meet the requirement laid down in this Chapter and shall transmit them to the data holder. It shall avoid multiple requests by different public sector bodies within their territory to the same data holder.***		*deleted* *TM 7/6: deleted from here to bring it to the list of tasks*
Article 15, first paragraph, point (c)(2e)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
G 247e		***2. Member States shall regularly inform the Commission about requests pursuant to Article 14(1).***		*deleted* *TM 7/6: deleted from here to bring it to the final provisions* G
Article 15, first paragraph, point (c)(2f)				
G 247f		***3. Where public sector bodies or Union institutions, agencies or bodies requires data from the same data holder in more than one Member State on the basis of an exceptional need pursuant Article 14(1), the competent***		*deleted* *TM 7/6: deleted from here and look at in the context of discussion re tasks* G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		authorities of the Member States shall cooperate in accordance with Article 22 to coordinate their requests where it is necessary to minimise the administrative burden on the data holders.		
Article 15, first paragraph, point (c)(2g)				
G *247g*		***4. The Commission shall develop a model template for requests pursuant to Article 17.***		*deleted* *TM 7/6: deleted from here and moved to Art. 17 (L267a)* G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 16				
248	Article 16 Relationship with other obligations to make data available to public sector bodies and Union institutions, agencies and bodies	Article 16 Relationship with other obligations to make data available to public sector bodies and Union institutions, agencies and bodies	Article 16 ***Relationship with other obligations to make data available to public sector bodies and the Commission, the European Central Bank and Union bodies****~~Relationship with other obligations to make data available to public sector bodies and Union institutions, agencies and bodies~~*	Article 16 ***Relationship with other obligations to make data available to public sector bodies and the Commission, the European Central Bank and Union bodies****~~Relationship with other obligations to make data available to public sector bodies and Union institutions, agencies and bodies~~* Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 16(1)				
249	1. This Chapter shall not affect obligations laid down in Union or national law for the purposes of reporting, complying with information requests or demonstrating or verifying compliance with legal obligations.	1. This Chapter shall not affect obligations laid down in Union or national law for the purposes of reporting, complying with information requests or demonstrating or verifying compliance with legal obligations.	1. This Chapter shall not affect obligations laid down in Union or national law for the purposes of reporting, complying with ***access to*** information requests or demonstrating or verifying compliance with legal obligations***, including the making available of data for the purpose of producing official statistics, not based on an exceptional need***.	1. This Chapter shall not affect obligations laid down in Union or national law for the purposes of reporting, complying with ***access to*** information requests or demonstrating or verifying compliance with legal obligations. Text Origin: Council Mandate
Article 16(2)				
250				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	2. The rights from this Chapter shall not be exercised by public sector bodies and Union institutions, agencies and bodies in order to carry out activities for the prevention, investigation, detection or prosecution of criminal or administrative offences or the execution of criminal penalties, or for customs or taxation administration. This Chapter does not affect the applicable Union and national law on the prevention, investigation, detection or prosecution of criminal or administrative offences or the execution of criminal or administrative penalties, or for customs or taxation administration.	2. ~~*The rights from*~~ This Chapter shall not ~~*be exercised by*~~***apply to*** public sector bodies and Union institutions, agencies and bodies ~~*in order to*~~***that*** carry out activities for the prevention, investigation, detection or prosecution of criminal or administrative offences or the execution of criminal penalties, or ~~*for*~~***to*** customs or taxation administration. This Chapter does not affect the applicable Union and national law on the prevention, investigation, detection or prosecution of criminal or administrative offences or the execution of criminal or administrative penalties, or for customs or taxation administration.	2. The rights from this Chapter ***including the right to access, share and use of data*** shall not be exercised by public sector bodies and ***the Commission, the European Central Bank and Union*** ~~*Union institutions, agencies and*~~ bodies in order to carry out activities for the prevention, investigation, detection or prosecution of criminal or administrative offences or the execution of criminal penalties, or for customs or taxation administration. This Chapter ~~*does*~~ ***shall*** not affect the applicable Union and national law on the prevention, investigation, detection or prosecution of criminal or administrative offences or the	2. ~~*The rights from*~~ This Chapter shall not ~~*be exercised by*~~***apply to*** public sector bodies and Union institutions, agencies and ***the Commission, the European Central Bank and Union bodies when carrying*** ~~*bodies in order to carry*~~ out activities for the prevention, investigation, detection or prosecution of criminal or administrative offences or the execution of criminal penalties, or ~~*for*~~***to*** customs or taxation administration. This Chapter does not affect the applicable Union and national law on the prevention, investigation, detection or prosecution of criminal or administrative offences or the execution of criminal or

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			execution of criminal or administrative penalties, or for customs or taxation administration.	administrative penalties, or for customs or taxation administration. Text Origin: EP Mandate
Article 16(2a)				
250a		***2a. Enterprises that fall within the scope of this Chapter shall inform their users of the possibility that data may be shared in the case of exceptional circumstances.***		*deleted*

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 17				
251	Article 17 Requests for data to be made available	Article 17 Requests for data to be made available	Article 17 Requests for data to be made available	Article 17 Requests for data to be made available Text Origin: Commission Proposal
Article 17(1)				
252	1. Where requesting data pursuant to Article 14(1), a public sector body or a Union institution, agency or body shall:	1. ~~*Where requesting*~~***In a request for*** data pursuant to Article 14(1), a public sector body or a Union institution, agency or body shall:	1. Where requesting data pursuant to Article 14(1), a public sector body or ***the Commission, the European Central Bank or Union***	1. Where requesting data pursuant to Article 14(1), a public sector body or ~~*a Union institution, agency or*~~***the Commission, the***

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			~~*a Union institution, agency or*~~ body shall:	***European Central Bank or Union*** body shall: Text Origin: Council Mandate
Article 17(1), point (a)				
253	(a) specify what data are required;	(a) ***request data within their remit and*** specify what ~~*data*~~***datasets*** are required;	(a) specify what data are required, ***including metadata that is necessary to interpret and use that data***;	(a) specify what data are required, ***including metadata that is necessary to interpret and use that data***; Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 17(1), point (b)				
254	(b) demonstrate the exceptional need for which the data are requested;	(b) demonstrate the exceptional need for which the data are requested ***and compliance with the conditions mentioned in Article 15***;	(b) demonstrate ***that the conditions necessary for the existence of*** the exceptional need ***as described in Article 15*** for which the data are requested ***are met***;	(b) demonstrate ***that the conditions necessary for the existence of*** the exceptional need ***as referred to in Article 15 for the purpose of*** ~~*for*~~ which the data are requested ***are met***; Text Origin: Council Mandate
Article 17(1), point (c)				
255				(c) explain the purpose of the request, the intended use of the

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	(c) explain the purpose of the request, the intended use of the data requested, and the duration of that use;	(c) explain the purpose of the request, the intended use of the data requested, and the duration of that use;	(c) explain the purpose of the request, the intended use of the data requested, ***including when applicable by a third party in accordance with paragraph 4,*** and the duration of that use;	data requested, ~~*and*~~ ***including when applicable by a third party in accordance with paragraph 4,*** the duration of that use***, and, where relevant, how the processing of personal data is to address the exceptional need***; Text Origin: Comments and homework
Article 17(1), point (ca)				
255a		***(ca) specify, if possible, when the data is expected to be deleted by all parties that have access to it;***		***(ca) specify, if possible, when the data is expected to be deleted by all parties that have access to it;***

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: EP Mandate
Article 17(1), point (cb)				
255b		***(cb) justify the choice of data holder to which the request is addressed;***		***(cb) justify the choice of data holder to which the request is addressed;*** Text Origin: EP Mandate
Article 17(1), point (cc)				
255c				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		(cc) specify any other public sector bodies, Union institutions, agencies or bodies and the third parties with which the data requested is expected to be shared with;		***(cc) specify any other public sector bodies, Union institutions, agencies or bodies and the third parties with which the data requested is expected to be shared with;*** Text Origin: EP Mandate
Article 17(1), point (cd)				
255d		***(cd) disclose the identity of the third party referred to in paragraph 4 of this Article, and in Article 21 of this Regulation;***		*deleted*

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 17(1), point (ce)				
255e		***(ce) apply all relevant ICT security measures concerning the transfer and storage of data;***		*deleted*
Article 17(1), point (cf)				
255f				***(cf) where personal data are requested, specify any measures necessary and proportionate to implement data protection principles, data protection safeguards such as the level of***

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				aggregation or pseudonymisation, and whether anonymisation can be applied by the data holder before making data available; Text Origin: Comments and homework
Article 17(1), point (d)				
G 256	(d) state the legal basis for requesting the data;	(d) state the legal basis for requesting the data;	(d) state the legal ***provision allocating to the requesting public sector body or to the Commission, the European Central Bank or Union bodies the specific public interest task relevant*** ~~*basis*~~ for requesting the data;	(d) state the legal ***provision allocating to the requesting public sector body or to the Commission, the European Central Bank or Union bodies the specific public interest task relevant*** ~~*basis*~~ for requesting the data; G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
Article 17(1), point (da)				
256a		***(da) specify the geographical limits that apply to the request for data;***		*deleted*
Article 17(1), point (e)				
257	*(e)* specify the deadline by which the data are to be made available or within which the data holder may	(e) specify the deadline by which the data are to be made available ~~or~~***and*** within which the data holder	(e) specify the deadline ***referred to in Article 18 and*** by which the data are to be made available or within	(e) specify the deadline ***referred to in Article 18 and*** by which the data are to be made available

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	request the public sector body, Union institution, agency or body to modify or withdraw the request.	may request the public sector body, Union institution, agency or body to modify or withdraw the request~~.~~**;**	which the data holder may request the public sector body, ~~*Union institution, agency or*~~***the Commission, the European Central Bank or Union*** body to modify or withdraw the request.	~~*or*~~***and*** within which the data holder may request the public sector body, ~~*Union institution, agency or*~~***the Commission, the European Central Bank or Union*** body to modify or withdraw the request. Text Origin: Council Mandate
Article 17(1), point (ea)				
257a		***(ea) submit a declaration on the lawful and secure handling of the data requested, including the confidentiality of trade secrets;***		*deleted*

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 17(1), point (eb)				
257b		***(eb) ensure that making the data available does not put the data holder in a situation that violates Union or national law or confer liability on the data holder for any infringement or damage resulting from the data access that a public sector body or a Union institution, agency or body has requested.***		***(eb) make its best effort to avoid that compliance with the data request results in the data holders' liability for infringement of Union or national law.*** Text Origin: EP Mandate
Article 17(2)				
258				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	2. A request for data made pursuant to paragraph 1 of this Article shall:	2. A request for data made pursuant to paragraph 1 of this Article shall:	2. A request for data made pursuant to paragraph 1 of this Article shall:	2. A request for data made pursuant to paragraph 1 of this Article shall: Text Origin: Commission Proposal
Article 17(2), point (a)				
259	(a) be expressed in clear, concise and plain language understandable to the data holder;	(a) ***be made in writing and*** be expressed in clear, concise and plain language understandable to the data holder;	(a) be expressed in clear, concise and plain language understandable to the data holder;	(a) ***be made in writing and*** be expressed in clear, concise and plain language understandable to the data holder; Text Origin: EP Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 17(2), point (aa)				
259a		***(aa) be submitted through the competent authority;***		*deleted*
Article 17(2), point (ab)				
259b		***(ab) be specific with regards to the type of data is requested and correspond to data which the data holder has available at the time of the request;***		***(ab) be specific with regards to the type of data requested and correspond to data which the data holder has control over at the time of the request;***

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: EP Mandate
Article 17(2), point (b)				
260	(b) be proportionate to the exceptional need, in terms of the granularity and volume of the data requested and frequency of access of the data requested;	(b) be ***justified and*** proportionate to the exceptional need, in terms of the granularity and volume of the data requested and frequency of access of the data requested;	(b) be proportionate to the exceptional need, in terms of the granularity and volume of the data requested and frequency of access of the data requested;	(b) be ***justified and*** proportionate to the exceptional need, in terms of the granularity and volume of the data requested and frequency of access of the data requested; Text Origin: EP Mandate
Article 17(2), point (c)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
261	(c) respect the legitimate aims of the data holder, taking into account the protection of trade secrets and the cost and effort required to make the data available;	(c) respect the legitimate aims of the data holder, taking into account the protection of trade secrets and the cost and effort required to make the data available***. Where applicable, specify the measures to be taken pursuant to Article 19(2) to preserve the confidentiality of trade secrets, including, as appropriate, through the use of model contractual terms, technical standards and codes of conduct***;	(c) respect the legitimate aims of the data holder, taking into account the protection of trade secrets and the cost and effort required to make the data available;	(c) respect the legitimate aims of the data holder, ~~*taking into account*~~***committing to ensuring*** the protection of trade secrets ***in accordance with Article 19(2),*** and the cost and effort required to make the data available;
Article 17(2), point (d)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
262	(d) concern, insofar as possible, non-personal data;	(d) concern~~, insofar as possible,~~ ***only*** non-personal data;	(d) ***in case of requests made pursuant to Article 15, points (a) and (b)*** concern, insofar as possible, non-personal data; ***in case personal data are requested, the request should justify the need for including personal data and set out the technical and organisational measures that will be taken to protect the data;***	(d) concern ***non-personal data, and only if this is demonstrated to be insufficient to respond to the exceptional need to use data, in accordance with Article 15(1)(a), request personal data in aggregated or pseudonymised form and set out the technical and organisational measures that will be taken to protect the***~~, insofar as possible, non-personal~~ data; Text Origin: Comments and homework
Article 17(2), point (da)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
262a			***(da) in case of requests made pursuant to Article, 15 point (c), concern personal data only in case the data processing has a specific basis in Union or Member State law;***	*deleted*
Article 17(2), point (e)				
263	*(e)* inform the data holder of the penalties that shall be imposed pursuant to Article 33 by a competent authority referred to in Article 31 in the event of non-compliance with the request;	(e) inform the data holder of the penalties that shall be imposed pursuant to Article 33 by a ~~*competent authority*~~***data coordinator*** referred to in Article	(e) inform the data holder of the penalties that shall be imposed pursuant to Article 33 by a competent authority referred to in Article 31 in the event of non-compliance with the request;	(e) inform the data holder of the penalties that shall be imposed pursuant to Article 33 by a ~~*competent*~~***[data coordinator/competent*** authority***]*** referred to in Article 31 in the

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		31 in the event of non-compliance with the request;		event of non-compliance with the request; Remaining brackets Text Origin: EP Mandate
Article 17(2), point (f)				
G 264	(f) be made publicly available online without undue delay.	(f) ***be transmitted to the data coordinator referred to in Article 31, who shall make the request publicly available online without undue delay. The data coordinator may inform the public sector body***	(f) be made publicly available online without undue delay***, unless this would create a risk for public security, and the requesting public sector body shall notify the competent authority referred to in***	(f) be ~~made~~***transmitted to the [data coordinator referred to in Article 31/competent authority of the Member State where the requesting public sector body is established], who shall make the request*** publicly available online G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		or Union institution, agency or body if the data holder already provided the requested data in response to previously submitted request for the same purpose by another public sector body or Union institution agency or body. ~~***be made publicly available online without undue delay.***~~	***Article 31, of the Member State where the requesting public sector body is established. The Commission, the European Central Bank and Union bodies shall make their requests available online without undue delay and inform the Commission thereof;***	without undue delay ***unless it considers that this would create a risk for public security. The Commission, the European Central Bank and Union bodies, offices and agencies shall make their requests available online without undue delay and inform the Commission thereof***. Remaining brackets Text Origin: Comments and homework

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
R	264a		***(fa) in case personal data are requested, be notified without undue delay to the independent supervisory authority responsible for monitoring the application of Regulation (EU) 2016/679 in the member state where the data holder is established.***		R
	Article 17(3)				
G	265	3. A public sector body or a Union institution, agency or body shall not make data obtained pursuant to this Chapter available for reuse	3. A public sector body or a Union institution, agency or body shall not make data obtained pursuant to this Chapter available for reuse	3. A public sector body or ***the Commission, the European Central Bank or Union*** ~~*a Union institution, agency or*~~ body shall	3. A public sector body or ***the Commission, the European Central Bank or Union*** ~~*a Union institution, agency or*~~ body shall not make data obtained pursuant to	G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	within the meaning of Directive (EU) 2019/1024. Directive (EU) 2019/1024 shall not apply to the data held by public sector bodies obtained pursuant to this Chapter.	within the meaning of Directive (EU) 2019/1024 ***and Regulation (EU) 2022/868***. Directive (EU) 2019/1024 ***and Regulation (EU) 2022/868*** shall not apply to the data held by public sector bodies obtained pursuant to this Chapter.	not make data obtained pursuant to this Chapter available for reuse within the meaning of Directive (EU) 2019/1024 ***or Regulation (EU) 2022/868***. Directive (EU) 2019/1024 ***and Regulation (EU) 2022/868*** shall not apply to the data held by public sector bodies obtained pursuant to this Chapter.	this Chapter available for reuse within the meaning of Directive (EU) 2019/1024 ***or Regulation (EU) 2022/868***. Directive (EU) 2019/1024 ***and Regulation (EU) 2022/868*** shall not apply to the data held by public sector bodies obtained pursuant to this Chapter. Text Origin: Council Mandate
Article 17(4), first subparagraph				
266	4. Paragraph 3 does not preclude a public sector body or a Union institution, agency or body to	4. Paragraph 3 does not preclude a public sector body or a Union institution, agency or body to	4. Paragraph 3 does not preclude a public sector body or ***the Commission, the European***	4. Paragraph 3 does not preclude a public sector body or ~~*a Union institution, agency or*~~ ***the***

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	exchange data obtained pursuant to this Chapter with another public sector body, Union institution, agency or body, in view of completing the tasks in Article 15 or to make the data available to a third party in cases where it has outsourced, by means of a publicly available agreement, technical inspections or other functions to this third party. The obligations on public sector bodies, Union institutions, agencies or bodies pursuant to Article 19 apply.	exchange data obtained pursuant to this Chapter with another public sector body, Union institution, agency or body, ~~in view~~*for the purpose* of completing the tasks in Article 15 *which was included the request in accordance with paragraph 1(cc),* or to make the data available to a third party in cases where it has outsourced, by means of a publicly available agreement, technical inspections or other functions to this third party. *It shall bind the third party contractually not to use the data for any other purposes and not to share is with any other third parties, Where a public sector body or a Union institution, agency or body transmits or*	*Central Bank or Union* ~~a Union institution, agency or~~ body to exchange data obtained pursuant to this Chapter with another public sector body, *the Commission, the European Central Bank or Union* ~~Union institution, agency or~~ body, in view of completing the tasks in Article 15 or to make the data available to a third party in cases where it has outsourced, by means of a publicly available agreement, technical inspections or other functions to this third party. The obligations on public sector bodies, *the Commission, the European Central Bank or Union*, ~~Union institutions, agencies or~~ bodies	*Commission, the European Central Bank or Union* body to exchange data obtained pursuant to this Chapter with another public sector body, ~~Union institution, agency or~~ *Commission, the European Central Bank or Union* body, ~~in view~~ *for the purpose* of completing the tasks in Article 15, *as specified in the request in accordance with Article 17, paragraph 1, point (cc)* or to make the data available to a third party in cases where it has outsourced, by means of a publicly available agreement, technical inspections or other functions to this third party. The obligations on public sector bodies, ~~Union institutions, agencies or~~*the Commission, the*

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		makes data available under this paragraph, it shall notify the data holder from whom the data was received without undue delay. Within five working days of that notification, the data holder shall have the right to submit a reasoned objection to such transmission or making available of data. In the case of a rejection of the reasoned objection by the public sector body or a Union institution, agency or body, the data holder may bring the matter to the data coordinator referred to in Article 31. The receiving ~~*The obligations on*~~ public sector bodies, Union institutions, agencies or bodies ~~*pursuant to*~~***and third parties shall be bound by the***	pursuant to Article 19 apply ***also to such third parties***.	***European Central Bank or Union*** bodies pursuant to Article 19***, in particular safeguards to preserve the confidentiality of trade secrets,*** apply ***also to such third parties.*** ***Where a public sector body, the European Commission, the European Central bank or Union body transmits or makes data available under this paragraph, it shall notify the data holder from whom the data was received without undue delay.*** ***Where the data holder considers that its rights under this chapter have been infringed by the transmission or making available***

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		obligations laid down in Article 19 ~~*apply*~~.		***of data, it may lodge a complaint to the [data coordinator/competent authority] referred to in Article 31 of the Member State where the data holder is established***. Remaining brackets Text Origin: Comments and homework
Article 17(4a)				
G	266a	***Data obtained pursuant this chapter shall be used only for the***		*deleted*

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		purpose specified in the request. Public sector bodies, Union institutions, agencies or bodies shall bind contractually third parties with whom they agreed to share data pursuant paragraph 4 not to use the data for any other purpose and not to share it with other parties.		
Article 17(4), second subparagraph				
267	Where a public sector body or a Union institution, agency or body transmits or makes data available under this paragraph, it shall notify	~~*Where a public sector body or a Union institution, agency or body transmits or makes data available under this paragraph, it shall*~~	Where a public sector body or ***the Commission, the European Central Bank or Union*** ~~*a Union institution, agency or*~~ body transmits or makes data available	*deleted*

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	the data holder from whom the data was received.	~~*notify the data holder from whom the data was received.*~~	under this paragraph, it shall notify ***without undue delay*** the data holder from whom the data was received.	
	Article 17(4), second subparagraph a			
G	*267a*			***17(5). The Commission shall develop a model template for requests pursuant to this Article.*** TM 7/6: moved here from L 247g
	Article 18			

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
268	Article 18 Compliance with requests for data	Article 18 Compliance with requests for data	Article 18 Compliance with requests for data	Article 18 Compliance with requests for data Text Origin: Council Mandate
Article 18(1)				
269	1. A data holder receiving a request for access to data under this Chapter shall make the data available to the requesting public sector body or a Union institution, agency or body without undue delay.	1. A data holder receiving a request for access to data under this Chapter shall make the data available to the requesting public sector body or a Union institution, agency or body without undue delay, ***taking into account***	1. A data holder receiving a request for access to data under this Chapter shall make the data available to the requesting public sector body or ***the Commission, the European Central Bank or***	1. A data holder receiving a request for access to data under this Chapter shall make the data available to the requesting public sector body or a Union institution, agency or body without undue delay, ***taking into account***

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		provision of time and necessary technical, organisational and legal measures.	***Union*** ~~*a Union institution, agency or*~~ body without undue delay.	***necessary technical, organisational and legal measures***. Text Origin: EP Mandate
Article 18(2)				
G 270	2. Without prejudice to specific needs regarding the availability of data defined in sectoral legislation, the data holder may decline or seek the modification of the request within 5 working days following the receipt of a request for the data necessary to respond to a public	2. Without prejudice to specific needs regarding the availability of data defined in sectoral legislation, the data holder may decline or seek the modification of the request within ~~5~~***five*** working days following the receipt of a request for the data necessary to respond to	2. Without prejudice to specific needs regarding the availability of data defined in sectoral legislation, the data holder may decline or seek the modification of the request ***without undue delay and not later than*** within 5 working days following the receipt of a request	2. Without prejudice to specific needs regarding the availability of data defined in sectoral legislation, the data holder may decline or seek the modification of the request ***without undue delay and not later than*** within 5 working days following the receipt of a G

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	emergency and within 15 working days in other cases of exceptional need, on either of the following grounds:	a public emergency and within ~~15~~*30* working days in other cases of exceptional need, on either of the following grounds:	for the data necessary to respond to a public emergency and *without undue delay and not later than* within 15 working days in other cases of exceptional need, on either of the following grounds:	request for the data necessary to respond to a public emergency and *without undue delay and not later than* within ~~15~~*30* working days in other cases of exceptional need, on either of the following grounds: Text Origin: Council Mandate
Article 18(2), point (a)				
271	(a) the data is unavailable;	(a) the data is ~~unavailable~~*not available to the data holder at the time of the request*;	(a) the data ~~is unavailable~~*holder does not have control over the data requested*;	(a) the data ~~is unavailable~~*holder does not have control over the data requested*;

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				Text Origin: Council Mandate
Article 18(2), point (aa)				
271a		***(aa) provided security measures concerning transfer, storing and maintaining confidentiality are insufficient;***		*deleted*
Article 18(2), point (ab)				
271b		***(ab) a similar request for the same purpose has been previously submitted by another public sector***		***(ab) a similar request for the same purpose has been previously submitted by another public***

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		body or Union institution, agency or body and the data holder has not been notified of the destruction of the data pursuant to Article 19(1) point (c);		***sector body, the Commission, the European Central Bank or Union body and the data holder has not been notified of the erasure of the data pursuant to Article 19(1) point (c);*** Text Origin: EP Mandate
Article 18(2), point (b)				
G	272	(b) the request does not meet the conditions laid down in Article 17(1) and (2).	(b) the request does not meet the conditions laid down in Article 17(1) and (2).	(b) the request does not meet the conditions laid down in Article 17(1) and (2).	(b) the request does not meet the conditions laid down in Article 17(1) and (2). G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
Article 18(3)				
G 273	3. In case of a request for data necessary to respond to a public emergency, the data holder may also decline or seek modification of the request if the data holder already provided the requested data in response to previously submitted request for the same purpose by another public sector body or Union institution agency or body and the data holder has not been notified of the destruction of the	3. ~~*In case of a request for data necessary to respond to a public emergency, the data holder may also decline or seek modification of the request if the data holder already provided the requested data in response to previously submitted request for the same purpose by another public sector body or Union institution agency or body and the data holder has not been notified of the destruction*~~	3. In case of a request for data necessary to respond to a public emergency, the data holder may also decline or seek modification of the request if the data holder already provided the requested data in response to previously submitted request for the same purpose by another public sector body or ***the Commission, the European Central Bank or Union*** ~~*Union institution agency or*~~ body and the	*deleted* G

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	data pursuant to Article 19(1), point (c).	~~*of the data pursuant to Article 19(1), point (c).*~~	data holder has not been notified of the ~~*destruction*~~ ***erasure*** of the data pursuant to Article 19(1), point (c).	
Article 18(4)				
G *274*	*4.* If the data holder decides to decline the request or to seek its modification in accordance with paragraph 3, it shall indicate the identity of the public sector body or Union institution agency or body that previously submitted a request for the same purpose.	4. If the data holder decides to decline the request or to seek its modification in accordance with paragraph 3, it shall indicate the identity of the public sector body or Union institution agency or body that previously submitted a request for the same purpose.	4. If the data holder decides to decline the request or to seek its modification in accordance with paragraph 3, it shall indicate the identity of the public sector body or ***the Commission, the European Central Bank or Union*** ~~*Union institution agency or*~~ body that previously submitted a request for the same purpose.	4. If the data holder decides to decline the request or to seek its modification in accordance with paragraph 3, it shall indicate the identity of the public sector body or ~~*Union institution agency or*~~***the Commission, the European Central Bank or Union*** body that previously submitted a request for the same purpose. G

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				Text Origin: Council Mandate
Article 18(5)				
275	5. Where compliance with the request to make data available to a public sector body or a Union institution, agency or body requires the disclosure of personal data, the data holder shall take reasonable efforts to pseudonymise the data, insofar as the request can be fulfilled with pseudonymised data.	5. Where compliance with the request to make data available to a public sector body or a Union institution, agency or body requires the disclosure of personal data, the data holder shall ~~take reasonable efforts to~~ pseudonymise the ***personal*** data~~, insofar as the request can be fulfilled with pseudonymised data~~ ***to be made available***.	5. Where ***the dataset requested includes personal data, the data holder shall properly anonymise the data, unless the*** compliance with the request to make data available to a public sector body or ***the Commission, the European Central Bank or Union*** ~~a Union institution, agency or~~ body requires the disclosure of personal data~~.~~ ***. In that case*** the data holder shall ~~take reasonable efforts to~~	5. Where ***the dataset requested includes personal data, the data holder shall properly anonymise the data, unless the*** compliance with the request to make data available to a public sector body or ~~a Union institution, agency or~~***the Commission, the European Central Bank or Union*** body requires the disclosure of personal data~~.~~ ***. In that case*** the data holder shall ~~take reasonable efforts to~~***aggregate or*** pseudonymise the

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			pseudonymise the data, insofar as the request can be fulfilled with pseudonymised data.	~~*data, insofar as the request can be fulfilled with pseudonymised*~~ data. Text Origin: Comments and homework
Article 18(6)				
G 276	6. Where the public sector body or the Union institution, agency or body wishes to challenge a data holder's refusal to provide the data requested, or to seek modification of the request, or where the data holder wishes to challenge the request, the matter shall be brought	6. Where the public sector body or the Union institution, agency or body wishes to challenge a data holder's refusal to provide the data requested, or to seek modification of the request, or where the data holder wishes to challenge the request, the matter shall be brought to the ~~*competent authority*~~***data***	6. Where the public sector body or the ***Commission, the European Central Bank or Union*** ~~*Union institution, agency or*~~ body wishes to challenge a data holder's refusal to provide the data requested, or ~~*to seek modification of*~~***where the data holder wishes to challenge*** the request, ~~*or where the data holder*~~	6. Where the public sector body or the ***Commission, the European Central Bank or Union*** ~~*Union institution, agency or*~~ body wishes to challenge a data holder's refusal to provide the data requested, or ~~*to seek modification of*~~***where the data holder wishes to challenge*** the request, ~~*or where the data holder*~~ G

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	to the competent authority referred to in Article 31.	***coordinator*** referred to in Article 31***, without prejudice to the right to submit a dispute to a civil or administrative court, in accordance with Union or national law***.	~~*wishes to challenge*~~***and the matter cannot be solved by an appropriate modification of*** the request, the matter shall be brought to the competent authority referred to in Article 31***of the Member State where the data holder is established***.	~~*wishes to challenge*~~***and the matter cannot be solved by an appropriate modification of*** the request, the matter shall be brought to the ***[***competent ~~*authority*~~***authority/data coordinator]*** referred to in Article 31***of the Member State where the data holder is established***. Remaining brackets Text Origin: Council Mandate
Article 19				

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277	Article 19 Obligations of public sector bodies and Union institutions, agencies and bodies	Article 19 Obligations of public sector bodies and Union institutions, agencies and bodies	Article 19 ***Obligations of public sector bodies and the Commission, the European Central Bank and Union bodies*** ~~*Obligations of public sector bodies and Union institutions, agencies and bodies*~~	Article 19 ***Obligations of public sector bodies and the Commission, the European Central Bank and Union bodies*** ~~*Obligations of public sector bodies and Union institutions, agencies and bodies*~~ Text Origin: Council Mandate
Article 19(1)				
278	1. A public sector body or a Union institution, agency or body having	1. A public sector body or a Union institution, agency or body having	1. A public sector body or ***the Commission, the European***	1. A public sector body or ~~*a Union institution, agency or body*~~

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	received data pursuant to a request made under Article 14 shall:	received data pursuant to a request made under Article 14 ***and statistical or research organisations receiving data pursuant to a request made under Article 21(1)*** shall:	***Central Bank or Union body receiving*** ~~*a Union institution, agency or body having received*~~ data pursuant to a request made under Article 14 shall:	~~*having received*~~***the Commission, the European Central Bank or Union body receiving*** data pursuant to a request made under Article 14 shall: Text Origin: Council Mandate
Article 19(1), point (a)				
G 279	(a) not use the data in a manner incompatible with the purpose for which they were requested;	(a) ~~*not use the data in a manner incompatible with the purpose for which they were requested;*~~	(a) not use the data in a manner incompatible with the purpose for which they were requested;	(a) not use the data in a manner incompatible with the purpose for which they were requested; G

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				Text Origin: Commission Proposal
Article 19(1), point (b)				
G 280	(b) implement, insofar as the processing of personal data is necessary, technical and organisational measures that safeguard the rights and freedoms of data subjects;	(b) implement, insofar as the processing of personal data is necessary, technical and organisational measures that safeguard the rights and freedoms of data subjects ***and guarantee a high level of security and prevent the unauthorised disclosure of data***;	(b) ~~*implement, insofar as the processing of personal data is necessary*~~***have implemented technical and organisational measures that preserve the confidentiality and integrity of the requested data, in particular personal data, as well as*** ~~*technical and organisational measures that*~~ safeguard the rights and freedoms of data subjects;	(b) ~~*implement, insofar as the processing of personal data is necessary, technical and organisational measures that*~~***have implemented technical and organisational measures that preserve the confidentiality and integrity of the requested data and the security of the data transfers, in particular personal data, as well as*** safeguard the rights and freedoms of data subjects; G

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				Text Origin: Council Mandate
Article 19(1), point (ba)				
280a		***(ba) implement the necessary technical and organisational measures to manage cyber risk that could affect the confidentiality, integrity or availability of the requested data;***		*deleted*
Article 19(1), point (bb)				
280b				

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		(bb) notify the data holder from whom has received the data of any cybersecurity incident affecting the confidentiality, integrity, or availability of the received data as soon as possible but not later than 72 hours after having determined that the incident has occurred without prejudice to the reporting obligations under Regulation(EU) XXX/XXXX (EUIBAL) and Directive (EU) 2022/2555. Those entities shall be liable by damages due to a cybersecurity breach if they have not had the measures in place pursuant to paragraph 1, point (ba);		*deleted*

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Article 19(1), point (c)				
281	*(c)* destroy the data as soon as they are no longer necessary for the stated purpose and inform the data holder that the data have been destroyed.	(c) ~~*destroy*~~***erase*** the data as soon as they are no longer necessary for the stated purpose and inform ***without undue delay*** the data holder that the data have been ~~*destroyed*~~***erased***.	(c) ~~*destroy*~~ ***erase*** the data as soon as they are no longer necessary for the stated purpose and inform the data holder ***and individuals or organisations that received the data pursuant to paragraph 1 of Article 21 without undue delay*** that the data have been ~~*destroyed*~~***erased unless archiving of the data is required for transparency purposes in accordance with national law***.	(c) ~~*destroy*~~***erase*** the data as soon as they are no longer necessary for the stated purpose and inform the data holder ***and individuals or organisations that received the data pursuant to paragraph 1 of Article 21 without undue delay*** that the data have been ~~*destroyed*~~***erased unless archiving of the data is required in accordance with Union and national law on public access to documents in the context of transparency obligations***.

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				Text Origin: Council Mandate
Article 19(1), point (ca)				
G 281a		***1a. A public sector body, Union institution, agency, body, or a third party receiving data under this Chapter shall not:***		***1a. A public sector body, the Commission, the European Central Bank, a Union body or a third party receiving data under this Chapter shall not:*** Text Origin: EP Mandate
Article 19(1), point (cb)				

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281b		***(a) use the data to develop a product or a service that competes with the product or service or enhance an existing product or service from which the accessed data originates;***		***(a) use the data or insights about the economic situation, assets and production or operation methods of the data holder to develop or enhance a product or service that compete with the product or service of the data holder;*** Text Origin: EP Mandate
Article 19(1), point (cc)				
281c		***(b) derive insights about the economic situation, assets and***		*deleted*

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		production or operation methods of the data holder, or share the data with another third party for that purpose; or		
Article 19(1), point (cd)				
G *281d*		***(c) share the data with another third party for any of those purposes.***		***(c) share the data with another third party for any of those purposes.*** Text Origin: EP Mandate
Article 19(2)				

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282	2. Disclosure of trade secrets or alleged trade secrets to a public sector body or to a Union institution, agency or body shall only be required to the extent that it is strictly necessary to achieve the purpose of the request. In such a case, the public sector body or the Union institution, agency or body shall take appropriate measures to preserve the confidentiality of those trade secrets.	2. Disclosure of trade secrets ~~or alleged trade secrets~~ to a public sector body or to a Union institution, agency or body shall only be required to the extent that it is strictly necessary to achieve the purpose of ~~the~~*a* request *under Article 15*. In such a case, the *data holder shall identify the data which are protected as trade secrets. The* public sector body or the Union institution, agency or body shall take *in advance all the necessary and* appropriate *technical and organisational* measures *agreed with the data holder or with the trade secrets holder if it is not simultaneously*	2. Disclosure of trade secrets ~~or alleged trade secrets~~ to a public sector body or to *the Commission, the European Central Bank or Union* ~~a Union institution, agency or~~ body shall only be required to the extent that it is strictly necessary to achieve the purpose of the request. In such a case, the public sector body or the ~~Union institution, agency or~~ *Commission, the European Central Bank or Union* body shall take*, prior to the disclosure,* appropriate measures*, such as technical and organisational measures,* to preserve the confidentiality of those trade secrets. *The data*	2. Disclosure of trade secrets ~~or alleged trade secrets~~ to a public sector body or to ~~a Union institution, agency or~~ *the Commission, the European Central Bank or Union* body shall only be required to the extent that it is strictly necessary to achieve the purpose of ~~the~~*a* request *under Article 15*. In such a case, the *data holder [or the trade secret holder, if it is not the same] shall identify the data which are protected as trade secrets, including the relevant metadata. The* public sector body or the ~~Union institution, agency or~~*Commission, the European Central Bank or Union* body shall take*, prior to the*

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		the same legal person, to preserve the confidentiality of those trade secrets ***including as appropriate through the use of model contractual terms, technical standards and the application of codes of conduct***.	***holder shall identify the data which are protected as trade secrets, including in the relevant metadata.***	***disclosure, all necessary and*** appropriate ***technical and organisationl*** measures**,** to preserve the confidentiality of those trade secrets**, *including as appropriate through the use of model contractual terms, technical standards and the application of codes of conduct***. Remaining brackets Text Origin: Comments and homework
Article 19(2a)				

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G	282a	***2a. Where a public sector body or a Union institution, agency or body transmits or makes data available to third parties to perform the tasks that have been outsourced to it as a result of the outsourcing of technical inspections or other functions pursuant to Article 17(4), trade secrets as identified by the data holder, shall only be disclosed to the extent that they are strictly necessary for the third party to perform the tasks that have been outsourced and provided that all specific necessary measures agreed between the data holder and the third party are taken in***		*deleted* *Included in L266*

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		advance, including technical and organisational measures to preserve the confidentiality of those trade secrets, including as appropriate through the use of model contractual terms, technical standards and the application of codes of conduct.		
Article 19(2b)				
282b		***2b. In cases where the public sector body or a Union institution, agency or body that submitted the request for data or the third party to which data were made available pursuant to Article 17(4) fails to***		*deleted*

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		implement those measures or undermines the confidentiality of trade secrets, the data holder shall be able to suspend the sharing of data identified as trade secrets. In such cases, the data holder shall immediately notify the data coordinator of the Member State in which the data holder is established, pursuant to Article 31, that it has suspended the sharing of data and identify which measures have not been implemented or which trade secrets have had their confidentiality undermined. Where the public sector body or Union institution, agency or body or the third party wishes to challenge the data holder's		

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		decision to suspend the sharing of data, the data coordinator shall decide within a reasonable period of time, whether the data sharing shall be resumed or not and if yes, indicate under which conditions.		
Article 19(2c)				
G *282c*		***2c. A public sector body or a Union institution, agency or body shall be responsible for the security of the data that they receive.***		***2c. A public sector body or a Union institution, agency or body shall be responsible for the security of the data that they receive.*** Text Origin: EP Mandate

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Article 19(2d)				
282d		***2d. A public sector body or a Union institution, agency or body shall notify the data holder in the event of a security breach as soon as possible, but within 48 hours at the latest.***		*deleted*
Article 20				
283	Article 20 Compensation in cases of exceptional need	Article 20 Compensation in cases of exceptional need	Article 20 Compensation in cases of exceptional need	Article 20 Compensation in cases of exceptional need

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				Text Origin: Commission Proposal
Article 20(1)				
284	1. Data made available to respond to a public emergency pursuant to Article 15, point (a), shall be provided free of charge.	1. ***Unless specified otherwise in Union or national law,*** data made available to respond to a public emergency pursuant to Article 15, point (a), shall be provided free of charge. ***The public sector body or the Union institution, agency or body that has received data shall provide public recognition to the data holder if requested by the data holder.***	1. Data ~~made~~ ***holders other than small and micro enterprise as defined in article 2 of the Annex to Recommendation 2003/361/EC shall make*** available ***data necessary*** to respond to a public emergency pursuant to Article ~~15~~***15(1)***, point (a), ~~shall be provided~~ free of charge.	1. Data ~~made~~ ***holders other than small and micro enterprises as defined in article 2 of the Annex to Recommendation 2003/361/EC shall make*** available ***data necessary*** to respond to a public emergency pursuant to Article ~~15~~***15(1)***, point (a), ***free of charge. The public sector body or the Union institution, agency or body that has received data*** shall ~~be~~

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				~~*provided free of charge*~~***provide public recognition to the data holder if requested by the data holder***. Text Origin: Council Mandate
Article 20(2)				
285	2. Where the data holder claims compensation for making data available in compliance with a request made pursuant to Article 15, points (b) or (c), such compensation shall not exceed the technical and organisational costs	2. ~~*Where*~~ The data holder ~~*claims compensation*~~***shall be entitled to fair remuneration*** for making data available in compliance with a request made pursuant to Article 15, ~~*points (b) or (c)*~~***point (b)***, such compensation shall ~~*not exceed*~~***at***	2. Where the data holder claims compensation for making data available in compliance with a request made pursuant to Article ~~*15*~~***15(1)***, points (b) or (c), such compensation shall not exceed the technical and organisational costs	2. ~~*Where*~~ The data holder ~~*claims compensation*~~***shall be entitled to fair remuneration*** for making data available in compliance with a request made pursuant to Article ~~*15, points (b) or (c)*~~***15(1), point (b)***, such compensation shall ~~*not*~~

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	incurred to comply with the request including, where necessary, the costs of anonymisation and of technical adaptation, plus a reasonable margin. Upon request of the public sector body or the Union institution, agency or body requesting the data, the data holder shall provide information on the basis for the calculation of the costs and the reasonable margin.	***least cover*** the technical and organisational costs incurred to comply with the request including, where ~~necessary~~***applicable***, the costs of anonymisation and of technical adaptation, plus a reasonable margin. Upon request of the public sector body or the Union institution, agency or body requesting the data, the data holder shall provide information on the basis for the calculation of the costs and the reasonable margin.	incurred to comply with the request including, where necessary, the costs of anonymisation***,*** ***pseudonymisation*** and of technical adaptation, plus a reasonable margin. Upon request of the public sector body or ***the Commission, the European Central Bank or Union*** ~~the Union institution, agency or~~ body requesting the data, the data holder shall provide information on the basis for the calculation of the costs and the reasonable margin.	~~exceed~~***cover*** the technical and organisational costs incurred to comply with the request including, where ~~necessary~~***applicable***, the costs of anonymisation***,*** ***pseudonymisation, aggregation*** and of technical adaptation, plus a reasonable margin. Upon request of the public sector body or the ~~Union institution, agency or~~***Commission, the European Central Bank or Union*** body requesting the data, the data holder shall provide information on the basis for the calculation of the costs and the reasonable margin. Text Origin: Comments and homework

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Article 20(2a)				
285a		***2a. Where the public-sector body or the Union institution, agency or body wishes to challenge the level of remuneration requested by the data holder, the matter shall be brought to the attention of the data coordinator referred to in Article 31 of the Member State where the data holder is established.***		*deleted*
Article 20(2b)				

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G	*285b*		***2a. Paragraph 2 shall also apply where a small and micro enterprise as defined in article 2 of the Annex to Recommendation 2003/361/EC claims compensation for making data available.***	***2a. Paragraph 2 shall also apply where a small and micro enterprise as defined in article 2 of the Annex to Recommendation 2003/361/EC claims compensation for making data available.*** Text Origin: Council Mandate
	Article 20(2c)			
Y	285c		***2b. Data holders shall not be able to request compensation for***	*deleted*

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			making data available in compliance with a request made pursuant to Article 15, points (b) or (c) in case the specific task in the public interest is the production of official statistics and where the purchase of data is not allowed by national law.		
Article 20(2d)					
G	*285d*		***2c. Where the public sector body or the Commission, the European Central Bank or Union body disagrees with the level of compensation requested by the data holder, they may submit a***	***2d. Where the public sector body or the Commission, the European Central Bank or Union body disagrees with the level of compensation requested by the data holder, they may submit a complaint to the [competent***	G

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			complaint to the competent authority referred to in Article 31 of the Member State where the data holder is established.	***authority/data coordinator] referred to in Article 31 of the Member State where the data holder is established.*** Remaining brackets Text Origin: Council Mandate
Article 21				
286	Article 21 Contribution of research organisations or statistical bodies in the context of exceptional needs	Article 21 Contribution of research organisations or statistical bodies in the context of exceptional needs	Article 21 ~~*Contribution of research organisations or statistical bodies*~~***Further sharing of data***	Article 21 ~~*Contribution of research organisations or statistical bodies*~~***Sharing of data obtained*** in the context of exceptional needs

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			obtained in the context of exceptional needs ***with research organisations or statistical bodies***	***with research organisations or statistical bodies*** Text Origin: Council Mandate
Article 21(1)				
G 287	1. A public sector body or a Union institution, agency or body shall be entitled to share data received under this Chapter with individuals or organisations in view of carrying out scientific research or analytics compatible with the purpose for which the data was requested, or to national statistical	1. A public sector body or a Union institution, agency or body shall be entitled to share data received under this Chapter with individuals or organisations in view of carrying out scientific research or analytics ~~*compatible with*~~***necessary to fulfil*** the purpose for which the data was requested, or to national	1. A public sector body or ***the Commission, the European Central Bank or Union*** ~~*a Union institution, agency or*~~ body shall be entitled to share data received under this Chapter ~~*with individuals or organisations in view of carrying out scientific research or analytics compatible with the*~~	1. A public sector body or ***the Commission, the European Central Bank or Union*** ~~*a Union institution, agency or*~~ body shall be entitled to share data received under this Chapter ~~*with individuals or organisations in view of carrying out scientific research or analytics compatible with the*~~ G

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	institutes and Eurostat for the compilation of official statistics.	statistical institutes***, the members of the European System of Central Banks*** and Eurostat for the compilation of official statistics.	~~purpose for which the data was requested, or to national statistical institutes and Eurostat for the compilation of official statistics.~~	~~purpose for which the data was requested, or to national statistical institutes and Eurostat for the compilation of official statistics.~~***:*** Text Origin: Council Mandate
Article 21(1), point (a)				
G 287a			***(a) with individuals or organisations in view of carrying out scientific research or analytics compatible with the purpose for which the data was requested, or***	***(a) with individuals or organisations in view of carrying out scientific research or analytics compatible with the purpose for which the data was requested, or*** G

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				Text Origin: Council Mandate
Article 21(1), point (b)				
287b			***(b) with national statistical institutes and Eurostat for the production of official statistics.***	***(b) with national statistical institutes and Eurostat for the production of official statistics.*** Text Origin: Council Mandate
Article 21(2)				
288				

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	2. Individuals or organisations receiving the data pursuant to paragraph 1 shall act on a not-for-profit basis or in the context of a public-interest mission recognised in Union or Member State law. They shall not include organisations upon which commercial undertakings have a decisive influence or which could result in preferential access to the results of the research.	2. Individuals or organisations receiving the data pursuant to paragraph 1 shall act ***exclusively*** on a not-for-profit basis or in the context of a public-interest mission recognised in Union or Member State law. They shall not include organisations upon which commercial undertakings have a ~~*decisive*~~***significant*** influence ~~*or*~~**,** which could result in preferential access to the results of the research.	2. Individuals or organisations receiving the data pursuant to paragraph 1 shall ~~*act*~~***use the data exclusively*** on a not-for-profit basis or in the context of a public-interest mission recognised in Union or Member State law. They shall not include organisations upon which commercial undertakings have a decisive influence or which could result in preferential access to the results of the research.	2. Individuals or organisations receiving the data pursuant to paragraph 1 shall act on a not-for-profit basis or in the context of a public-interest mission recognised in Union or Member State law. They shall not include organisations upon which commercial undertakings have a ~~*decisive*~~***significant*** influence ~~*or*~~ which ~~*could*~~***is likely to*** result in preferential access to the results of the research. Text Origin: Commission Proposal
Article 21(3)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
289	3. Individuals or organisations receiving the data pursuant to paragraph 1 shall comply with the provisions of Article 17(3) and Article 19.	3. Individuals or organisations receiving the data pursuant to paragraph 1 shall comply with the provisions of Article 17(3) and Article 19.	3. Individuals or organisations receiving the data pursuant to paragraph 1 shall comply with the ***same obligations that are applicable to the public sector bodies or the Commission, the European Central Bank or Union bodies pursuant to*** ~~*provisions of*~~ Article 17(3) and Article 19.	3. Individuals or organisations receiving the data pursuant to paragraph 1 shall comply with the ***same obligations that are applicable to the public sector bodies or the Commission, the European Central Bank or Union bodies pursuant to*** ~~*provisions of*~~ Article 17(3) and Article 19. Text Origin: Council Mandate
Article 21(3a)				
289a				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			3a. Notwithstanding Article 19, paragraph 1 (c), individuals or organisations receiving the data pursuant to paragraph 1 may keep the data received for up to 6 months following erasure of the data by the public sector bodies, the Commission, the European Central bank and Union bodies.	***3a. Notwithstanding Article 19, paragraph 1 (c), individuals or organisations receiving the data pursuant to paragraph 1 may keep the data received for the purpose for which the data was requested for up to 6 months following erasure of the data by the public sector bodies, the Commission, the European Central bank and Union bodies.*** Text Origin: Council Mandate
Article 21(4)				
290				

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	4. Where a public sector body or a Union institution, agency or body transmits or makes data available under paragraph 1, it shall notify the data holder from whom the data was received.	4. Where a public sector body or a Union institution, agency or body ~~transmits or makes~~***intends to transmit or make*** data available under paragraph 1, it shall notify the data holder from whom the data was received. ***That notification shall include the identity and the contact details of individuals or organisations receiving the data, the purpose of the transmission or making available of the data and the period for which the data will be used by the receiving entity. Within five working days of the notification referred to in the first subparagraph of this paragraph, the data holder shall have the right to submit a reasoned***	4. Where a public sector body or ***the Commission, the European Central Bank or Union*** ~~a Union institution, agency or~~ body transmits or makes data available under paragraph 1, it shall notify ***without undue delay*** the data holder from whom the data was received***, stating the identity of the organisation or the individual receiving the data and the technical and organisational protection measures taken, including where personal data or trade secrets are involved***.	4. Where a public sector body or ~~a Union institution, agency or body transmits or makes~~***the Commission, the European Central Bank or a Union body intends to transmit or make*** data available under paragraph 1, it shall notify ***without undue delay*** the data holder from whom the data was received***, stating the identity and contact details of the organisation or the individual receiving, the purpose of the transmission or making available of the data, the period for which the data will be used and the technical and organisational protection measures taken, including where personal data or trade secrets are involved. Where***

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		objection to such transmission or making available of data. In the case of a rejection of the objection by the public sector body, Union institution, agency or body, the data holder may bring the reasoned objection to the data coordinator referred to in Article 31.		***the data holder disagrees with the transmission or making available of data, it may lodge a complaint with the [data coordinator/competent authority] referred to in Article 31 of the Member State where the data holder is established***. Remaining brackets
Article 22				
G 291	Article 22 Mutual assistance and cross-border cooperation	Article 22 Mutual assistance and cross-border cooperation	Article 22 Mutual assistance and cross-border cooperation	Article 22 Mutual assistance and cross-border cooperation G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
Article 22(1)				
G 292	1. Public sector bodies and Union institutions, agencies and bodies shall cooperate and assist one another, to implement this Chapter in a consistent manner.	1. Public sector bodies and Union institutions, agencies and bodies shall cooperate and assist one another, to implement this Chapter in a consistent manner.	1. Public sector bodies and ~~*Union institutions, agencies and*~~ ***the Commission, the European Central Bank and Union*** bodies shall cooperate and assist one another, to implement this Chapter in a consistent manner.	1. Public sector bodies and ~~*Union institutions, agencies and*~~***the Commission, the European Central Bank and Union*** bodies shall cooperate and assist one another, to implement this Chapter in a consistent manner. Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 22(2)				
293	2. Any data exchanged in the context of assistance requested and provided pursuant to paragraph 1 shall not be used in a manner incompatible with the purpose for which they were requested.	2. Any data exchanged in the context of assistance requested and provided pursuant to paragraph 1 shall not be used in a manner incompatible with the purpose for which they were requested.	2. Any data exchanged in the context of assistance requested and provided pursuant to paragraph 1 shall not be used in a manner incompatible with the purpose for which they were requested.	2. Any data exchanged in the context of assistance requested and provided pursuant to paragraph 1 shall not be used in a manner incompatible with the purpose for which they were requested. Text Origin: Commission Proposal
Article 22(3)				
294				3. Where a public sector body intends to request data from a data

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	3. Where a public sector body intends to request data from a data holder established in another Member State, it shall first notify the competent authority of that Member State as referred to in Article 31, of that intention. This requirement shall also apply to requests by Union institutions, agencies and bodies.	3. Where a public sector body intends to request data from a data holder established in another Member State, it shall first notify the ~~competent authority~~***data coordinator*** of that Member State as referred to in Article 31, of that intention. This requirement shall also apply to requests by Union institutions, agencies and bodies. ***The request shall be evaluated by the competent authority of the Member State where the data holder is established.***	3. Where a public sector body intends to request data from a data holder established in another Member State, it shall first notify the competent authority of that Member State as referred to in Article 31, of that intention ***and transmit the request to that competent authority for examination***. This requirement shall also apply to requests by ***the Commission, the European Central Bank and Union*** ~~Union institutions, agencies and~~ bodies.	holder established in another Member State, it shall first notify the ***[***competent ~~authority~~***authority/data coordinator]*** of that Member State as referred to in Article 31, of that intention. This requirement shall also apply to requests by ~~Union institutions, agencies and~~***the Commission, the European Central Bank and Union*** bodies. ***The request shall be evaluated by the [competent authority/data coordinator] of the Member State where the data holder is established.*** Remaining brackets

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: EP Mandate
Article 22(3a)(4)				
295	4. After having been notified in accordance with paragraph 3, the relevant competent authority shall advise the requesting public sector body of the need, if any, to cooperate with public sector bodies of the Member State in which the data holder is established, with the aim of reducing the administrative burden on the data holder in complying with the request. The requesting public sector body shall	4. After having been notified in accordance with paragraph 3, the ~~relevant competent authority~~***data coordinator*** shall advise the requesting public sector body of the need, if any, to cooperate with public sector bodies of the Member State in which the data holder is established, with the aim of reducing the administrative burden on the data holder in complying with the request. The requesting	4. After having ~~been notified in accordance with paragraph 3, the relevant competent authority shall advise the requesting public sector body of the need, if any, to cooperate with public sector bodies of the Member State in which the data holder is established, with the aim of reducing the administrative burden on the data holder in complying with the request. The requesting~~	4. After having ~~been notified in accordance with paragraph 3, the relevant competent authority shall advise the requesting public sector body of the need, if any, to cooperate with public sector bodies of the Member State in which the data holder is established, with the aim of reducing the administrative burden on the data holder in complying with the request. The requesting public sector body~~***examined the***

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	take the advice of the relevant competent authority into account.	public sector body shall take the advice of the ~~relevant competent authority~~*data coordinator* into account.	~~public sector body~~*examined the request in the light of the requirements under Article 17, the relevant competent authority* shall ~~take the advice~~ *take one* of the ~~relevant competent authority into account.~~ *following actions:*	*request in the light of the requirements under Article 17, the [relevant competent authority/data coordinator]* shall ~~take the advice~~ *take one* of the ~~relevant competent authority into account.~~ *following actions:* Remaining brackets Text Origin: Council Mandate
Article 22(4), first subparagraph, point (a)				
295a				*(a) transmit the request to the data holder and, if applicable,*

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			(a) transmit the request to the data holder and, if applicable, advise the requesting public sector body, the Commission, the European Central Bank or Union body of the need, if any, to cooperate with public sector bodies of the Member State in which the data holder is established, with the aim of reducing the administrative burden on the data holder in complying with the request. The requesting public sector body, the Commission, the European Central Bank or Union body shall take the advice of the relevant competent authority into account;	*advise the requesting public sector body, the Commission, the European Central Bank or Union body of the need, if any, to cooperate with public sector bodies of the Member State in which the data holder is established, with the aim of reducing the administrative burden on the data holder in complying with the request. The requesting public sector body, the Commission, the European Central Bank or Union body shall take the advice of the [relevant competent authority/data coordinator] into account;* Remaining brackets

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
Article 22(4), first subparagraph, point (b)				
295b			***(b) reject the request of the public sector body requesting the data for duly substantiated reasons. The requesting public sector body shall take the advice of the relevant competent authority into account before possibly resubmitting the request;***	***(b) reject the request of the public sector body requesting the data for duly substantiated reasons, in accordance with this Chapter. The requesting public sector body shall take the advice of the relevant competent authority into account before possibly resubmitting the request;***

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				Text Origin: Council Mandate
Article 22(4), first subparagraph, point (c)				
G 295c			***(c) reject the request of the Commission, the European Central Bank or the requesting Union body for duly substantiated reasons. The Commission, the European Central Bank or the requesting Union body shall take the reservations into account before possibly resubmitting the request.***	***(c) reject the request of the Commission, the European Central Bank or the requesting Union body for duly substantiated reasons, in accordance with this Chapter. The Commission, the European Central Bank or the requesting Union body shall take the reservations into account before possibly resubmitting the request.*** G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
Article 22(4), second subparagraph				
295d			***The competent authority shall act without undue delay.***	***The [competent authority/data coordinator] shall act without undue delay.*** Remaining brackets Text Origin: Council Mandate
CHAPTER VI				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
296	CHAPTER VI SWITCHING BETWEEN DATA PROCESSING SERVICES	CHAPTER VI SWITCHING BETWEEN DATA PROCESSING SERVICES	CHAPTER VI SWITCHING BETWEEN DATA PROCESSING SERVICES	CHAPTER VI SWITCHING BETWEEN DATA PROCESSING SERVICES Text Origin: Commission Proposal
Chapter VIa				
296a		***Article 22a*** ***Definitions*** ***For the purposes of this Chapter, the following definitions apply:***		*deleted*

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Chapter Vib				
296b		***1. 'data processing service' means a digital service enabling ubiquitous, and on-demand network access to a shared pool of configurable, scalable and elastic computing resources of a centralised, distributed or highly distributed nature, provided to a customer, that can be rapidly provisioned and released with minimal management effort or service provider interaction;***		*deleted*
Chapter Vic				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	296c	***2. 'on-premise' means an ICT infrastructure and computing resources leased or owned by the customer, located in its own data centre and operated by the customer or by a third-party;***		*deleted*
Chapter Vid				
	296d	***3. 'equivalent service' means a set of data processing services that share the same primary objective and data processing service model;***		*deleted*

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Chapter Vie				
296e		***4. 'data processing service data portability' means the ability of the cloud service to move and adapt its exportable data between the customer's data processing services, including in different deployment models;***		*deleted*
Chapter Vif				
296f		***5. 'switching' means the process where a data processing service customer changes from using one data processing service to using a***		*deleted*

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		second equivalent or other service offered by a different provider of data processing services, including through extracting, transforming and uploading the data, involving the source provider of data processing services, the customer and the destination provider of data processing services;		
Chapter Vig				
296g		***6. 'exportable data' means the input and output data, including metadata, directly or indirectly generated, or cogenerated, by the***		*deleted*

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		customer's use of the data processing service, excluding any data processing service provider's or third party's assets or data protected by intellectual property rights or constituting a trade secret or confidential information;		
Chapter Vih				
G *296h*		***7. 'functional equivalence' means the possibility to re-establish on the basis of the customer's data a minimum level of functionality in the environment of a new data processing service after the switching process, where the***		*deleted* G

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		destination service delivers comparable outcome in response to the same input for shared functionality supplied to the customer under the contractual agreement ;		
Chapter Vii				
296i		***8. 'egress fees' refers to data transfer fees charged to the customers of a provider of data processing services for extracting their data through the network from the ICT infrastructure of a provider of data processing services.***		*deleted*

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 23				
297	Article 23 Removing obstacles to effective switching between providers of data processing services	Article 23 Removing obstacles to effective switching between providers of data processing services	Article 23 Removing obstacles to effective switching between providers of data processing services	Article 23 Removing obstacles to effective switching between providers of data processing services Text Origin: Commission Proposal
Article 23(1)				
298				1. Providers of a data processing service shall take the measures

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	1. Providers of a data processing service shall take the measures provided for in Articles 24, 25 and 26 to ensure that customers of their service can switch to another data processing service, covering the same service type, which is provided by a different service provider. In particular, providers of data processing service shall remove commercial, technical, contractual and organisational obstacles, which inhibit customers from:	1. Providers of a data processing service shall***, within their capacity,*** take the measures provided for in Articles 24, ***24a, 24b,*** 25 and 26 to ~~*ensure that*~~***enable*** customers ~~*of their service can*~~***to*** switch to another data processing service, covering the ~~*same*~~***equivalent*** service~~*type*~~, which is provided by a different ~~*service provider*~~***provider of data processing services or, where relevant, to use several providers of data processing services at the same time***. In particular, providers of ***a*** data processing service ***shall not impose and*** shall remove commercial, technical, contractual	1. Providers of a data processing service shall take the measures provided for in Articles 24, 25 and 26 to ensure that ***all*** customers of their service can switch to another data processing service, covering the same service type, which is provided by a different service provider. In particular, providers of data processing ~~*service*~~***services*** shall ***not pose obstacles, which can be, but not exclusively, of pre-commercial,*** ~~*remove*~~ commercial, technical, contractual and organisational ~~*obstacles*~~***nature, and*** which inhibit customers from:	provided for in Articles 24, ***[24a, 24b,]*** 25 and 26 to ~~*ensure that*~~***enable*** customers ~~*of their service can*~~***to*** switch to another data processing service, covering the ***same*** ~~*same*~~ service ***type***~~*type*~~, which is provided by a different ~~*service provider*~~***provider of data processing services or, where relevant, to use several providers of data processing services at the same time***. In particular, providers of ***a*** data processing service shall ***not impose and shall*** remove ***pre-commercial,*** commercial, technical, contractual and organisational obstacles, which inhibit customers from:

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		and organisational obstacles, which inhibit customers from:		
Article 23(1), point (a)				
299	(a) terminating, after a maximum notice period of 30 calendar days, the contractual agreement of the service;	(a) terminating, after a maximum notice period of ~~30~~60 calendar days, the contractual agreement of the service, ***unless an alternative notice period is mutually and explicitly agreed between the customer and the provider where both parties are able equally to influence the content of the contractual agreement***;	(a) terminating, after ~~a~~ ***the*** maximum notice period ***and the successful finalisation of the switching process, in accordance with Article 24*** ~~of 30 calendar days~~, the contractual agreement of the service;	(a) ***(a)*** terminating, after ~~a~~***the*** maximum notice period ***and the successful finalisation of the switching process, in accordance with Article 24*** ~~of 30 calendar days~~, the contractual agreement of the service;

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Article 23(1), point (b)				
300	(b) concluding new contractual agreements with a different provider of data processing services covering the same service type;	(b) concluding new contractual agreements with a different provider of data processing services covering the ~~same~~***equivalent*** service ~~type~~;	(b) concluding new contractual agreements with a different provider of data processing services covering the same service type;	(b) concluding new contractual agreements with a different provider of data processing services covering the same service type;
Article 23(1), point (c)				
301	(c) porting its data, applications and other digital assets to another provider of data processing services;	(c) porting ~~its~~***the customer's exportable*** data, applications and other digital assets to another provider of data processing services ***or to an on-premise ICT infrastracture, including after***	(c) porting its data~~, applications and~~ ***and metadata created by the customer and by the use of the originating service and/or the customer's applications and/or*** other digital assets to another	(c) porting ~~its data, applications and~~***the customer's exportable data,*** other digital assets to another provider of data processing services ***or to an on-premise infrastructure, including after***

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		having benefited from a free-tier offering;	provider of data processing services ***or to an on-premise system, including if the customer benefited from a free-tier offering***;	***having benefited from a free-tier offering***;
Article 23(1), point (d)				
302	(d) maintaining functional equivalence of the service in the IT-environment of the different provider or providers of data processing services covering the same service type, in accordance with Article 26.	(d) ~~*maintaining*~~***achieving*** functional equivalence ***in the use*** of the ***new*** service in the IT-environment of the different provider or providers of data processing services covering the ~~*same*~~***equivalent*** service ~~*type*~~, in accordance with Article 26.	(d) ***in accordance with Article 23a,*** maintaining functional equivalence of the service in the IT-environment of the different provider or providers of data processing services covering the same service type~~*, in accordance with Article 26*~~.	(d) ~~*maintaining*~~***in accordance with Article 23a, achieving*** functional equivalence ***in the use*** of the ***new*** service in the IT-environment of the different provider or providers of data processing services covering the same service type~~*, in accordance with Article 26*~~.

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
Article 23(1), point (da)				
302a				***(da) unbundling, where technically feasible, data processing services referred to in Article 26(1) from other data processing services provided by the data processing service provider.***
Article 23(2)				
303				

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	2. Paragraph 1 shall only apply to obstacles that are related to the services, contractual agreements or commercial practices provided by the original provider.	2. Paragraph 1 shall only apply to obstacles that are related to the services, contractual agreements or commercial practices provided by the ~~original~~**source** provider **of data processing services**.	~~2. Paragraph 1 shall only apply to obstacles that are related to the services, contractual agreements or commercial practices provided by the original provider.~~	*deleted*
Article 23a				
G *303a*			**Article 23a** **Scope of the technical switching obligations**	**Article 23a** **Scope of the technical obligations** Text Origin: Council Mandate G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
Article 23a, first subparagraph					
G 303b			***The responsibilities of data processing service providers as defined in Articles 23 and 26 shall only apply to the services, contractual agreements or commercial practices provided by the original provider.***	***The responsibilities of data processing service providers as defined in Articles 23, 24, 25, 26 and 28a shall only apply to the services, contractual agreements or commercial practices provided by the source provider of data processing services.***	G
Article 24					
G 304	Article 24	Article 24	Article 24	Article 24	G

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	Contractual terms concerning switching between providers of data processing services	Contractual terms concerning switching between providers of data processing services	Contractual terms concerning switching between providers of data processing services	Contractual terms concerning switching between providers of data processing services Text Origin: Commission Proposal
Article 24(1)				
305	1. The rights of the customer and the obligations of the provider of a data processing service in relation to switching between providers of such services shall be clearly set out in a written contract. Without prejudice to Directive (EU)	1. The rights of the customer and the obligations of the provider of a data processing service in relation to switching between providers of such services ***or, where applicable, to an on-premise ICT infrastructure*** shall be clearly set out in a written contract ***which is***	1. The rights of the customer and the obligations of the provider of a data processing service in relation to switching between providers of such services ***or to an on-premise system*** shall be clearly set out in a written contract. Without prejudice to Directive (EU) 2019/770, that	1. The rights of the customer and the obligations of the provider of a data processing service in relation to switching between providers of such services ***or, where applicable, to an on-premise infrastructure*** shall be clearly set out in a written contract. ~~*Without prejudice to*~~

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	2019/770, that contract shall include at least the following:	***made available to the customer in a user-friendly manner prior to signing the contract***. Without prejudice to Directive (EU) 2019/770, ~~*that contract*~~***the provider of a data processing service*** shall ~~*include*~~***ensure that that contract includes*** at least the following:	contract shall include at least the following:	~~*Directive (EU) 2019/770, that contract shall include at least the following:*~~ ***which is made available to the customer prior to signing the contract in a way that allows the customer to store and reproduce the contract.***
Article 24(1a)				
G 305a				***1a. Without prejudice to Directive (EU) 2019/770, that contract shall include at least the following:*** G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 24(1a), point (a)				
306	(a) clauses allowing the customer, upon request, to switch to a data processing service offered by another provider of data processing service or to port all data, applications and digital assets generated directly or indirectly by the customer to an on-premise system, in particular the establishment of a mandatory maximum transition period of 30 calendar days, during which the data processing service provider shall:	(a) clauses allowing the customer, upon request, to switch to a data processing service offered by another provider of data processing ~~service~~***services*** or to port all ***exportable*** data~~,~~ applications and digital assets ~~*generated directly or indirectly by the customer to an on-premise system, in particular the establishment of a*~~***to an on-premise ICT infrastructure, without undue delay and in any event no longer than*** mandatory maximum transition period of ~~30~~***90*** calendar days, during which the	(a) clauses allowing the customer, upon request, to switch to a data processing service offered by another provider of data processing service or to port all data, ***including metadata,*** applications and ***other*** digital assets generated directly or indirectly by the customer ***and/or relating to the customer*** to an on-premise system, in particular the establishment of a mandatory maximum transition period of 30 calendar days, ***to be initiated after the maximum notice period referred to in point (aa),*** during which ***the service***	(a) clauses allowing the customer, upon request, to switch to a data processing service offered by another provider of data processing ~~service~~***services*** or to port all ***exportable*** data~~,~~ applications and digital assets ~~*generated directly or indirectly by the customer to an on-premise system, in particular the establishment of a*~~***to an on-premise ICT infrastructure, without undue delay and in any event no longer than*** mandatory maximum transition period of 30 calendar days, ***to be initiated after the maximum notice period***

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		provider of data processing ~~*service provider*~~***services*** shall:	***contract remains applicable and*** the data processing service provider shall:	***referred to in point (aa),*** during which the ~~*data processing service*~~***service contract remains applicable and during which the*** provider ***of data processing services*** shall: Text Origin: EP Mandate
Article 24(1a), point (aa)				
G	306a		***(aa) an obligation on the provider of data processing services to support the development of the customer's exit strategy relevant to the contracted services,***	***(aa) an obligation of the provider of data processing services to support the customer's exit strategy relevant to the contracted services,***

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		including through providing all relevant information;		***including through providing all relevant information;***
Article 24(1a), point (a)(-1)				
G 306b			***(aa) a clause specifying that the contract shall be deemed terminated and the customer shall be notified of the termination, in one of the following cases:***	***(aa) a clause specifying that the contract shall be deemed terminated and the customer shall be notified of the termination, in one of the following cases:*** Text Origin: Council Mandate
Article 24(1a), point (a)(-1a)				

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G	306c		***(i) upon the successful completion of the switching process to another provider of data processing services or an on-premise system;***	***(i) where applicable, upon the successful completion of the switching process to another provider of data processing services or an on-premise system;*** Text Origin: Council Mandate	G
	Article 24(1a), point (a)(-1b)				
G	306d		***(ii) at the end of the maximum notice period referred to in paragraph (aa), in the case that the customer does not wish to***	***(ii) at the end of the maximum notice period referred to in paragraph (aa), in the case that the customer does not wish to***	G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			switch but to delete all its digital assets upon service termination.	***switch but to delete all its digital assets upon service termination.*** Text Origin: Council Mandate
Article 24(1a), point (a)(-1c)				
306e			***(ab) a maximum notice period for initiation of the switching process , which shall not exceed 2 months;***	***(ab) a maximum notice period for initiation of the switching process, which shall not exceed 2 months;*** Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 24(1a), point (a)(1)				
307	(1) assist and, where technically feasible, complete the switching process;	~~(1)~~***(i)*** ~~*assist and, where technically feasible, complete*~~***reasonably assist through and facilitate*** the switching process;	(1) assist ***the customer and third parties authorized by the customer in*** ~~*and*~~, where technically feasible, ~~*complete the switching*~~ ***completing the porting*** process;	(1) ~~*assist and, where technically feasible, complete*~~***provide reasonable assistance to the customer and third parties authorized by the customer in*** the switching process; Text Origin: Council Mandate
Article 24(1a), point (a)(2)				
308				(2) ~~*ensure full*~~***act with due care to maintain business*** continuity***, and***

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	(2) ensure full continuity in the provision of the respective functions or services.	~~(2)~~(ii) act with due care to maintain business continuity and a high level of security of the service and, taking into account the advancement in the switching process, ensure, to the greatest extent possible, ~~full~~ continuity in the provision of the ~~respective~~relevant functions or services within the capacity of the source provider of data processing services and in accordance with contractual obligations.	(2) ensure full continuity in the provision of the respective functions or services- under the contract;	continue ~~in~~ the provision of the respective functions or services- under the contract, Text Origin: EP Mandate
Article 24(1a), point (a)(2a)				
308a				(iia) provide clear information concerning known risks to

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		(iia) provide clear information concerning known risks to continuity in the provision of the respective functions or services on the part of the provider of source data processing services.		*continuity in the provision of the respective functions or services on the part of the provider of source data processing services.* Text Origin: EP Mandate
Article 24(1a), point (a)(2b)				
G 308a			*(2a) ensure that a high level of security is maintained throughout the porting process, notably the security of the data during their transfer and the continued security of the data during the*	*(2a) ensure that a high level of security is maintained throughout the switching process, notably the security of the data during their transfer and the continued security of the data during the retention period specified in* G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			retention period specified in point (c);	***point (c), in line with applicable laws;*** Text Origin: Council Mandate
Article 24(1a), point (ab)				
G 308d		***(ab) a list of additional services that customers can obtain facilitating the switching process, such as the test of the switching process;***		*deleted* G
Article 24(1a), point (b)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
309	*(b)* an exhaustive specification of all data and application categories exportable during the switching process, including, at minimum, all data imported by the customer at the inception of the service agreement and all data and metadata created by the customer and by the use of the service during the period the service was provided, including, but not limited to, configuration parameters, security settings, access rights and access logs to the service;	(b) ~~*an exhaustive*~~***a detailed*** specification of all data and application categories ~~*exportable*~~***that can be ported*** during the switching process, including, at ***a*** minimum, all ~~*data imported by the customer at the inception of the service agreement and all data and metadata created by the customer and by the use of the service during the period the service was provided, including, but not limited to, configuration parameters, security settings, access rights and access logs to the service*~~***exportable data***;	(b) an exhaustive specification of all data and application categories exportable during the switching process, including, at minimum, all data imported by the customer at the inception of the service agreement and all data and metadata created by the customer and by the use of the service during the period the service was provided, including, but not limited to, configuration parameters, security settings, access rights and access logs to the service;	(b) an exhaustive specification of all data and ~~*application*~~ ***digital assets*** categories ~~*exportable*~~***that can be ported*** during the switching process, including, at ***a*** minimum, all ~~*data imported by the customer at the inception of the service agreement and all data and metadata created by the customer and by the use of the service during the period the service was provided, including, but not limited to, configuration parameters, security settings, access rights and access logs to the service*~~***exportable data***;

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: EP Mandate
Article 24(1a), point (ba)				
G 309a			***(ba) an exhaustive specification of categories of metadata specific to the internal functioning of provider's service that will be exempted from the exportable data under point (b), where a risk of breach of trade secrets of the provider exists. These exemptions shall however never impede or delay the porting process as foreseen in Article 23;***	***(ba) an exhaustive specification of categories of data specific to the internal functioning of provider's service that will be exempted from the exportable data under point (b), where a risk of breach of trade secrets of the provider exists. These exemptions shall however never impede or delay the porting process as foreseen in Article 23;*** G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
Article 24(1a), point (c)				
310	(c) a minimum period for data retrieval of at least 30 calendar days, starting after the termination of the transition period that was agreed between the customer and the service provider, in accordance with paragraph 1, point (a) and paragraph 2.	(c) a minimum period for data retrieval of at least 30 calendar days, starting after the termination of the transition period that was agreed between the customer and the ~~service provider~~***provider of data processing services***, in accordance with paragraph 1, point (a) and paragraph 2~~.~~**;**	(c) a minimum period for data retrieval of at least 30 calendar days, starting after the termination of the transition period that was agreed between the customer and the service provider, in accordance with paragraph 1, point (a) and paragraph 2**;**	(c) a minimum period for data retrieval of at least 30 calendar days, starting after the termination of the transition period that was agreed between the customer and the ~~service provider~~***provider of data processing services***, in accordance with paragraph 1, point (a) and paragraph 2~~.~~**;** Text Origin: EP Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 24(1a), point (ca)				
310a		***(ca) an obligation on the provider of data processing services to delete all of the former customer's exportable data after the expiration of the period set out in paragraph 1, point (c), of this Article;***		*deleted*
Article 24(1a), point (cb)				
310b			***(ca) a clause guaranteeing full erasure of all data, including***	***(ca) a clause guaranteeing full erasure of all exportable data, digital assets generated directly by***

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			metadata, applications and other digital assets generated directly by the customer and/or relating to the customer directly after the expiration of the period set out in point (c) or after the expiration of an alternative agreed period later than the expiration of the period set out in point (c), provided that the porting process has been completed successfully;	***the customer and/or relating to the customer directly after the expiration of the period set out in point (c) or after the expiration of an alternative agreed period later than the expiration of the period set out in point (c), provided that the switching process has been completed successfully;*** Text Origin: Council Mandate
Article 24(1a), point (cc)				
G 310c			***(cb) reference to an up-to-date online register hosted by the data***	G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			processing service provider, with details of all the data structures and data formats as well as the standards and open interoperability specifications, in which the exportable data described according to point (b) will be available;	
Article 24(1a), point (cd)				
G 310d			***(cc) information on any data egress charges and switching charges that may be imposed by providers of data processing services in accordance with Article 25.***	***(cc) data egress charges and switching charges that may be imposed by providers of data processing services in accordance with Article 25.*** G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
Article 24(1a), point (ce)				
G 310e			***1a. The contract as defined in paragraph 1 shall include provisions providing that the customer has the exclusive right to invoke the mandatory notification period as defined in paragraph 1 and shall notify the data processing service provider of its decision to perform one or more of the following actions upon termination of the notification period:***	***1a. The contract as defined in paragraph 1 shall include provisions providing that the customer may notify the data processing service provider of its decision to perform one or more of the following actions upon termination of the notification period:*** Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 24(1a), point (cf)				
310f			***(a) switch to another provider of data processing services, in which case the customer shall provide the necessary details of that provider;***	***(a) switch to another provider of data processing services, in which case the customer shall provide the necessary details of that provider;*** Text Origin: Council Mandate
Article 24(1a), point (cg)				
310g				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			(b) switch to an on-premise system;	***(b) switch to an on-premise system;*** Text Origin: Council Mandate
Article 24(1a), point (ch)				
G 310h			***(c) delete its digital assets.***	***(c) delete its digital assets and exportable data.*** Text Origin: Council Mandate
Article 24(2)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
311	2. Where the mandatory transition period as defined in paragraph 1, points (a) and (c) of this Article is technically unfeasible, the provider of data processing services shall notify the customer within 7 working days after the switching request has been made, duly motivating the technical unfeasibility with a detailed report and indicating an alternative transition period, which may not exceed 6 months. In accordance with paragraph 1 of this Article, full service continuity shall be ensured throughout the alternative transition period against reduced	2. Where the mandatory transition period as defined in paragraph 1, points (a) and (c) of this Article is technically unfeasible, the provider of data processing services shall notify the customer within ~~7~~ ***14*** working days after the switching request has been made, ***and shall duly motivate*** ~~*duly motivating*~~ the technical unfeasibility ~~*with a detailed report and indicating*~~ ***and indicate*** an alternative transition period, which may not exceed ~~*6*~~ ***9*** months. In accordance with paragraph 1 of this Article, ~~*full*~~ service continuity shall be ensured throughout the alternative transition period against reduced	2. ***The contract as defined in paragraph 1 shall include provisions providing that*** where the mandatory transition period as defined in paragraph 1, points (a) and (c) of this Article is technically unfeasible, the provider of data processing services shall notify the customer within 7 working days after the switching request has been made, duly motivating the technical unfeasibility with a detailed report and indicating an alternative transition period, which may not exceed 6 months. In accordance with paragraph 1 of this Article, full service continuity shall be ensured throughout the	2. Where the mandatory transition period as defined in paragraph 1, points (a) and (c) of this Article is technically unfeasible, the provider of data processing services shall notify the customer within ~~7~~ ***14*** working days after the switching request has been made, ***and shall duly motivate*** ~~*duly motivating*~~ the technical unfeasibility ~~*with a detailed report and indicating*~~ ***and indicate*** an alternative transition period, which may not exceed ~~*6*~~ ***7*** months. In accordance with paragraph 1 of this Article, ~~*full*~~ service continuity shall be ensured throughout the alternative transition period against reduced

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	charges, referred to in Article 25(2).	charges, referred to in Article 25(2). ***The customer shall retain the right to extend that period, if needed, prior to or during the switching process.***	alternative transition period ~~*against reduced charges, referred to in Article 25(2)*~~.	charges, referred to in Article 25(2). Text Origin: EP Mandate
Article 24(2a)				
G 311a			***2a. Without prejudice to paragraph 2, the contract as defined in paragraph 1 shall include provisions providing the customer with the right to extend the transition period with a period that the customer deems more appropriate for its own ends.***	***2a. Without prejudice to paragraph 2, the contract as defined in paragraph 1 shall include provisions providing the customer with the right to extend the transition period once with a period that the customer deems more appropriate for its own ends.*** G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
Article 24(2b)				
G 311b		***Article 24a*** ***Information obligation of providers of destination data processing services***		***Article 24a Information obligation of providers of data processing services*** Text Origin: EP Mandate G
Article 24(2c)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
G 311c		***The provider of destination data processing services shall provide the customer with information on available procedures for switching and porting to the data processing service when it is a porting destination, including information on available porting methods and formats as well as restrictions and technical limitations which are known to the provider of destination data processing services.***		***2c. The provider of data processing services shall provide the customer with:*** ***(a) information on available procedures for switching and porting to the data processing service, including information on available porting methods and formats as well as restrictions and technical limitations which are known to the provider of destination data processing services.*** ***(b) reference to an up-to-date online register hosted by the data*** G

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				processing service provider, with details of all the data structures and data formats as well as the relevant standards and open interoperability specifications, in which the exportable data described according to Article 24 (1) point (b) will be available.
Article 24a				
G 311d		***Article 24b*** ***Good faith obligation***		***Article 24b*** ***Good faith obligation*** Text Origin: EP Mandate G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 24a(1)				
G 311e		***All parties involved, including providers of destination data processing services, shall collaborate in good faith to make the switching process effective, enable the timely transfer of necessary data and maintain the continuity of the service.***		***All parties involved, including providers of destination data processing services, shall collaborate in good faith to make the switching process effective, enable the timely transfer of data and maintain the continuity of the service.*** Text Origin: EP Mandate G
Article 24b				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
G	311f		***Article 24a*** ***Contractual transparency obligations on international access and transfer***	***Article 24a*** ***Contractual transparency obligations on international access and transfer*** Text Origin: Council Mandate	G
	Article 24b(1)				
G	311g		***1. Providers of data processing services shall make the following information available on their websites, and keep the information updated:***	***1. Providers of data processing services shall make the following information available on their websites, and keep the information updated:***	G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
Article 24b(1), point (a)				
G 311h			***(a) the jurisdiction to which the IT infrastructure deployed for data processing of their individual services is subject;***	***(a) the jurisdiction to which the IT infrastructure deployed for data processing of their individual services is subject;*** Text Origin: Council Mandate
Article 24b(1), point (b)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
G 311i			***(b) a general description of the technical, organisational and contractual measures adopted by the data processing service provider in order to prevent governmental access to non-personal data held in the Union where such transfer or access would create a conflict with Union law or the national law of the relevant Member State.***	***(b) a general description of the technical, organisational and contractual measures adopted by the data processing service provider in order to prevent governmental access to non-personal data held in the Union where such transfer or access would create a conflict with Union law or the national law of the relevant Member State.*** Text Origin: Council Mandate
Article 24b(2)				

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	311j		***2. The websites defined in paragraph 1 of this Article shall be referenced in contractual agreements of all data processing services offered by data processing service providers.***	***2. The websites defined in paragraph 1 of this Article shall be referenced in contractual agreements of all data processing services offered by data processing service providers.*** Text Origin: Council Mandate
	Article 25			
	312	Article 25 Gradual withdrawal of switching charges	Article 25 Gradual withdrawal of switching charges	Article 25 ***Gradual withdrawal of data egress charges and switching***	Article 25

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			charges*~~Gradual withdrawal of switching charges~~*	Gradual withdrawal of switching charges ***including data egress charges*** Text Origin: Council Mandate
Article 25(1)				
313	1. From [date X+3yrs] onwards, providers of data processing services shall not impose any charges on the customer for the switching process.	1. From [***the date of entry into force of this Regulation****~~date X+3yrs~~*] onwards, providers of data processing services shall not impose any charges on ***~~the customer~~******customers who are consumers*** for the switching process.	1. From [date ***~~X~~******of entry into force*** +3yrs] onwards, providers of data processing services shall not impose any ***data egress charges or switching*** charges on the customer for the switching process.	1. From [date ***~~X+~~******of entry into force +*** 3yrs] onwards, providers of data processing services shall not impose any ***switching*** charges on the customer for the switching process***, including data egress charges***.

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
Article 25(2)				
314	2. From [date X, the date of entry into force of the Data Act] until [date X+3yrs], providers of data processing services may impose reduced charges on the customer for the switching process.	2. From [date X, the date of entry into force of ~~the Data Act~~***this Regulation***] until [date X+3yrs], providers of data processing services may impose reduced charges on ***customers in the context of business-to-business relations*** ~~the customer~~ for the switching process***, with particular reference to egress fees***.	2. From [~~date X, the~~ date of entry into force of the Data Act] until [***date of entry into force*** ~~date X~~+3yrs], providers of data processing services may impose reduced ***data egress and reduced switching*** charges on the customer for the switching process.	2. From [~~date X, the~~ date of entry into force of the Data Act] until [date ~~X~~***of entry into force***+3yrs], providers of data processing services may impose reduced ***switching*** charges***, including data egress charges,*** on the customer for the switching process. Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 25(2a)				
314a		***2a. From [3 years after the date of entry into force of this Regulation] onwards, providers of data processing services shall not impose any charges for the switching process.***		*deleted*
Article 25(3)				
315	*3.* The charges referred to in paragraph 2 shall not exceed the costs incurred by the provider of data processing services that are	3. The charges referred to in paragraph 2 shall not exceed the costs incurred by the provider of data processing services that are directly linked to the switching	3. The charges referred to in paragraph 2 shall not exceed the costs incurred by the provider of data processing services that are directly linked to the ***data transfer***	3. The ***reduced switching*** charges referred to in paragraph 2 shall not exceed the costs incurred by the provider of data processing

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	directly linked to the switching process concerned.	process concerned ***and shall be linked to the mandatory operations that providers of data processing services must perform as part of the switching process***.	***and the*** switching process concerned.	services that are directly linked to the switching process concerned. Text Origin: Commission Proposal
Article 25(3a)				
G 315a		***3a. Standard subscription or service fees and charges for professional transition services work undertaken by the provider of data processing services at the customer's request for support in the switching process shall not be considered switching charges for the purposes of this Article.***		***3a. Before entering into a contractual agreement with a customer, providers of data processing services shall provide the prospective customer with clear information on standard service fees and early termination penalties that might be imposed on the customer, as well as on the*** G

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				reduced switching charges, including data egress charges that might be imposed on customers during the timeframe referred to in Article 25 paragraph 2.
Article 25(3b)				
315b		***3b. Before entering into a contractual agreement with a customer, the provider of data processing services shall provide the customer with clear information describing the charges imposed on the customer for the switching process in accordance with paragraph 2, as well as the fees and charges***		***3b. Where relevant, providers of data processing services shall provide information on services that involve highly complex or costly switching or for which it is impossible to switch without significant interference in the data, digital assets or service architecture.***

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		referred to in paragraph 3a, and, where relevant, shall provide information on services that involve highly complex or costly switching or for which it is impossible to switch without significant interference in the data, application or service architecture. Where applicable, the provider of data processing services shall make this information publicly available to customers via a dedicated section of their website or in any other easily accessible way.		
Article 25(3c)				

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	315c			***3c. Where applicable, providers of data processing services shall make this information publicly available to customers via a dedicated section of their website or in any other easily accessible way.***
Article 25(4)				
	316	4. The Commission is empowered to adopt delegated acts in accordance with Article 38 to supplement this Regulation in order to introduce a monitoring mechanism for the Commission to	4. The Commission is empowered to adopt delegated acts in accordance with Article 38 to supplement this Regulation in order to introduce a monitoring mechanism for the Commission to	4. The Commission is empowered to adopt delegated acts in accordance with Article 38 to supplement this Regulation in order to introduce a monitoring mechanism for the Commission to monitor switching charges

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	monitor switching charges imposed by data processing service providers on the market to ensure that the withdrawal of switching charges as described in paragraph 1 of this Article will be attained in accordance with the deadline provided in the same paragraph.	monitor switching charges imposed by ***providers of*** data processing ~~*service providers*~~***services*** on the market to ensure that the withdrawal ***and reduction*** of switching charges as described in ~~*paragraph 1*~~***paragraphs 1 and 2*** of this Article will be attained in accordance with the deadline provided in ~~*the same paragraph*~~***those paragraphs***.	monitor ***data egress charges and*** switching charges imposed by data processing service providers on the market to ensure that the withdrawal of ~~*switching*~~ ***these*** charges as described in paragraph 1 of this Article will be attained in accordance with the deadline provided in the same paragraph.	***including data egress charges*** imposed by ***providers of*** data processing ~~*service providers*~~***services*** on the market to ensure that the withdrawal ***and reduction of*** ~~*of*~~ switching charges ***including data egress charges*** as described in ~~*paragraph 1 of this Article*~~***paragraphs 1 and 2*** will be attained in accordance with the ~~*deadline*~~***deadlines*** provided in ~~*the same paragraph*~~***those paragraphs***. Text Origin: Comments and homework
Article 26				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
317	Article 26 Technical aspects of switching	Article 26 Technical aspects of switching	Article 26 Technical aspects of switching	Article 26 Technical aspects of switching Text Origin: Commission Proposal
Article 26(1)				
318	1. Providers of data processing services that concern scalable and elastic computing resources limited to infrastructural elements such as servers, networks and the virtual resources necessary for operating the infrastructure, but that do not	1. Providers of data processing services that concern scalable and elastic computing resources limited to infrastructural elements such as servers, networks and the virtual resources necessary for operating the infrastructure, but that do not	1. Providers of data processing services that concern scalable and elastic computing resources limited to infrastructural elements such as servers, networks and the virtual resources necessary for operating the infrastructure, but that do not	1. Providers of data processing services that concern scalable and elastic computing resources limited to infrastructural elements such as servers, networks and the virtual resources necessary for operating the infrastructure, but

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	provide access to the operating services, software and applications that are stored, otherwise processed, or deployed on those infrastructural elements, shall ensure that the customer, after switching to a service covering the same service type offered by a different provider of data processing services, enjoys functional equivalence in the use of the new service.	provide access to the operating services, software and applications that are stored, otherwise processed, or deployed on those infrastructural elements, shall ~~ensure~~***take reasonable measures within their power to facilitate*** that the customer, after switching to a service covering the same service type offered by a different provider of data processing services, ~~enjoys~~***achieves*** functional equivalence in the use of the new service***, provided that the functional equivalence is established by the destination provider of data processing services. The source provider of data processing services shall facilitate the process through***	provide access to the operating services, software and applications that are stored, otherwise processed, or deployed on those infrastructural elements, shall ***take all measures in their power, including in cooperation with the data processing service provider of the destination service, to facilitate*** ~~ensure~~ that the customer, after switching to a service covering the same service type offered by a different provider of data processing services, enjoys functional equivalence in the use of the ~~new~~ ***destination*** service.	that do not provide access to the operating services, software and applications that are stored, otherwise processed, or deployed on those infrastructural elements, shall***, in line with Article 24b, take all reasonable measures in their power to facilitate*** ~~ensure~~ that the customer, after switching to a service covering the same service type offered by a ~~different~~ ***destination*** provider of data processing services, ~~enjoys~~***achieves*** functional equivalence in the use of the ~~new~~ ***destination*** service. ***The source provider of data processing services shall facilitate the process through providing capabilities, adequate***

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		providing capabilities, adequate information, documentation, technical support and, where appropriate, the necessary tools.		***information, documentation, technical support and, where appropriate, the necessary tools.***	
Article 26(2)					
G	319	2. For data processing services other than those covered by paragraph 1, providers of data processing services shall make open interfaces publicly available and free of charge.	2. ~~For~~***Providers of*** data processing services ~~other than those covered by paragraph 1~~, ***including*** providers of ***destination*** data processing services, shall make open interfaces publicly available and free of charge ***in order to facilitate switching between those services and data portability and interoperability. In accordance***	2. For data processing services other than those covered by paragraph 1, providers of data processing services shall make open interfaces ***available to an equal extent to all their customers and the concerned destination service providers*** ~~publicly available and~~ free of charge, ***including sufficient information***	2. ~~For~~***Providers of*** data processing services, ***other than those covered by paragraph 1, shall make open interfaces available to an equal extent to all their customers and the concerned destination service providers*** ~~other than those covered by paragraph 1, providers of data processing services shall make open interfaces publicly~~	G

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		with paragraph 1 of this Article, those services shall also make it possible that a specific service, where there are no major obstacles, can be unbundled from the contract and made available for switching in an interoperable manner.	***about the concerned service to enable the development of software to communicate with the service, for the purposes of portability and interoperability***.	~~*available and*~~ free of charge ***to facilitate switching. These interfaces shall include sufficient information on the service concerned to enable the development of software to communicate with the services, for the purposes of data portability and interoperability***.
Article 26(3)				
G 320	3. For data processing services other than those covered by paragraph 1, providers of data processing services shall ensure compatibility with open interoperability specifications or	3. ~~*For data processing services other than those covered by paragraph 1,*~~ Providers of data processing services shall ensure compatibility with open interoperability ***and portability***	3. For data processing services other than those covered by paragraph 1, providers of data processing services shall ensure compatibility with ***common specifications and/or standards***	3. For data processing services other than those covered by paragraph 1, providers of data processing services shall ensure compatibility with ***common specifications based on*** open G

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	European standards for interoperability that are identified in accordance with Article 29(5) of this Regulation.	specifications or European standards for interoperability that are identified in accordance with Article 29(5) ~~*of this Regulation*~~.	***for*** ~~*open*~~ interoperability ***the references of which have been published in the Official Journal of the European Union and which*** ~~*specifications or European standards for interoperability that*~~ are identified ***in the central Union data processing service standards repository*** in accordance with Article 29(5) of this Regulation.	interoperability specifications or ~~*European*~~ ***harmonised*** standards for interoperability ~~*that are identified in accordance with Article 29(5) of this Regulation*~~***at least twelve months after the references to these open interoperability specifications or harmonised standards were published in the central Union data processing service standards repository following the publications of the underlying implementing acts in the Official Journal of the European Union in accordance with Article 29(5)***.
Article 26(3a)				

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320a		***3a. Providers of data processing services for which a new open interoperability and portability specification or European standard was published in the repository referred to in Article 29(5) shall have the right to a one-year transition for compliance with the obligation referred to in paragraph 3 of this Article.***		*deleted*
Article 26(3b)				
320b				***3a. Data processing service providers of services other than***

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			3a. Data processing service providers of services other than those covered by paragraph 1 shall update the online register as referred to in point (e) of Article 24(1) in accordance with their obligations under paragraph 3.	***those covered by paragraph 1 shall update the online register as referred to in [point (e) of Article 24(1)] in accordance with their obligations under paragraph 3.*** Text Origin: Council Mandate
Article 26(4)				
G	321	4. Where the open interoperability specifications or European standards referred to in paragraph 3 do not exist for the service type concerned, the provider of data processing services shall, at the	4. Where the open interoperability ***and portability*** specifications or European standards referred to in paragraph 3 ***of this Article*** do not exist for the ***equivalent*** service ~~*type*~~ _concerned, the provider of	4. Where ~~*the*~~ ***no*** open interoperability specifications or ~~*European*~~ _standards ***have been identified in the the central Union data processing service standards repository in accordance with***	4. ~~*Where the*~~***In case of switching between services of the same service type, for which*** open interoperability specifications or ~~*European*~~ ***harmonised*** standards referred to in paragraph 3 ~~*do not*~~

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	request of the customer, export all data generated or co-generated, including the relevant data formats and data structures, in a structured, commonly used and machine-readable format.	data processing services shall, at the request of the customer, ***where technically feasible***, export all ***exportable data in a structured, commonly used and machine-readable format as indicated to the customer in accordance with the exit strategy referred to in Article 24(1), point (ab), unless another*** ~~*data generated or co-generated, including the relevant data formats and data structures, in a structured, commonly used and machine-readable*~~ format ***is accepted by the customer***.	***paragraph 3*** ~~*referred to in paragraph 3 do not exist*~~ for the service type concerned, the provider of data processing services shall, at the request of the customer, export all data generated or co-generated, including the relevant data formats and data structures, in a structured, commonly used and machine-readable format.	~~*exist for the*~~ ***of this Article have not been identified in the central Union data processing*** service ~~*type concerned*~~***repository in accordance with Article 29 [proper reference]***, the provider of ~~*data*~~***the*** processing services shall, at the request of the customer, export all ~~*data generated or co-generated, including the relevant data formats and data structures,*~~ ***exportable data*** in a structured, commonly used and machine-readable format~~.~~
Article 26(4a)				

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321a		***4a. Providers of data processing services shall not be required to develop new technologies or services, disclose or transfer proprietary or confidential data or technology to a customer or to another provider of data processing services or compromise the customer's or provider's security and integrity of service;***		***4a. Providers of data processing services shall not be required to develop new technologies or services, disclose or transfer digital assets protected by intellectual property rights or constituting a trade secret to a customer or to another provider of data processing services or compromise the customer's or provider's security and integrity of service;***
Article 26(4b)				
321b		***Article 26a***		

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		Exemptions for certain data processing services		***4b. Specific regime for certain data processing services*** Adjust to "title"
Article 26(4c)				
G 321c		***1. The obligations set out in Article 23(1), point (d), and Articles 25 and 26 shall not apply to data processing services which have been custom-built to.***		***4c. The obligations set out in Article 23(1), point (d), and Articles 25 and 26(1) and (3) shall not apply to data processing services of which the majority of main features has been custom-built to accommodate the specific needs of an individual customer or where all components have been developed for the purposes of an individual*** G

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				customer, and where these data processing services are not offered at broad commercial scale via the service catalogue of the data processing service provider.
Article 26(4d)				
G 321d		***2. The obligations set out in this Chapter shall not apply to data processing services provisioned free of charge, that operate on a trial basis or only supply a testing and evaluation service for business product offerings.***		***4c. The obligations set out in this Chapter shall not apply to data processing services provided as a non-production version for testing and evaluation purposes, and for a limited period of time.*** Text Origin: Comments and homework G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 26(4e)				
321e				***4e. Prior to the conclusion of a contractual agreement on the provision of the data processing services referred to in this Article, the provider of data processing services shall inform the prospective customer that the Articles listed in paragraph 1 do not apply to the respective service.***
Article 26a				
321f		***Article 26b***		

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		Dispute settlement		*deleted*
Article 26a(1)				
321g		***1. Customers shall have access to dispute settlement bodies, certified in accordance with Article 10(2), to settle disputes in relation to breaches of the rights of customers and the obligations of providers of data processing services in relation to switching between providers of such services. The customer shall have the right to allow a third party to pursue its legal claims on its behalf.***		*deleted*

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 26a(2)				
321h		***2. Article 10(3) to (9) shall apply to the settlement of disputes between customers and providers of data processing service in relation to switching between providers of such services.***		*deleted*
CHAPTER VII				
322	CHAPTER VII	CHAPTER VII	CHAPTER VII	CHAPTER VII ~~*INTERNATIONAL CONTEXTS NON-PERSONAL DATA*~~

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	INTERNATIONAL CONTEXTS NON-PERSONAL DATA SAFEGUARDS	INTERNATIONAL CONTEXTS NON-PERSONAL DATA SAFEGUARDS	***UNLAWFUL*** INTERNATIONAL ~~*CONTEXTS*~~ ***GOVERNMENTAL ACCESS AND TRANSFER OF*** NON-PERSONAL DATA ~~*SAFEGUARDS*~~	~~*SAFEGUARDS*~~ ***Transfers and access [of non-personal data] concerning third-country authorities*** Text Origin: Council Mandate
Article 27				
323	Article 27 International access and transfer	Article 27 International access and transfer	Article 27 ***International governmental access and transfer*** ~~*International access and transfer*~~	

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
Article 27(1)					
324	1. Providers of data processing services shall take all reasonable technical, legal and organisational measures, including contractual arrangements, in order to prevent international transfer or governmental access to non-personal data held in the Union where such transfer or access would create a conflict with Union law or the national law of the relevant Member State, without prejudice to paragraph 2 or 3.	1. Providers of data processing services shall take all ~~reasonable~~ technical, legal and organisational measures, including contractual arrangements, in order to prevent international transfer ~~or~~ ***and third-country*** governmental access to ***such*** non-personal data held in the Union where such transfer or access would ~~create a conflict with~~ ***be in contravention of*** Union law or the national law of the relevant Member State, without prejudice to paragraph 2 or 3.	1. Providers of data processing services shall take all reasonable technical, legal and organisational measures, including contractual arrangements, in order to prevent international ~~transfer or~~ governmental access ~~to~~ ***and transfer of*** non-personal data held in the Union where such transfer or access would create a conflict with Union law or the national law of the relevant Member State, without prejudice to paragraph 2 or 3.	1. Providers of data processing services shall take all ~~reasonable~~***adequate*** technical, legal and organisational measures, including contractual arrangements, in order to prevent international ~~transfer or~~***and third-country*** governmental access ~~to~~***and transfer of such*** non-personal data held in the Union where such transfer or access would ~~-~~ create a conflict with Union law or the national law of the relevant Member State, without prejudice to paragraph 2 or 3.	

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				Text Origin: EP Mandate
Article 27(2)				
325	2. Any decision or judgment of a court or tribunal and any decision of an administrative authority of a third country requiring a provider of data processing services to transfer from or give access to non-personal data within the scope of this Regulation held in the Union may only be recognised or enforceable in any manner if based on an international agreement, such	2. Any decision or judgment of a court or tribunal and any decision of an administrative authority of a third country requiring a provider of data processing services to transfer from or give access to non-personal data ***falling*** within the scope of this Regulation held in the Union ~~*may*~~***shall*** only be recognised or enforceable in any manner if based on an international	2. Any decision or judgment of a ***third-country*** court or tribunal and any decision of ~~*an administrative authority of a third country*~~ ***a third-country administrative authority*** requiring a provider of data processing services to transfer ~~*from*~~ or give access to non-personal data within the scope of this Regulation held in the Union ~~*may only*~~ ***shall*** be	2. Any decision or judgment of a ***third-country*** court or tribunal and any decision of ~~*an*~~***a third-country*** administrative authority ~~*of a third country*~~ requiring a provider of data processing services to transfer ~~*from*~~ or give access to non-personal data ***falling*** within the scope of this Regulation held in the Union ~~*may only*~~ ***shall*** be recognised or enforceable in any manner ***only*** if based on an

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	as a mutual legal assistance treaty, in force between the requesting third country and the Union or any such agreement between the requesting third country and a Member State.	agreement, such as a mutual legal assistance treaty, in force between the requesting third country and the Union or any such agreement between the requesting third country and a Member State.	recognised or enforceable in any manner ***only*** if based on an international agreement, such as a mutual legal assistance treaty, in force between the requesting third country and the Union or any such agreement between the requesting third country and a Member State.	international agreement, such as a mutual legal assistance treaty, in force between the requesting third country and the Union or any such agreement between the requesting third country and a Member State. Text Origin: Council Mandate
Article 27(3), first subparagraph				
G 326	3. In the absence of such an international agreement, where a provider of data processing services is the addressee of a decision of a court or a tribunal or	3. In the absence of such an international agreement, where a provider of data processing services is the addressee of a decision of a court or a tribunal or	3. In the absence of ~~*such*~~ an international agreement ***as referred to in paragraph 2 of this Article***, where a provider of data processing services is the	3. In the absence of ~~*such*~~ an international agreement ***as referred to in paragraph 2 of this Article***, where a provider of data processing services is the G

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	a decision of an administrative authority of a third country to transfer from or give access to non-personal data within the scope of this Regulation held in the Union and compliance with such a decision would risk putting the addressee in conflict with Union law or with the national law of the relevant Member State, transfer to or access to such data by that third-country authority shall take place only:	a decision of an administrative authority of a third country to transfer from or give access to non-personal data ***falling*** within the scope of this Regulation held in the Union and compliance with such a decision would risk putting the addressee in conflict with Union law or with the national law of the relevant Member State, transfer to or access to such data by that third-country authority shall take place only ***following a review by the relevant competent bodies or authorities, pursuant to this Regulation to assess if, in addition to complying with the provisions of any relevant Union or national***	addressee of a decision ***or judgement of a third-country*** ~~*of a*~~ court or ~~*a*~~ tribunal or a decision of ~~*an administrative authority of a third country*~~ ***a third-country administrative authority*** to transfer ~~*from*~~ or give access to non-personal data within the scope of this Regulation held in the Union and compliance with such a decision would risk putting the addressee in conflict with Union law or with the national law of the relevant Member State, transfer to or access to such data by that third-country authority shall take place only ***where***:	addressee of a decision ***or judgement of a third-country*** ~~*of a*~~ court or ~~*a*~~ tribunal or a decision of ~~*an*~~***a third-country*** administrative authority ~~*of a third country*~~ to transfer ~~*from*~~ or give access to non-personal data ***falling*** within the scope of this Regulation held in the Union and compliance with such a decision would risk putting the addressee in conflict with Union law or with the national law of the relevant Member State, transfer to or access to such data by that third-country authority shall take place only ***where***:

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		o law, the following conditions have been met:		Text Origin: Council Mandate
Article 27(3), first subparagraph, point (a)				
327	(a) where the third-country system requires the reasons and proportionality of the decision or judgement to be set out, and it requires such decision or judgement, as the case may be, to be specific in character, for instance by establishing a sufficient link to certain suspected persons, or infringements;	(a) where the third-country system requires the reasons and proportionality of the decision or judgement to be set out, and it requires such decision or judgement, as the case may be, to be specific in character, for instance by establishing a sufficient link to certain suspected persons, or infringements;	(a) ~~*where*~~ the third-country system requires the reasons and proportionality of ***such a*** ~~*the*~~ decision or judgement to be set out~~,~~ ~~*and it*~~ ***and*** requires such ***a*** decision or judgement~~, as the case may be,~~ to be specific in character, for instance by establishing a sufficient link to certain suspected persons~~,~~ or infringements;	(a) ~~*where*~~ the third-country system requires the reasons and proportionality of ***such a*** ~~*the*~~ decision or judgement to be set out~~, and it~~ ***and*** requires such ***a*** decision or judgement~~, as the case may be,~~ to be specific in character, for instance by establishing a sufficient link to certain suspected persons~~,~~ or infringements;

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				Text Origin: Council Mandate
Article 27(3), first subparagraph, point (b)				
328	(b) the reasoned objection of the addressee is subject to a review by a competent court or tribunal in the third-country; and	(b) the reasoned objection of the addressee is subject to a review by a competent court or tribunal in the third-country; and	(b) the reasoned objection of the addressee is subject to a review by a competent ***third-country*** court or tribunal ~~*in the third-country*~~; and	(b) the reasoned objection of the addressee is subject to a review by a competent ***third-country*** court or tribunal ~~*in the third-country*~~; and Text Origin: Council Mandate
Article 27(3), first subparagraph, point (c)				
329				

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	(c) the competent court or tribunal issuing the decision or judgement or reviewing the decision of an administrative authority is empowered under the law of that country to take duly into account the relevant legal interests of the provider of the data protected by Union law or national law of the relevant Member State.	(c) the competent court or tribunal issuing the decision or judgement or reviewing the decision of an administrative authority is empowered under the law of that country to take duly into account the relevant legal interests of the provider of the data protected by Union law or national law of the relevant Member State.	(c) the competent ***third-country*** court or tribunal issuing the decision or judgement or reviewing the decision of an administrative authority is empowered under the law of that ***third*** country to take duly into account the relevant legal interests of the provider of the data protected by Union law or national law of the relevant Member State.	(c) the competent ***third-country*** court or tribunal issuing the decision or judgement or reviewing the decision of an administrative authority is empowered under the law of that ***third*** country to take duly into account the relevant legal interests of the provider of the data protected by Union law or national law of the relevant Member State. Text Origin: Council Mandate
Article 27(3), second subparagraph				
330				

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	The addressee of the decision may ask the opinion of the relevant competent bodies or authorities, pursuant to this Regulation, in order to determine whether these conditions are met, notably when it considers that the decision may relate to commercially sensitive data, or may impinge on national security or defence interests of the Union or its Member States.	The addressee of the decision may ask the opinion of the ~~*relevant competent bodies or authorities,*~~ ***Commission, the data coordinator*** pursuant to this Regulation ***or relevant competent bodies or authorities***, in order to determine whether these conditions are met, notably when it considers that the decision may relate to ***trade secrets and other*** commercially sensitive data ***as well as to content protected by intellectual property rights***, or may impinge on national security or defence interests of the Union or its Member States. ***If the addressee has not received a reply within a month, or if the opinion of the competent authorities concludes***	The addressee of the decision may ask the opinion of the relevant ~~*competent bodies or authorities, pursuant to this Regulation*~~ ***national body or authority competent for international cooperation in legal matters***, ~~-~~ in order to determine whether these conditions are met, notably when it considers that the decision may relate to commercially sensitive data~~, or~~ ***. If the addressee considers that the decision*** may impinge on ***national security or defence interests of the Union or its Member States, it shall ask the opinion of the national competent bodies or authorities with the relevant competence, in order to determine whether the data***	The addressee of the decision may ask the opinion of ***[the data coordinator,*** the relevant ***national body or authority*** competent ~~*bodies or authorities, pursuant to this Regulation*~~***for international cooperation in legal matters]***, ~~-~~ in order to determine whether these conditions are met, notably when it considers that the decision may relate to ***trade secrets and other*** commercially sensitive data~~, or~~ ***as well as to content protected by intellectual property rights or the transfer may lead to re-identification. The relevant national body may consult the Commission. If the addressee considers that the decision*** may impinge on national security or

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		that the conditions are not met, the addressee shall deny the request for transfer or access on those grounds.	***requested concerns*** national security or defence interests of the Union or its Member States.	defence interests of the Union or its Member States***, it shall ask the opinion of the national competent bodies or authorities with the relevant competence, in order to determine whether the data requested concerns national security or defence interests of the Union or its Member States. If the addressee has not received a reply within a month, or if the opinion of the competent authorities concludes that the conditions are not met, the addressee may deny the request for transfer or access on those grounds.*** Text Origin: Council Mandate

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Article 27(3), third subparagraph				
331	The European Data Innovation Board established under Regulation [xxx – DGA] shall advise and assist the Commission in developing guidelines on the assessment of whether these conditions are met.	The European Data Innovation Board established under Regulation ~~[xxx – DGA]~~ ***(EU) 2022/868 and referred to in Article 31a of this Regulation*** shall advise and assist the Commission in developing guidelines on the assessment of whether these conditions are met.	The European Data Innovation Board established under Regulation ~~[xxx – DGA]~~ ***(EU) 2022/868 (Data Governance Act)[1]*** shall advise and assist the Commission in developing guidelines on the assessment of whether these conditions are met. _____ ***1. OJ L 152, 3.6.2022, p. 1***	The European Data Innovation Board established under Regulation ***(EU) 2022/868 (Data Governance Act)[1] and referred to in Article*** [~~xxx – DGA~~]***XX] of this Regulation*** shall advise and assist the Commission in developing guidelines on the assessment of whether these conditions are met. _____ ***1. OJ L 152, 3.6.2022, p. 1***

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				Text Origin: Council Mandate
Article 27(4)				
332	4. If the conditions in paragraph 2 or 3 are met, the provider of data processing services shall provide the minimum amount of data permissible in response to a request, based on a reasonable interpretation thereof.	4. If the conditions in paragraph 2 or 3 are met, the provider of data processing services shall provide the minimum amount of data permissible in response to a request, based on a reasonable interpretation thereof ***by the relevant competent body or authority***.	4. If the conditions ***laid down*** in paragraph 2 or 3 are met, the provider of data processing services shall provide the minimum amount of data permissible in response to a request, based on a reasonable interpretation ~~thereof~~***of the request***.	4. If the conditions ***laid down*** in paragraph 2 or 3 are met, the provider of data processing services shall provide the minimum amount of data permissible in response to a request, based on ~~a~~***the provider's, the relevant competent body's or the relevant competent authority's*** reasonable interpretation ~~thereof~~***of the request***.

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: EP Mandate
Article 27(4a)				
332a		***4a. Where the provider of data processing services has reason to believe that the transfer of or access to non-personal data may lead to the risk of re-identification of non-personal, or anonymised data, the provider shall request the relevant bodies or authorities competent pursuant to applicable data protection legislation for authorisation before transferring or giving access to data.***		*deleted*

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Article 27(5)				
333	*5.* The provider of data processing services shall inform the data holder about the existence of a request of an administrative authority in a third-country to access its data before complying with its request, except in cases where the request serves law enforcement purposes and for as long as this is necessary to preserve the effectiveness of the law enforcement activity.	5. The provider of data processing services shall inform the data holder about the existence of a request of an administrative authority in a third-country to access its data before complying with its request, except in cases where the request serves law enforcement purposes and for as long as this is necessary to preserve the effectiveness of the law enforcement activity.	5. The provider of data processing services shall inform the data holder about the existence of a request of ~~an~~***a third-country*** administrative authority ~~*in a third-country*~~ to access its data before complying with ~~*its*~~ ***that*** request, except ~~*in cases*~~ where the request serves law enforcement purposes and for as long as this is necessary to preserve the effectiveness of the law enforcement activity.	5. The provider of data processing services shall inform the data holder about the existence of a request of ~~an~~***a third-country*** administrative authority ~~*in a third-country*~~ to access its data before complying with ~~*its*~~ ***that*** request, except ~~*in cases*~~ where the request serves law enforcement purposes and for as long as this is necessary to preserve the effectiveness of the law enforcement activity.

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
CHAPTER VIII				
334	CHAPTER VIII INTEROPERABILITY	CHAPTER VIII INTEROPERABILITY	CHAPTER VIII INTEROPERABILITY	CHAPTER VIII INTEROPERABILITY Text Origin: Commission Proposal
Article 28				
335	Article 28	Article 28	Article 28	Article 28

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	Essential requirements regarding interoperability	Essential requirements regarding interoperability ***of data spaces***	Essential requirements regarding interoperability	Essential requirements regarding interoperability ***of data spaces*** Text Origin: EP Mandate
Article 28(1), first subparagraph				
336	1. Operators of data spaces shall comply with, the following essential requirements to facilitate interoperability of data, data sharing mechanisms and services:	1. ~~Operators~~***Participants*** of data spaces ***that offer data or data services to other participants,*** shall comply with, the following essential requirements to facilitate interoperability of data, data sharing mechanisms and services:	1. Operators ~~of~~ ***within*** data spaces shall comply with, the following essential requirements to facilitate interoperability of data, data sharing mechanisms and services ***as well as of the common European data spaces, which are purpose- or sector-specific or cross-sectoral interoperable***	1. ~~Operators~~***Participants*** of data spaces ***that offer data or data services to other participants,*** shall comply with, the following essential requirements to facilitate interoperability of data, data sharing mechanisms and services ***as well as of the common European data spaces, which are***

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			frameworks of common standards and practices to share or jointly process data for, inter alia, development of new products and services, scientific research or civil society initiatives:	***purpose- or sector-specific or cross-sectoral interoperable frameworks of common standards and practices to share or jointly process data for, inter alia, development of new products and services, scientific research or civil society initiatives***: Text Origin: Council Mandate
Article 28(1), first subparagraph, point (a)				
337	(a) the dataset content, use restrictions, licences, data collection methodology, data	(a) the dataset content, use restrictions, licences, data collection methodology, data	(a) the dataset content, use restrictions, licences, data collection methodology, data	(a) the dataset content, use restrictions, licences, data collection methodology, data

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	quality and uncertainty shall be sufficiently described to allow the recipient to find, access and use the data;	quality and uncertainty shall be sufficiently described ***in a machine-readable format*** to allow the recipient to find, access and use the data;	quality and uncertainty shall be sufficiently described***, where applicable, in machine-readable format,*** to allow the recipient to find, access and use the data;	quality and uncertainty shall be sufficiently described***, where applicable, in machine-readable format,*** to allow the recipient to find, access and use the data; Text Origin: Council Mandate
Article 28(1), first subparagraph, point (b)				
338	(b) the data structures, data formats, vocabularies, classification schemes, taxonomies and code lists shall be described in a publicly available and consistent manner;	(b) the data structures, data formats, vocabularies, classification schemes, taxonomies and code lists shall be described in a publicly available and consistent manner;	(b) the data structures, data formats, vocabularies, classification schemes, taxonomies and code lists***, where available,*** shall be described in a publicly available and consistent manner;	(b) the data structures, data formats, vocabularies, classification schemes, taxonomies and code lists***, where available,*** shall be described in a publicly available and consistent manner;

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Article 28(1), first subparagraph, point (c)				
339	(c) the technical means to access the data, such as application programming interfaces, and their terms of use and quality of service shall be sufficiently described to enable automatic access and transmission of data between parties, including continuously or in real-time in a machine-readable format;	(c) the technical means to access the data, such as application programming interfaces, and their terms of use and quality of service shall be sufficiently described to enable automatic access and transmission of data between parties, including continuously or in real-time– in a machine-readable format ***where that is technically***	(c) the technical means to access the data, such as application programming interfaces, and their terms of use and quality of service shall be sufficiently described to enable automatic access and transmission of data between parties, including continuously***, in bulk download*** or in real-time– in a machine-readable format;	(c) the technical means to access the data, such as application programming interfaces, and their terms of use and quality of service shall be sufficiently described to enable automatic access and transmission of data between parties, including continuously***, in bulk download*** or in real-time– in a machine-readable format ***where that is technically feasible and***

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		feasible and does not hamper the good functioning of the product;		***does not hamper the good functioning of the product***; Text Origin: EP Mandate
Article 28(1), first subparagraph, point (d)				
340	(d) the means to enable the interoperability of smart contracts within their services and activities shall be provided.	(d) the means to enable the interoperability of ~~*smart*~~ contracts ***for data sharing*** within their services and activities shall be provided.	(d) ***where applicable,*** the means to enable the interoperability of ~~*smart contracts within their services and activities shall be provided*~~***tools for automating the execution of data sharing agreements, such as smart contracts***.	(d) ***where applicable,*** the means to enable the interoperability of ~~*smart contracts within their services and activities shall be provided*~~***tools for automating the execution of data sharing agreements, such as smart contracts***.

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
Article 28(1), second subparagraph				
341	These requirements can have a generic nature or concern specific sectors, while taking fully into account the interrelation with requirements coming from other Union or national sectoral legislation.	These requirements can have a generic nature or concern specific sectors, while taking fully into account the interrelation with requirements coming from other Union or national sectoral legislation.	These requirements can have a generic nature or concern specific sectors, while taking fully into account the interrelation with requirements coming from other Union or national sectoral legislation.	These requirements can have a generic nature or concern specific sectors, while taking fully into account the interrelation with requirements coming from other Union or national sectoral legislation. Text Origin: Commission Proposal

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 28(2)				
342	2. The Commission is empowered to adopt delegated acts, in accordance with Article 38 to supplement this Regulation by further specifying the essential requirements referred to in paragraph 1.	2. The Commission is empowered to adopt delegated acts, ***after consulting the European Data Innovation Board pursuant to Article 29 and Article 30, points (f) and (h), of Regulation (EU) 2022/868 and*** in accordance with Article 38 ***of this Regulation,*** to supplement this Regulation by further specifying the essential requirements referred to in paragraph 1 ***of this Article***.	2. The Commission is empowered to adopt delegated acts, in accordance with Article 38 to supplement this Regulation by further specifying the essential requirements referred to in paragraph 1 ***in relation to those requirements that, by their nature, cannot produce the intended effect unless they are further specified in binding legal acts of the Union and in order to properly reflect technological and market developments***.	2. The Commission is empowered to adopt delegated acts, in accordance with Article 38 ***of this Regulation*** to supplement this Regulation by further specifying the essential requirements referred to in paragraph 1 ***of this Article, in relation to those requirements that, by their nature, cannot produce the intended effect unless they are further specified in binding legal acts of the Union and in order to properly reflect technological and market developments, taking into account the views of the European Data Innovation Board in accordance***

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				with Article 30, point (f) of Regulation (EU) 2022/868. Text Origin: Council Mandate
Article 28(3)				
G 343	3. Operators of data spaces that meet the harmonised standards or parts thereof published by reference in the Official Journal of the European Union shall be presumed to be in conformity with the essential requirements referred to in paragraph 1 of this Article, to	3. ~~Operators~~***The participants of data spaces that offer data or data services to other participants*** of data spaces that meet the harmonised standards or parts thereof published by reference in the Official Journal of the European Union shall be presumed to be in conformity with the	3. Operators ~~of~~ ***within*** data spaces that meet the harmonised standards or parts thereof ***the references of which have been published*** ~~published by reference~~ in the Official Journal of the European Union shall be presumed to be in conformity with the essential requirements referred to in	3. ~~Operators~~***The participants of data spaces that offer data or data services to other participants*** of data spaces that meet the harmonised standards or parts thereof ***the reference of which have been*** published by reference in the Official Journal of the European Union shall be presumed G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	the extent those standards cover those requirements.	essential requirements referred to in paragraph 1 ~~*of this Article*~~, to the extent those standards cover those requirements.	paragraph 1 ***in so far as those standards or parts thereof*** ~~*of this Article, to the extent those standards*~~ cover those requirements.	to be in conformity with the essential requirements referred to in paragraph 1 ~~*of this Article, to the extent those standards*~~***in so far as those standards or parts thereof*** cover those requirements. Text Origin: EP Mandate
Article 28(3a)				
G 343a		***3a. Participants within a particular data space shall agree on the rules by which the accountabilities regarding those***		*deleted* G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		requirements are defined between the participants.		
Article 28(4)				
G *344*	*4.* The Commission may, in accordance with Article 10 of Regulation (EU) No 1025/2012, request one or more European standardisation organisations to draft harmonised standards that satisfy the essential requirements under paragraph 1 of this Article	4. The Commission may, in accordance with Article 10 of Regulation (EU) No 1025/2012, request one or more European standardisation organisations to draft harmonised standards that satisfy the essential requirements under paragraph 1 of this Article, ***developed in an open, transparent, technology-neutral, industry-led and inclusive manner, in accordance with Chapter II of***	4. The Commission ~~*may*~~ ***shall***, in accordance with Article 10 of Regulation (EU) No 1025/2012, request one or more European standardisation organisations to draft harmonised standards that satisfy the essential requirements under paragraph 1 ~~*of this Article*~~.	4. The Commission ~~*may*~~ ***shall***, in accordance with Article 10 of Regulation (EU) No 1025/2012, request one or more European standardisation organisations to draft harmonised standards that satisfy the essential requirements under paragraph 1 ~~*of this Article*~~. Text Origin: Council Mandate G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		Regulation (EU) No 1025/2012, taking into account, where relevant, existing international standards, good practices, norms, technical specifications and relevant open source norms as well as the needs of SMEs.		
Article 28(4a)(5)				
G 345	5. The Commission shall, by way of implementing acts, adopt common specifications, where harmonised standards referred to in paragraph 4 of this Article do not exist or in case it considers that the relevant harmonised standards are	5. The Commission ~~*shall*~~***may***, by way of implementing acts, adopt common specifications, where harmonised standards referred to in paragraph 4 of this Article do not exist or ~~*in case*~~***if*** it considers that the relevant harmonised standards	5. The Commission ~~*shall*~~ ***may***, by way of implementing acts, adopt common specifications~~*, where harmonised standards referred to in paragraph 4 of this Article do not exist or in case it considers that the relevant harmonised standards*~~	5. The Commission ~~*shall*~~ ***may***, by way of implementing acts, adopt common specifications~~*, where harmonised standards referred to in paragraph 4 of this Article do not exist or in case it considers that the relevant harmonised standards are insufficient to ensure*~~ G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	insufficient to ensure conformity with the essential requirements in paragraph 1 of this Article, where necessary, with respect to any or all of the requirements laid down in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).	are insufficient to ensure conformity with the essential requirements in paragraph 1 of this Article, where necessary~~, with respect to any or all of the requirements laid down in paragraph 1 of this~~. ***Prior to adopting those implementing acts the Commission shall seek advice from and take into account relevant positions adopted by the European Data Innovation Board, as referred to in*** Article~~. Those implementing acts shall~~ ***30, point (f), of Regulation (EU) 2022/868 and*** be adopted in accordance with the examination procedure referred to in Article 39(2).	~~are insufficient to ensure conformity with the essential requirements in paragraph 1 of this Article, where necessary, with respect to~~ ***covering*** any or all of the ***essential*** requirements ~~laid down~~***set out*** in paragraph 1 ~~of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).~~***where the following conditions have been fulfilled:***	~~conformity with the essential requirements in paragraph 1 of this Article, where necessary, with respect to~~ ***covering*** any or all of the ***essential*** requirements ~~laid down~~***set out*** in paragraph 1 ~~of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).~~***where the following conditions have been fulfilled:*** Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 28(5), first subparagraph, point (a)				
345a			***(a) the Commission has requested, pursuant to Article 10(1) of Regulation 1025/2012, one or more European standardisation organisations to draft a harmonised standard for the essential requirements set out in paragraph 1 and the request has not been accepted or the European standardisation deliverables addressing that request are not delivered within the deadline set in accordance with article 10(1) of Regulation 1025/2012 or the European standardisation deliverables***	***(a) the Commission has requested, pursuant to Article 10(1) of Regulation 1025/2012, one or more European standardisation organisations to draft a harmonised standard for the essential requirements set out in paragraph 1 and the request has not been accepted or the European standardisation deliverables addressing that request are not delivered within the deadline set in accordance with article 10(1) of Regulation 1025/2012 or the European standardisation deliverables***

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			standard do not comply with the request; and	***standard do not comply with the request; and*** Text Origin: Council Mandate
Article 28(5), first subparagraph, point (b)				
G 345b			***(b) no reference to harmonised standards covering the relevant essential requirements set out in paragraph 1 is published in the Official Journal of the European Union in accordance with Regulation (EU) No 1025/2012 and no such reference is expected***	***(b) no reference to harmonised standards covering the relevant essential requirements set out in paragraph 1 is published in the Official Journal of the European Union in accordance with Regulation (EU) No 1025/2012 and no such reference is expected*** G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			to be published within a reasonable period;	***to be published within a reasonable period;*** Text Origin: Council Mandate
Article 28(5), second subparagraph				
345c			***Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).***	***Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).*** Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 28(5a)				
345d			***5a. Before preparing a draft implementing act in accordance with paragraph 5, the Commission shall inform the committee referred to in Article 22 of Regulation EU (No) 1025/2012 that it considers that the conditions in paragraph 5 are fulfilled.***	***5a. Before preparing a draft implementing act in accordance with paragraph 5, the Commission shall inform the committee referred to in Article 22 of Regulation EU (No) 1025/2012 that it considers that the conditions in paragraph 5 are fulfilled.*** Text Origin: Council Mandate
Article 28(5b)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
G	345e		***5b. When preparing the draft implementing act establishing the common specifications in accordance with paragraph 5, the Commission shall take into account the views of the European Data Innovation Board and other relevant bodies or expert groups and shall duly consult all relevant stakeholders.***	***5b. When preparing the draft implementing act establishing the common specifications in accordance with paragraph 5, the Commission shall take into account the views of the European Data Innovation Board and other relevant bodies or expert groups and shall duly consult all relevant stakeholders.*** Text Origin: Council Mandate
Article 28(5c)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
345f			***5c. Operators within data spaces that meet the common specifications established by one or more implementing acts referred to in paragraph 5 or parts thereof shall be presumed to be in conformity with the essential requirements set out in paragraph 1 covered by those common specifications or parts thereof.***	***5c. The participants of data spaces that offer data or data services to other participants of data spaces that meet the common specifications established by one or more implementing acts referred to in paragraph 5 or parts thereof shall be presumed to be in conformity with the essential requirements set out in paragraph 1 covered by those common specifications or parts thereof.*** Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 28(5d)				
345g			***5d. Where a harmonised standard is adopted by an European standardisation organisation and proposed to the Commission for the publication of its reference in the Official Journal of the European Union, the Commission shall assess the harmonised standard in accordance with Regulation (EU) No 1025/2012. When reference of a harmonised standard is published in the Official Journal of the European Union, the Commission shall repeal implementing acts referred to in paragraph 5, or parts thereof***	***5d. Where a harmonised standard is adopted by an European standardisation organisation and proposed to the Commission for the publication of its reference in the Official Journal of the European Union, the Commission shall assess the harmonised standard in accordance with Regulation (EU) No 1025/2012. When reference of a harmonised standard is published in the Official Journal of the European Union, the Commission shall repeal implementing acts referred to in paragraph 5, or parts thereof***

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			which cover the same essential requirements set out in paragraph 1.	***which cover the same essential requirements set out in paragraph 1.*** Text Origin: Council Mandate
Article 28(5e)				
G 345h			***5e. When a Member State considers that a common specification does not entirely satisfy the essential requirements set out in paragraph 1, it shall inform the Commission thereof with a detailed explanation. The Commission shall assess that***	***5e. When a Member State considers that a common specification does not entirely satisfy the essential requirements set out in paragraph 1, it shall inform the Commission thereof with a detailed explanation. The Commission shall assess that*** G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			information and, if appropriate, amend the implementing act establishing the common specification in question.	***information and, if appropriate, amend the implementing act establishing the common specification in question.*** Text Origin: Council Mandate
Article 28(6)				
G 346	6. The Commission may adopt guidelines laying down interoperability specifications for the functioning of common European data spaces, such as architectural models and technical standards implementing legal rules	6. The Commission may adopt guidelines ***proposed by the European Data Innovation Board in accordance with Article 30, point (h), of Regulation (EU) 868/2022*** laying down interoperability specifications for	6. The Commission may adopt guidelines laying down interoperability specifications for the functioning of common European data spaces, such as architectural models and technical standards implementing legal rules	6. The Commission may adopt guidelines ~~*laying down interoperability specifications for the functioning of common*~~***taking into account the proposal of the*** European Data ~~*spaces, such as architectural models and technical*~~ G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	and arrangements between parties that foster data sharing, such as regarding rights to access and technical translation of consent or permission.	the functioning of common European data spaces, such as architectural models and technical standards implementing legal rules and arrangements between parties that foster data sharing, such as regarding rights to access and technical translation of consent or permission.	and arrangements between parties that foster data sharing, such as regarding rights to access and technical translation of consent or permission.	~~*standards implementing legal rules and arrangements between parties that foster data sharing, such as regarding rights to access and technical translation of consent or permission*~~***Innovation Board in accordance with Article 30, point (h), of Regulation (EU) 868/2022 laying down interoperability specifications for the functioning of common European data spaces***. Text Origin: EP Mandate
Article 28(6a)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
G	346a		***Article 28a*** ***Interoperability for the purposes of in-parallel use of data processing services***	***6a. Article 28a*** ***Interoperability for the purposes of in-parallel use of data processing services*** Text Origin: Council Mandate	G
	Article 28(6b)				
G	346b		***1. The requirements set out in paragraphs 1 and 1(c) of Article 23, Article 23a, paragraphs 1(a)2, 1(a)3, 1(b), 1(ba) and 1(e) of Article 24 and paragraphs 2, 3, 3a***	***1. The requirements set out in paragraphs 1 and 1(c) of Article 23, Article 23a, paragraphs 1(a)2, 1(a)3, 1(b), 1(ba) and 1(e) of Article 24 and paragraphs 2, 3, 3a***	G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			and 4 of Article 26 shall also be applied mutatis mutandis to providers of data processing services to facilitate interoperability for the purposes of in-parallel use of data processing services.	***and 4 of Article 26 shall also be applied mutatis mutandis to providers of data processing services to facilitate interoperability for the purposes of in-parallel use of data processing services.*** Text Origin: Council Mandate
Article 28(6c)				
G	346c		***2. Article 25 shall also apply mutatis mutandis in relation to data egress charges to facilitate interoperability for the purposes***	***6c. Article 25 shall also apply mutatis mutandis in relation to data egress charges to facilitate interoperability for the purposes*** G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			of in-parallel use of data processing services.	***of in-parallel use of data processing services. Data egress charges shall not exceed the costs incurred by the provider of data processing services.*** Text Origin: Council Mandate
Article 29				
G 347	Article 29 Interoperability for data processing services	Article 29 Interoperability ***and portability*** for data processing services	Article 29 Interoperability for data processing services	Article 29 Interoperability for data processing services G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
G 347a				G
Article 29(1)				
G 348	1. Open interoperability specifications and European standards for the interoperability of data processing services shall:	1. Open interoperability ***and portability*** specifications and European standards for the interoperability ***and portability*** of data processing services shall:	1. Open interoperability specifications and ~~*European*~~ ***harmonised*** standards for the interoperability of data processing services shall:	1. Open interoperability specifications and ~~*European*~~ ***harmonised*** standards for the interoperability of data processing services shall: G
Article 29(1), point (a)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
349	(a) be performance oriented towards achieving interoperability between different data processing services that cover the same service type;	(a) ***where technically feasible,*** be performance oriented towards achieving interoperability ***and portability*** between different data processing services that cover ~~*the same service type*~~ ***equivalent services***;	(a) be performance oriented towards achieving interoperability ***in a secure manner*** between different data processing services ~~*that cover the same service type*~~;	(a) ~~*be performance oriented towards achieving*~~***where technically feasible, achieve*** interoperability between different data processing services that cover the same service type; Text Origin: EP Mandate
Article 29(1), point (b)				
350	(b) enhance portability of digital assets between different data	(b) enhance portability of digital assets between different data processing services that cover ~~*the*~~	(b) enhance portability of digital assets between different data	(b) enhance portability of digital assets between different data

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	processing services that cover the same service type;	~~same service type~~ ***equivalent services***;	processing services that cover the same service type;	processing services that cover the same service type; Text Origin: Commission Proposal
Article 29(1), point (c)				
351	(c) guarantee, where technically feasible, functional equivalence between different data processing services that cover the same service type.	(c) ~~guarantee~~***facilitate***, where technically feasible, functional equivalence between different data processing services ~~that cover the same service type.~~***referred to in paragraph 1 of Article 26 that cover equivalent services;***	(c) ~~guarantee~~***ensure***, where technically feasible, functional equivalence between different data processing services that cover the same service type.	(c) ~~guarantee~~***facilitate***, where technically feasible, functional equivalence between different data processing services ***referred to in paragraph 1 of Article 26*** that cover the same service type~~.~~***;***

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 29(1), point (ca)				
G 351a		***(ca) shall not adversely impact the security and integrity of services and data;***		***(ca) shall not adversely impact the security and integrity of services and data;*** Text Origin: EP Mandate G
Article 29(1), point (cb)				
G 351b		***(cb) be designed in a way to allow for technical advances and inclusion of new functions and***		***(cb) be designed in a way to allow for technical advances and inclusion of new functions and innovation in data processing services.*** G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		innovation in data processing services.		Text Origin: EP Mandate
Article 29(2)				
G 352	2. Open interoperability specifications and European standards for the interoperability of data processing services shall address:	2. Open interoperability ***and portability*** specifications and European standards for the interoperability ***and portability*** of data processing services shall address:	2. Open interoperability specifications and ~~*European*~~ ***harmonised*** standards for the interoperability of data processing services shall ***adequately*** address:	2. Open interoperability specifications and ~~*European*~~ ***harmonised*** standards for the interoperability of data processing services shall ***adequately*** address: G Text Origin: Council Mandate
Article 29(2), point (a)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
353	(a) the cloud interoperability aspects of transport interoperability, syntactic interoperability, semantic data interoperability, behavioural interoperability and policy interoperability;	(a) the cloud interoperability aspects of transport interoperability, syntactic interoperability, semantic data interoperability, behavioural interoperability and policy interoperability;	(a) the cloud interoperability aspects of transport interoperability, syntactic interoperability, semantic data interoperability, behavioural interoperability and policy interoperability;	(a) the cloud interoperability aspects of transport interoperability, syntactic interoperability, semantic data interoperability, behavioural interoperability and policy interoperability; Text Origin: Commission Proposal
Article 29(2), point (b)				
354	(b) the cloud data portability aspects of data syntactic	(b) the cloud data portability aspects of data syntactic	(b) the cloud data portability aspects of data syntactic	(b) the cloud data portability aspects of data syntactic portability, data semantic

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	portability, data semantic portability and data policy portability;	portability, data semantic portability and data policy portability;	portability, data semantic portability and data policy portability;	portability and data policy portability; Text Origin: Commission Proposal
Article 29(2), point (c)				
G 355	(c) the cloud application aspects of application syntactic portability, application instruction portability, application metadata portability, application behaviour portability and application policy portability.	(c) the cloud application aspects of application syntactic portability, application instruction portability, application metadata portability, application behaviour portability and application policy portability.	(c) the cloud application aspects of application syntactic portability, application instruction portability, application metadata portability, application behaviour portability and application policy portability.	(c) the cloud application aspects of application syntactic portability, application instruction portability, application metadata portability, application behaviour portability and application policy portability. G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
Article 29(3)				
G 356	3. Open interoperability specifications shall comply with paragraph 3 and 4 of Annex II of Regulation (EU) No 1025/2012.	3. Open interoperability ***and portability*** specifications shall comply with paragraph 3 and 4 of Annex II ~~*of*~~***to*** Regulation (EU) No 1025/2012.	3. Open interoperability specifications shall comply with ~~*paragraph 3 and 4 of*~~ Annex II of Regulation (EU) No 1025/2012.	3. Open interoperability specifications shall comply with ~~*paragraph 3 and 4 of*~~ Annex II of Regulation (EU) No 1025/2012. G Text Origin: Council Mandate
Article 29(3a)				
G 356a				G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		3a. Open interoperability and portability specifications and European standards shall not distort the data processing services market or limit the development of any new competing and innovative technologies or solutions or any technologies or solutions that are based on them.		*deleted*
Article 29(4)				
G *357*	*4.* The Commission may, in accordance with Article 10 of Regulation (EU) No 1025/2012, request one or more European	4. ***After taking into account relevant international and European standards and self-regulating initiatives,*** the	4. The Commission may, in accordance with Article 10 of Regulation (EU) No 1025/2012, request one or more European	4. ***After taking into account relevant international and European standards and self-regulating initiatives,*** the Commission may, in accordance G

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	standardisation organisations to draft European standards applicable to specific service types of data processing services.	Commission may, in accordance with Article 10 of Regulation (EU) No 1025/2012, request one or more European standardisation organisations to draft European standards applicable to ~~specific service types~~***equivalent services*** of data processing services. ***The standardisation shall take into account the needs of SMEs.***	standardisation organisations to draft ~~European~~ ***harmonised*** standards ***that satisfy the essential requirements under paragraphs 1 and 2*** ~~applicable to specific service types of data processing services~~.	with Article 10 of Regulation (EU) No 1025/2012, request one or more European standardisation organisations to draft ~~European~~ ***harmonised*** standards ~~applicable to specific service types of data processing services~~***that satisfy the essential requirements under paragraphs 1 and 2***.
Article 29(4a)				
G 357a			***4a. The Commission may, by way of implementing acts, adopt common specifications on the basis of open interoperability***	***4a. The Commission may, by way of implementing acts, adopt common specifications on the basis of open interoperability specifications covering all of the*** G

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			specifications covering all of the essential requirements set out in paragraphs 1 and 2.	***essential requirements set out in paragraphs 1 and 2.*** Text Origin: Council Mandate
Article 29(4b)				
G 357b			***4b. When a Member State considers that a common specification does not entirely satisfy the essential requirements set out in paragraphs 1 and 2, it shall inform the Commission thereof with a detailed explanation. The Commission shall assess that information and,***	***4b. When a Member State considers that a common specification does not entirely satisfy the essential requirements set out in paragraphs 1 and 2, it shall inform the Commission thereof with a detailed explanation. The Commission shall assess that information and,*** G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			if appropriate, amend the implementing act establishing the common specification in question.	***if appropriate, amend the implementing act establishing the common specification in question.*** Text Origin: Council Mandate
Article 29(5)				
358	5. For the purposes of Article 26(3) of this Regulation, the Commission shall be empowered to adopt delegated acts, in accordance with Article 38, to publish the reference of open interoperability specifications and European standards for the	5. For the purposes of Article 26(3) of this Regulation, the Commission***, after consulting the European Data Innovation Board pursuant to Article 29 and Article 30, points (f) and (h), of Regulation (EU) 2022/868,*** shall be empowered to adopt delegated	5. For the ~~purposes~~***purpose*** of Article 26(3) ~~***of this Regulation***~~, the Commission shall~~***be empowered to adopt delegated acts, in accordance with Article 38, to***~~ ***, by way of implementing acts,*** publish the reference of ***harmonised standards and***	5. For the ~~purposes~~***purpose*** of Article 26(3) ~~***of this Regulation***~~, the Commission shall~~***be empowered to adopt delegated acts, in accordance with Article 38, to***~~ ***, by way of implementing acts,*** publish the reference of ***harmonised standards and***

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	interoperability of data processing services in central Union standards repository for the interoperability of data processing services, where these satisfy the criteria specified in paragraph 1 and 2 of this Article.	acts, ***supplementing this Regulation,*** in accordance with Article 38 ***of this Regulation***, to publish the reference of open ~~*interoperability specifications and European*~~ standards for the interoperability ***and portability*** of data processing services in central Union standards repository for the interoperability ***and portability*** of data processing services ***developed by relevant standardisation organisations or organisations referred to in paragraph 3 of Annex II to Regulation (EU) No 1025/2012,***, where these satisfy the criteria specified in paragraph 1 and 2 of this Article.	***common specifications*** ~~*open interoperability specifications and European standards*~~ for the interoperability of data processing services in ***a*** central Union standards repository for the interoperability of data processing services~~*, where these satisfy the criteria specified in paragraph 1 and 2 of this Article*~~.	***common specifications*** ~~*open interoperability specifications and European standards*~~ for the interoperability of data processing services in ***a*** central Union standards repository for the interoperability of data processing services~~*, where these satisfy the criteria specified in paragraph 1 and 2 of this Article*~~. Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
Article 29(5a)					
G 358a			***5a. When preparing the draft implementing act establishing the common specifications in accordance with paragraph 4a , the Commission shall take into account the views of the national competent authorities referred to in Article 31(3)(h) and other relevant bodies or expert groups and shall duly consult all relevant stakeholders.***	***5a. When preparing the draft implementing act establishing the common specifications in accordance with paragraph 4a , the Commission shall take into account the views of the national competent authorities referred to in Article 31(3)(h) and other relevant bodies or expert groups and shall duly consult all relevant stakeholders.*** Text Origin: Council Mandate	G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 29(5b)				
358b			***5b. The implementing acts referred to in this Article shall be adopted in accordance with the examination procedure referred to in Article 39(2).***	***5b. The implementing acts referred to in this Article shall be adopted in accordance with the examination procedure referred to in Article 39(2).*** Text Origin: Council Mandate
Article 30				
359	Article 30	Article 30	Article 30	Article 30

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Essential requirements regarding smart contracts for data sharing	Essential requirements regarding smart contracts for data sharing	Essential requirements regarding smart contracts for data sharing	Essential requirements regarding smart contracts for ***executing*** data sharing ***agreements*** Text Origin: Commission Proposal
Article 30(1)				
360	1. The vendor of an application using smart contracts or, in the absence thereof, the person whose trade, business or profession involves the deployment of smart contracts for others in the context of an agreement to make data	~~1.~~ The ~~vendor of an application using~~***party offering*** smart contracts ~~or, in the absence thereof, the person whose trade, business or profession involves the deployment of smart contracts for others~~ in the context of an agreement to make data available shall comply with	1. The vendor of an application using smart contracts or, in the absence thereof, the person whose trade, business or profession involves the deployment of smart contracts for others in the context of an agreement to make data	1. The vendor of an application using smart contracts or, in the absence thereof, the person whose trade, business or profession involves the deployment of smart contracts for others in the context of ***executing*** an agreement ***or part of it,*** to make data available shall

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	available shall comply with the following essential requirements:	the following essential requirements:	available shall comply with the following essential requirements:	***ensure that the smart contracts*** comply with the following essential requirements: Text Origin: Council Mandate
Article 30(1), point (a)				
G 361	(a) robustness: ensure that the smart contract has been designed to offer a very high degree of robustness to avoid functional errors and to withstand manipulation by third parties;	(a) robustness ***and access control***: ensure that the smart contract has been designed to offer ***rigorous access control mechanisms and*** a very high degree of robustness to avoid functional errors and to withstand manipulation by third parties;	(a) robustness: ensure that the smart contract has been designed to offer a very high degree of robustness to avoid functional errors and to withstand manipulation by third parties;	(a) robustness ***and access control***: ensure that the smart contract has been designed to offer ***access control mechanisms and*** a very high degree of robustness to avoid functional errors and to withstand manipulation by third parties; G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: EP Mandate
Article 30(1), point (b)				
362	(b) safe termination and interruption: ensure that a mechanism exists to terminate the continued execution of transactions: the smart contract shall include internal functions which can reset or instruct the contract to stop or interrupt the operation to avoid future (accidental) executions;	(b) safe termination and interruption: ensure that a mechanism exists to terminate the continued execution of transactions: the smart contract shall include internal functions which can reset or instruct the contract to stop or interrupt the operation to avoid future (accidental) executions; ***in this regard, the conditions under which a smart contract could be***	(b) safe termination and interruption: ensure that a mechanism exists to terminate the continued execution of transactions: the smart contract shall include internal functions which can reset or instruct the contract to stop or interrupt the operation to avoid future (accidental) executions;	(b) safe termination and interruption: ensure that a mechanism exists to terminate the continued execution of transactions: the smart contract shall include internal functions which can reset or instruct the contract to stop or interrupt the operation to avoid future (accidental) executions;

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		reset or instructed to stop or interrupted, should be clearly and transparently defined. Especially, it should be assessed under which conditions non-consensual termination or interruption should be permissible;		Text Origin: Council Mandate
Article 30(1), point (ba)				
362a		***(ba) equivalence: a smart contract shall afford the same level of protection and legal certainty as any other contracts generated through different means;***		*deleted*

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 30(1), point (bb)				
362b		***(bb) protection of confidentiality of trade secrets: ensure that a smart contract has been designed to ensure the confidentiality of trade secrets, in accordance with this Regulation.***		*deleted*
Article 30(1), point (c)				
363	*(c)* data archiving and continuity: foresee, if a smart contract must be terminated or deactivated, a	(c) ~~*data archiving and continuity: foresee, if a smart contract must be terminated or deactivated, a*~~	(c) data archiving and continuity: foresee, if a smart contract must be terminated or deactivated, a	(c) data archiving and continuity: foresee, if a smart contract must be terminated or deactivated, a

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	possibility to archive transactional data, the smart contract logic and code to keep the record of the operations performed on the data in the past (auditability); and	~~possibility to archive transactional data, the smart contract logic and code to keep the record of the operations performed on the data in the past (auditability); and~~	possibility to archive transactional data, the smart contract logic and code to keep the record of the operations performed on the data in the past (auditability); and	possibility to archive transactional data, the smart contract logic and code to keep the record of the operations performed on the data in the past (auditability); and Text Origin: Council Mandate
Article 30(1), point (d)				
364	(d) access control: a smart contract shall be protected through rigorous access control mechanisms at the governance and smart contract layers.	(d) ~~access control: a smart contract shall be protected through rigorous access control mechanisms at the governance and smart contract layers.~~	(d) access control: a smart contract shall be protected through rigorous access control mechanisms at the governance and smart contract layers.	(d) access control: a smart contract shall be protected through rigorous access control mechanisms at the governance and smart contract layers.

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
Article 30(1), point (da)				
364a				***(da) consistency with the terms of the data sharing agreement that the smart contract executes.***
Article 30(2)				
365	2. The vendor of a smart contract or, in the absence thereof, the person whose trade, business or profession involves the deployment	2. ~~*The vendor of a smart contract or, in the absence thereof, the person whose trade, business or profession involves the deployment*~~	2. The vendor of a smart contract or, in the absence thereof, the person whose trade, business or profession involves the deployment	2. The vendor of a smart contract or, in the absence thereof, the person whose trade, business or profession involves the deployment of smart contracts for

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	of smart contracts for others in the context of an agreement to make data available shall perform a conformity assessment with a view to fulfilling the essential requirements under paragraph 1 and, on the fulfilment of the requirements, issue an EU declaration of conformity.	~~*of smart contracts for others in the context of an agreement to make data available shall perform a conformity assessment with a view to fulfilling the essential requirements under paragraph 1 and, on the fulfilment of the requirements, issue an EU declaration of conformity.*~~	of smart contracts for others in the context of an agreement to make data available shall perform a conformity assessment with a view to fulfilling the essential requirements under paragraph 1 and, on the fulfilment of the requirements, issue an EU declaration of conformity.	others in the context of an agreement to make data available shall perform a conformity assessment with a view to fulfilling the essential requirements under paragraph 1 and, on the fulfilment of the requirements, issue an EU declaration of conformity. Text Origin: Council Mandate
Article 30(3)				
G	366	3. ~~*By drawing up the EU declaration of conformity, the*~~	3. By drawing up the EU declaration of conformity, the	3. By drawing up the EU declaration of conformity, the

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	vendor of an application using smart contracts or, in the absence thereof, the person whose trade, business or profession involves the deployment of smart contracts for others in the context of an agreement to make data available shall be responsible for compliance with the requirements under paragraph 1.	~~vendor of an application using smart contracts or, in the absence thereof, the person whose trade, business or profession involves the deployment of smart contracts for others in the context of an agreement to make data available shall be responsible for compliance with the requirements under paragraph 1.~~	vendor of an application using smart contracts or, in the absence thereof, the person whose trade, business or profession involves the deployment of smart contracts for others in the context of an agreement to make data available shall be responsible for compliance with the requirements under paragraph 1.	vendor of an application using smart contracts or, in the absence thereof, the person whose trade, business or profession involves the deployment of smart contracts for others in the context of an agreement to make data available shall be responsible for compliance with the requirements under paragraph 1. Text Origin: Council Mandate
Article 30(4)				
367				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	4. A smart contract that meets the harmonised standards or the relevant parts thereof drawn up and published in the Official Journal of the European Union shall be presumed to be in conformity with the essential requirements under paragraph 1 of this Article to the extent those standards cover those requirements.	4. ~~*A smart contract that meets the harmonised standards or the relevant parts thereof drawn up and published in the Official Journal of the European Union shall be presumed to be in conformity with the essential requirements under paragraph 1 of this Article to the extent those standards cover those requirements.*~~	4. A smart contract that meets the harmonised standards or the relevant parts thereof ***and the references of which have been*** ~~*drawn up and*~~ published in the Official Journal of the European Union shall be presumed to be in conformity with the essential requirements under paragraph 1 ***in so far as those standards or parts thereof*** ~~*of this Article to the extent those standards*~~ cover those requirements.	4. A smart contract that meets the harmonised standards or the relevant parts thereof ***and the references of which have been*** ~~*drawn up and*~~ published in the Official Journal of the European Union shall be presumed to be in conformity with the essential requirements under paragraph 1 ***in so far as those standards or parts thereof*** ~~*of this Article to the extent those standards*~~ cover those requirements. Text Origin: Council Mandate
Article 30(5)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
368	5. The Commission may, in accordance with Article 10 of Regulation (EU) No 1025/2012, request one or more European standardisation organisations to draft harmonised standards that satisfy the essential the requirements under paragraph 1 of this Article.	5. ~~*The Commission may, in accordance with Article 10 of Regulation (EU) No 1025/2012, request one or more European standardisation organisations to draft harmonised standards that satisfy the essential the requirements under paragraph 1 of this Article.*~~	5. The Commission ~~*may*~~ ***shall***, in accordance with Article 10 of Regulation (EU) No 1025/2012, request one or more European standardisation organisations to draft harmonised standards that satisfy the essential the requirements under paragraph 1 ~~*of this Article*~~.	5. The Commission ~~*may*~~ ***shall***, in accordance with Article 10 of Regulation (EU) No 1025/2012, request one or more European standardisation organisations to draft harmonised standards that satisfy the essential the requirements under paragraph 1 ~~*of this Article*~~. Text Origin: Council Mandate
Article 30(5a)(6)				
369				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	6. Where harmonised standards referred to in paragraph 4 of this Article do not exist or where the Commission considers that the relevant harmonised standards are insufficient to ensure conformity with the essential requirements in paragraph 1 of this Article in a cross-border context, the Commission may, by way of implementing acts, adopt common specifications in respect of the essential requirements set out in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).	6. ~~*Where harmonised standards referred to in paragraph 4 of this Article do not exist or where the Commission considers that the relevant harmonised standards are insufficient to ensure conformity with the essential requirements in paragraph 1 of this Article in a cross-border context, the Commission may, by way of implementing acts, adopt common specifications in respect of the essential requirements set out in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).*~~	~~*6*~~***5a***. ~~*Where harmonised standards referred to in paragraph 4 of this Article do not exist or where the Commission considers that the relevant harmonised standards are insufficient to ensure conformity with the essential requirements in paragraph 1 of this Article in a cross-border context,*~~ The Commission may, by way of implementing acts, adopt common specifications ***covering any or all*** ~~*in respect*~~ of the essential requirements set out in paragraph 1 ~~*of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article*~~	6. ~~*Where harmonised standards referred to in paragraph 4 of this Article do not exist or where the Commission considers that the relevant harmonised standards are insufficient to ensure conformity with the essential requirements in paragraph 1 of this Article in a cross-border context,*~~ The Commission may, by way of implementing acts, adopt common specifications ***covering any or all*** ~~*in respect*~~ of the essential requirements set out in paragraph 1 ~~*of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).*~~***where the***

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			~~39(2).~~ ***where the following conditions have been fulfilled:***	***following conditions have been fulfilled:*** Text Origin: Council Mandate
Article 30(5a), point (a)				
369a			***(a) the Commission has requested, pursuant to Article 10(1) of Regulation 1025/2012, one or more European standardisation organisations to draft a harmonised standard for the essential requirements set out in paragraph 1 and the request has not been accepted or the***	***(a) the Commission has requested, pursuant to Article 10(1) of Regulation 1025/2012, one or more European standardisation organisations to draft a harmonised standard for the essential requirements set out in paragraph 1 and the request has not been accepted or the***

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			European standardisation deliverables addressing that request is not delivered within the deadline set in accordance with article 10(1) of Regulation 1025/2012 or the European standardisation deliverables standard does not comply with the request; and	***European standardisation deliverables addressing that request is not delivered within the deadline set in accordance with article 10(1) of Regulation 1025/2012 or the European standardisation deliverables standard does not comply with the request; and*** Text Origin: Council Mandate
Article 30(5a)(6), point (a)				
G 369b			***(b) no reference to harmonised standards covering the relevant***	***(b) no reference to harmonised standards covering the relevant*** G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			essential requirements set out in paragraph 1 is published in the Official Journal of the European Union in accordance with Regulation (EU) No 1025/2012 and no such reference is expected to be published within a reasonable period.	***essential requirements set out in paragraph 1 is published in the Official Journal of the European Union in accordance with Regulation (EU) No 1025/2012 and no such reference is expected to be published within a reasonable period.*** Text Origin: Council Mandate
Article 30(5a), (6) a				
G	369c		***Those implementing acts shall be adopted in accordance with the***	***Those implementing acts shall be adopted in accordance with the*** G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			examination procedure referred to in Article 39(2).	***examination procedure referred to in Article 39(2).*** Text Origin: Council Mandate
Article 30(5b)				
G 369d			***5b. Before preparing a draft implementing act in accordance with paragraph 6, the Commission shall inform the committee referred to in Article 22 of Regulation EU (No) 1025/2012 that it considers that the conditions in paragraph 6 are fulfilled.***	***5b. Before preparing a draft implementing act in accordance with paragraph 6, the Commission shall inform the committee referred to in Article 22 of Regulation EU (No) 1025/2012 that it considers that the conditions in paragraph 6 are fulfilled.*** G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
Article 30(5c)				
G 369e			***5c. When preparing the draft implementing act establishing the common specifications in accordance with paragraph 6, the Commission shall take into account the views of the European Data Innovation Board and other relevant bodies or expert groups and shall duly consult all relevant stakeholders.***	***5c. When preparing the draft implementing act establishing the common specifications in accordance with paragraph 6, the Commission shall take into account the views of the European Data Innovation Board and other relevant bodies or expert groups and shall duly consult all relevant stakeholders.*** G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
Article 30(5d)				
369f			***5d. The vendor of a smart contract or, in the absence thereof, the person whose trade, business or profession involves the deployment of smart contracts for others in the context of an agreement to make data available that meet the common specifications established by one or more implementing acts referred to in paragraph 5 or parts thereof shall be presumed to be in***	***5d. The vendor of a smart contract or, in the absence thereof, the person whose trade, business or profession involves the deployment of smart contracts for others in the context of an agreement to make data available that meet the common specifications established by one or more implementing acts referred to in paragraph 5 or parts thereof shall be presumed to be in conformity with the***

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			conformity with the essential requirements set out in paragraph 1 covered by those common specifications or parts thereof.	***essential requirements set out in paragraph 1 covered by those common specifications or parts thereof.*** Text Origin: Council Mandate
Article 30(5e)				
G 369g			***5e. Where a harmonised standard is adopted by an European standardisation organisation and proposed to the Commission for the publication of its reference in the Official Journal of the European Union, the Commission***	***5e. Where a harmonised standard is adopted by an European standardisation organisation and proposed to the Commission for the publication of its reference in the Official Journal of the European Union,*** G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			shall assess the harmonised standard in accordance with Regulation (EU) No 1025/2012. When reference of a harmonised standard is published in the Official Journal of the European Union, the Commission shall repeal implementing acts referred to in paragraph 5, or parts thereof which cover the same essential requirements set out in paragraph 1.	***the Commission shall assess the harmonised standard in accordance with Regulation (EU) No 1025/2012. When reference of a harmonised standard is published in the Official Journal of the European Union, the Commission shall repeal implementing acts referred to in paragraph 5, or parts thereof which cover the same essential requirements set out in paragraph 1.*** Text Origin: Council Mandate
Article 30(5f)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
369h			***5f. When a Member State considers that a common specification does not entirely satisfy the essential requirements set out in paragraph 1, it shall inform the Commission thereof with a detailed explanation. The Commission shall assess that information and, if appropriate, amend the implementing act establishing the common specification in question.***	***5f. When a Member State considers that a common specification does not entirely satisfy the essential requirements set out in paragraph 1, it shall inform the Commission thereof with a detailed explanation. The Commission shall assess that information and, if appropriate, amend the implementing act establishing the common specification in question.*** Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
CHAPTER IX				
370	CHAPTER IX IMPLEMENTATION AND ENFORCEMENT	CHAPTER IX IMPLEMENTATION AND ENFORCEMENT	CHAPTER IX IMPLEMENTATION AND ENFORCEMENT	CHAPTER IX IMPLEMENTATION AND ENFORCEMENT Text Origin: Commission Proposal
Article 31				
371	Article 31 Competent authorities	Article 31 ~~*Competent authorities*~~***Data coordinator***	Article 31 Competent authorities	

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 31(1)				
R 372	1. Each Member State shall designate one or more competent authorities as responsible for the application and enforcement of this Regulation. Member States may establish one or more new authorities or rely on existing authorities.	1. Each Member State shall designate ***an independent competent coordinating authority ('data coordinator')*** ~~*one or more competent authorities*~~ as responsible for the application and enforcement of this Regulation~~.~~, ***for coordinating the activities entrusted to that*** Member ~~*States may establish one or more new authorities or rely on existing authorities*~~***State, for acting as the single contact point towards the Commission, with regard to the***	1. Each Member State shall designate one or more competent authorities as responsible for the application and enforcement of this Regulation. Member States may establish one or more new authorities or rely on existing authorities.	R

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		implementation of this Regulation and for representing the Member State at the European Data Innovation Board, as referred to in Article 31a .		
Article 31(1a)				
G 372a		*1a. The independent supervisory authorities responsible for monitoring the application of Regulation (EU) 2016/679 shall be responsible for monitoring the application of this Regulation insofar as the protection of personal data is concerned. Chapters VI and VII of*		*1a. The independent supervisory authorities responsible for monitoring the application of Regulation (EU) 2016/679 shall be responsible for monitoring the application of this Regulation insofar as the protection of personal data is concerned. Chapters VI and VII of Regulation (EU) 2016/679 shall* G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		Regulation (EU) 2016/679 shall apply mutatis mutandis. The European Data Protection Supervisor shall be responsible for monitoring the application of this Regulation insofar as it concerns the Union institutions, bodies, offices and agencies. Where relevant, Article 62 of Regulation ***(EU) 2018/1725 shall apply mutatis mutandis. The tasks and powers of the supervisory authorities shall be exercised with regard to the processing of personal data.***		***apply mutatis mutandis. The European Data Protection Supervisor shall be responsible for monitoring the application of this Regulation insofar as it concerns the Commission, the European Central Bank or Union bodies. Where relevant, Article 62 of Regulation*** ***(EU) 2018/1725 shall apply mutatis mutandis. The tasks and powers of the supervisory authorities shall be exercised with regard to the processing of personal data.*** Text Origin: EP Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 31(2)				
373	2. Without prejudice to paragraph 1 of this Article:	2. Without prejudice to paragraph 1 of this Article***, the data coordinator shall ensure cooperation among the national competent authorities that are responsible for the monitoring of other Union or national legal acts in the field of data and electronic communication services, namely***:	2. ~~*Without prejudice to*~~***Notwithstanding*** paragraph 1~~*of this Article*~~:	2. Without prejudice to paragraph 1 of this Article: Text Origin: Commission Proposal
Article 31(2), point (a)				
374	(a) the independent supervisory authorities responsible for	(a) ~~*the independent supervisory authorities responsible for*~~	(a) the independent supervisory authorities responsible for	*deleted*

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	monitoring the application of Regulation (EU) 2016/679 shall be responsible for monitoring the application of this Regulation insofar as the protection of personal data is concerned. Chapters VI and VII of Regulation (EU) 2016/679 shall apply mutatis mutandis. The tasks and powers of the supervisory authorities shall be exercised with regard to the processing of personal data;	~~*monitoring the application of Regulation (EU) 2016/679 shall be responsible for monitoring the application of this Regulation insofar as the protection of personal data is concerned. Chapters VI and VII of Regulation (EU) 2016/679 shall apply mutatis mutandis. The tasks and powers of the supervisory authorities shall be exercised with regard to the processing of personal data;*~~	monitoring the application of Regulation (EU) 2016/679 shall be responsible for monitoring the application of this Regulation insofar as the protection of personal data is concerned. Chapters VI and VII of Regulation (EU) 2016/679 shall apply mutatis mutandis. The tasks and powers of the supervisory authorities shall be exercised with regard to the processing of personal data;	
Article 31(2), point (b)				
G	*375*	*(b)* for specific sectoral data exchange issues related to the	(b) for specific sectoral data ~~*exchange*~~***access*** issues related to	(b) for specific sectoral data ~~*exchange*~~***access and use*** issues related to the implementation of

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	implementation of this Regulation, the competence of sectoral authorities shall be respected;	the implementation of this Regulation, the competence of sectoral authorities shall be respected ***without prejudice to the rules on conflicts of competences***;	implementation of this Regulation, the competence of sectoral authorities shall be respected;	this Regulation, the competence of sectoral authorities shall be respected; Text Origin: EP Mandate
Y	375a		***(ba) the national competent authorities responsible for the application and enforcement of Chapters III and V shall have expertise in either the field of price regulation or dispute resolution or both;***	Y

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Y	375b		***(bb) the national competent authority shall inform the Commission, on an annual basis, of the refusals notified under Article 4(3)(a) and Article 5(8)(a);***	Y
Article 31(2), point (c)				
G	376	(c) the national competent authority responsible for the application and enforcement of Chapter VI of this Regulation shall	(c) the national competent authority responsible for the application and enforcement of Chapter VI of this Regulation shall	(c) the national competent authority responsible for the application and enforcement of Chapter VI ***and Article 29*** of this	G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	have experience in the field of data and electronic communications services.	have experience in the field of data and electronic communications services.	have experience in the field of data and electronic communications services.	Regulation shall have experience in the field of data and electronic communications services. Text Origin: Commission Proposal
Article 31(3)				
377	3. Member States shall ensure that the respective tasks and powers of the competent authorities designated pursuant to paragraph 1 of this Article are clearly defined and include:	3. Member States shall ensure that the respective tasks and powers of the ~~competent authorities designated pursuant to paragraph 1 of this Article~~***data coordinator*** are clearly defined and include:	3. Member States shall ensure that the respective tasks and powers of the competent authorities designated pursuant to paragraph 1 of this Article are clearly defined and include***, as far as the competent authority is concerned***:	3. Member States shall ensure that the respective tasks and powers of ***[the data coordinator/competent authority]***~~the competent authorities designated pursuant to paragraph 1 of this Article~~ are clearly defined and include:

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Remaining brackets Text Origin: EP Mandate
Article 31(3), point (a)				
378	(a) promoting awareness among users and entities falling within scope of this Regulation of the rights and obligations under this Regulation;	(a) promoting awareness among users and entities falling within ***the*** scope of this Regulation of the rights and obligations under this Regulation;	(a) promoting awareness among users and entities falling within scope of this Regulation of the rights and obligations under this Regulation;	(a) promoting ***data literacy and*** awareness among users and entities falling within ***the*** scope of this Regulation of the rights and obligations under this Regulation; Text Origin: EP Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 31(3), point (b)				
379	(b) handling complaints arising from alleged violations of this Regulation, and investigating, to the extent appropriate, the subject matter of the complaint and informing the complainant of the progress and the outcome of the investigation within a reasonable period, in particular if further investigation or coordination with another competent authority is necessary;	(b) handling ***and deciding on*** complaints arising from alleged violations of this Regulation, and investigating, to the extent appropriate, the subject matter of the complaint and ***regularly*** informing the complainant of the progress and the outcome of the investigation within a reasonable period, in particular if further investigation or coordination with another competent authority is necessary;	(b) handling complaints arising from alleged violations of this Regulation, and investigating, to the extent appropriate, the subject matter of the complaint and informing the complainant***, in accordance with national law,*** of the progress and the outcome of the investigation within a reasonable period, in particular if further investigation or coordination with another competent authority is necessary;	(b) handling complaints arising from alleged ~~violations~~***infringements*** of this Regulation, ***including in relation to trade secrets,*** and investigating, to the extent appropriate, the subject matter of the complaint and ***regularly*** informing the complainant***, where relevant in accordance with national law,*** of the progress and the outcome of the investigation within a reasonable period, in particular if further investigation or coordination with another competent authority is necessary;

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
Article 31(3), point (c)				
380	(c) conducting investigations into matters that concern the application of this Regulation, including on the basis of information received from another competent authority or other public authority;	(c) conducting investigations into matters that concern the application of this Regulation, including on the basis of information received from another competent authority or other public authority;	(c) conducting investigations into matters that concern the application of this Regulation, including on the basis of information received from another competent authority or other public authority;	(c) conducting investigations into matters that concern the application of this Regulation, including on the basis of information received from another competent authority or other public authority; Text Origin: Commission Proposal

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 31(3), point (d)				
381	(d) imposing, through administrative procedures, dissuasive financial penalties which may include periodic penalties and penalties with retroactive effect, or initiating legal proceedings for the imposition of fines;	(d) imposing ***effective, proportionate and*** ~~*, through administrative procedures,*~~ dissuasive financial penalties which may include periodic penalties and penalties with retroactive effect, or initiating legal proceedings for the imposition of fines;	(d) imposing, through administrative procedures, dissuasive financial penalties which may include periodic penalties and penalties with retroactive effect, or initiating legal proceedings for the imposition of fines;	(d) imposing ***effective, proportionate and*** ~~*, through administrative procedures,*~~ dissuasive financial penalties which may include periodic penalties and penalties with retroactive effect, or initiating legal proceedings for the imposition of fines; Text Origin: EP Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
Article 31(3), point (e)					
G	382	(e) monitoring technological developments of relevance for the making available and use of data;	(e) monitoring technological ***and commercial*** developments of relevance for the making available and use of data ***with a view of better enforcing this Regulation***;	(e) monitoring technological developments of relevance for the making available and use of data;	(e) monitoring technological ***and relevant commercial*** developments of relevance for the making available and use of data; Text Origin: EP Mandate	G
Article 31(3), point (f)					
Y	383	(f) cooperating with competent authorities of other Member States to ensure the consistent application	(f) cooperating with ***the data coordinators*** ~~competent authorities~~ of other Member States to ensure	(f) cooperating with competent authorities of other Member States to ensure the consistent application	(f) cooperating with ***[the data coordinators/competent authority]*** ~~competent authorities~~ of other Member States to ensure the	Y

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	of this Regulation, including the exchange of all relevant information by electronic means, without undue delay;	the consistent*, swift and effective* application of this Regulation, including the exchange of all relevant information by electronic means, without undue delay;	of this Regulation, including the exchange of all relevant information by electronic means, without undue delay;	consistent *and efficient* application of this Regulation, including the exchange of all relevant information by electronic means, without undue delay; Text Origin: EP Mandate
Article 31(3), point (fa)				
383a		*(fa) cooperating with all relevant competent authorities pursuant to other Union law, and with the European Data Protection Board and the European Data Innovation Board to ensure that*		

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		the obligations of this Regulation are enforced coherently with other Union law;		
Article 31(3), point (g)				
384	(g) ensuring the online public availability of requests for access to data made by public sector bodies in the case of public emergencies under Chapter V;	(g) ensuring the online public availability of requests for access to data made by public sector bodies in the case of public emergencies under Chapter V;	(g) ensuring the online public availability of requests for access to data made by public sector bodies in the case of public emergencies under Chapter V ***and promoting voluntary data sharing agreements between public sector bodies and data holders***;	(g) ensuring the online public availability of requests for access to data made by public sector bodies in the case of public emergencies under Chapter V ***and promoting voluntary data sharing agreements between public sector bodies and data holders***; Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 31(3), point (h)				
385	(h) cooperating with all relevant competent authorities to ensure that the obligations of Chapter VI are enforced consistently with other Union legislation and self-regulation applicable to providers of data processing service;	(h) cooperating with all relevant competent authorities to ensure that the obligations of Chapter VI are enforced consistently with other Union legislation and self-regulation applicable to providers of data processing service;	(h) cooperating with all relevant competent authorities to ensure that the obligations of Chapter VI ***and Article 29*** are enforced consistently with other Union legislation and self-regulation applicable to providers of data processing ~~*service*~~***services***;	(h) cooperating with all relevant competent authorities to ensure that the obligations of Chapter VI ***and Article 29*** are enforced consistently with other Union legislation and self-regulation applicable to providers of data processing ~~*service*~~***services***; Text Origin: Council Mandate
Article 31(3), point (i)				

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G	386	(i) ensuring that charges for the switching between providers of data processing services are withdrawn in accordance with Article 25.	(i) ensuring that charges for the switching between providers of data processing services are withdrawn in accordance with Article 25.;	(i) ensuring that charges for the switching between providers of data processing services are withdrawn in accordance with Article 25.; Text Origin: Council Mandate	G
Article 31(3), point (ia)					
G	386a		***(ia) examining the requests for data made pursuant to Article 14(1), particularly in cross-border contexts.***	***(ia) examining the requests for data made pursuant to Chapter V.***	G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
Article 31(4)				
387	4. Where a Member State designates more than one competent authority, the competent authorities shall, in the exercise of the tasks and powers assigned to them under paragraph 3 of this Article, cooperate with each other, including, as appropriate, with the supervisory authority responsible for monitoring the application of Regulation (EU) 2016/679, to ensure the consistent application of	4. Where a Member State designates more than one competent authority, the ~~competent authorities~~ ***data coordinator*** shall, in the exercise of the tasks and powers assigned to them under paragraph 3 of this Article, cooperate with each other ***and with the European Data Innovation Board***, including, as appropriate, with the supervisory authority responsible for monitoring the	4. Where a Member State designates more than one competent authority, the competent authorities shall, in the exercise of the tasks and powers assigned to them under paragraph 3 of this Article, cooperate with each other, including, as appropriate, with the supervisory authority responsible for monitoring the application of Regulation (EU) 2016/679 ***or sectoral authorities***, to ensure the	4. Where a Member State designates more than one competent authority, the ***[data coordinator]*** competent authorities shall, in the exercise of the tasks and powers assigned to them under paragraph 3 of this Article, cooperate with each other, including, as appropriate, with the supervisory authority responsible for monitoring the application of Regulation (EU) 2016/679 ***or sectoral authorities***, to ensure the

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	this Regulation. In such cases, relevant Member States shall designate a coordinating competent authority.	application of Regulation (EU) 2016/679 ***and with the European Data Protection Supervisor***, to ensure the consistent application of this Regulation. In such cases, relevant Member States shall designate a coordinating competent authority.	consistent application of this Regulation. In such cases, relevant Member States shall designate a coordinating competent authority.	consistent application of this Regulation. ***[***In such cases, relevant Member States shall designate a coordinating competent authority.***]*** Text Origin: Council Mandate
Article 31(5)				
388	5. Member States shall communicate the name of the designated competent authorities and their respective tasks and powers and, where applicable, the name of the coordinating	5. Member States shall communicate the name of ~~*the designated competent authorities*~~***data coordinators*** and their respective tasks and powers and, where	5. Member States shall communicate the name of the designated competent authorities and their respective tasks and powers and, where applicable, the name of the coordinating	5. Member States shall communicate the name of the ***[data coordinator]*** designated competent authorities and their respective tasks and powers and, where applicable, the name of the

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	competent authority to the Commission. The Commission shall maintain a public register of those authorities.	applicable, the name of the coordinating competent authority to the Commission ***and Data Innovation Board***. The Commission shall maintain a public register of those authorities.	competent authority to the Commission. The Commission shall maintain a public register of those authorities.	coordinating competent authority to the Commission. The Commission shall maintain a public register of those authorities. Text Origin: Commission Proposal
Article 31(6)				
389	6. When carrying out their tasks and exercising their powers in accordance with this Regulation, the competent authorities shall remain free from any external influence, whether direct or indirect, and shall neither seek nor	6. When carrying out their tasks and exercising their powers in accordance with this Regulation, ~~*the competent authorities*~~***data coordinators*** shall ***in an independent and impartial manner and*** remain free from any	6. When carrying out their tasks and exercising their powers in accordance with this Regulation, the competent authorities shall remain free from any external influence, whether direct or indirect, and shall neither seek nor	6. When carrying out their tasks and exercising their powers in accordance with this Regulation, ***[data coordinator]*** the competent authorities shall remain ***impartial and*** free from any external influence, whether direct or

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	take instructions from any other public authority or any private party.	external influence, whether direct or indirect, and shall neither seek nor take instructions from any other public authority or any private party.	take instructions ***in individual cases*** from any other public authority or any private party.	indirect, and shall neither seek nor take instructions ***for individual cases*** from any other public authority or any private party. Text Origin: Commission Proposal
Article 31(7)				
390	7. Member States shall ensure that the designated competent authorities are provided with the necessary resources to adequately carry out their tasks in accordance with this Regulation.	7. Member States shall ensure that the ~~designated competent authorities are~~***data coordinator is*** provided with ***sufficient human and technical*** ~~the necessary~~ resources***, expertise, premises and infrastructure necessary for the***	7. Member States shall ensure that the designated competent authorities are provided with the necessary resources to adequately carry out their tasks in accordance with this Regulation.	7. Member States shall ensure that ***[the data coordinator is] [***the designated competent authorities are***]*** provided with ***sufficient human and technical*** ~~the necessary~~ resources ***and relevant expertise to effectively*** ~~to~~

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		effective performance to adequately carry out their tasks in accordance with this Regulation.		~~*adequately*~~ carry out their tasks in accordance with this Regulation. Text Origin: EP Mandate
Article 31(7a)				
390a		***7a. Entities falling within the scope of this Regulation shall be subject to the jurisdiction of the Member State where the entity is established.***		***7a. Entities falling within the scope of this Regulation shall be subject to the competence of the Member State where the entity is established. In case the entity is established in more than one Member State, it shall be deemed to be under the competence of the Member State in which it has its***

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				main establishment, that is, where the entity has its head office or registered office within which the principal financial functions and operational control are exercised.
				Any entity falling in scope of this Regulation that offers products or services in the Union, [or any third party that obtains or makes data available pursuant to Chapter II and III], and which is not established in the Union, shall designate a legal representative in one of the Member States.
				For the purpose of ensuring compliance with this Regulation, the legal representative shall be

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				mandated by the entity falling in scope of this Regulation that offers products or services in the Union, [or the third party that obtains or makes data available pursuant to Chapter II and III] to be addressed in addition to or instead of it by [competent authorities/ the data coordinator], with regard to all issues related to the entity falling in scope of this Regulation that offers products or services in the Union, [or the third party that obtains or makes data available pursuant to Chapter II and III]. The legal representative shall cooperate with and comprehensively demonstrate to the [competent authorities/ data coordinator],

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				upon request, the actions taken and provisions put in place by the entity falling in scope of this Regulation that offers products or services in the Union, [or the third party that obtains or makes data available pursuant to Chapter II and III] to ensure compliance with this Regulation.
				The entity falling in scope of this Regulation that offers products or services in the Union, [or the third party that obtains or makes data available pursuant to Chapter II and III] shall be deemed to be under the jurisdiction of the Member State in which the legal representative is located. The designation of a

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				legal representative by [entity falling in scope of this Regulation that offers products or services in the Union, or the third party that obtains or makes data available pursuant to Chapter II and III] shall be without prejudice to any legal actions which could be initiated against the entity. ***Until the [entity] designates a legal representative in accordance with this Article, it shall be under the competence of all Member States, where applicable, for the purposes of ensuring the application and enforcement of this Regulation. Any competent authority may exercise its competence, including by imposing effective, proportionate***

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				and dissuasive penalties, provided that the entity is not subject to enforcement proceedings under this Regulation for the same facts by another competent authority .
390b		***7b. A user, data holder or data recipient that is a legal person and is not established in the Union, but which is subject to obligations under this Regulation, shall designate a legal representative in one of the Member States in which its relevant counterparties are established.***		

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
390c		***7c. The competent authorities under this Regulation shall have the power to request from users, data holders or data recipients, that are legal persons, or their legal representatives all the information that is necessary to verify compliance with the requirements of this Regulation. Any request for information shall be proportionate to the performance of the task and shall be reasoned.***		

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390d		***7d. Where a user, data holder or data recipient, that is a legal person and not established in the Union fails to designate a legal representative or the legal representative fails, upon request of the competent authority, to provide the necessary information that comprehensively demonstrates compliance with this Regulation, the competent authority shall have the power to postpone the commencement of or to suspend the provision of related services by data holders or requests for data access from data***		

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		holders by users or data recipients, that are legal persons, until the legal representative is designated or the necessary information is provided.		
Article 31(7b)				
390e			***7a. In accordance with Regulation (EU) 2018/1725, the European Data Protection Supervisor shall be responsible for monitoring the application of Chapter V of this Regulation insofar as the processing of personal data by the Commission,***	*deleted* *moved to line 372a*

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			the European Central Bank or Union bodies is concerned.	
	390f		***7b. Competent authorities under this Article shall cooperate with competent authorities of other Member States to ensure a consistent and efficient application of this Regulation. Such mutual assistance shall include the exchange of all necessary information by electronic means, without undue delay, in particular to carry out***	

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			the tasks referred to in paragraph (3), points (b), (c) and (d).	
Y	390g		***Where a competent authority in one Member State requests assistance or enforcement measures from a competent authority in another Member State, it shall submit a reasoned request. The competent authority shall, upon receiving such a request, provide a response, detailing the actions that have been taken or which are intended to be taken, without undue delay.***	Y

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390h			***Competent authorities shall respect the principles of confidentiality and of professional and commercial secrecy and shall protect personal data, in accordance with Union and national law. Any information exchanged in the context of assistance requested and provided under this Article shall be used only in respect of the matter for which it was requested.***	

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 31(7c)				
390i			***7c. Entities falling within the scope of this Regulation shall be subject to the competence of the Member State where the entity is established. In case the entity is established in more than one Member State, it shall be deemed to be under the competence of the Member State in which it has its main establishment, that is, where the entity has its head office or registered office within which the principal financial functions and operational control are exercised.***	*deleted* *moved to 390a*

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	390j		***7d. An entity falling within scope of this Regulation that offers products or services in the Union but is not established in the Union, nor has designated a legal representative therein, shall be under the competence of all Member States, where applicable, for the purposes of ensuring the application and enforcement of this Regulation. Any competent authority may exercise its competence, provided that the entity is not subject to enforcement proceedings under***	

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			this Regulation for the same facts by another competent authority.	
Y	390k	***Article 31a*** ***Mutual assistance***		Y
Y	390l	***1. Data coordinators and the Commission shall cooperate closely and provide each other mutual assistance in order to***		Y

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		apply this Regulation in a consistent and efficient manner. Mutual assistance shall include, in particular, exchange of all information in accordance with this Article by electronic means and the duty of the Data Coordinator of the concerned Member State to inform all competent authorities and the Commission about the opening of an investigation.		
	390m	***2. For the purpose of an investigation, the Data***		

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		coordinator of establishment may request other Data coordinators to provide specific information in their possession or to exercise their investigative powers with regard to specific information located in their Member State. Where appropriate, the data coordinator receiving the request may involve other competent authorities or other public authorities of the Member State in question.		
390n				

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		3. The Data coordinator receiving the request pursuant to paragraph 2 shall comply with such request and inform the competent authority of the concerned Member State about the action taken, without undue delay.		
Article 31(7d)				
G 390o		***4. The European Data Innovation Board shall foster the mutual exchange of information amongst competent authorities as well as advise and assist the Commission in all matters falling under this Regulation., falling***		*deleted* G

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		under the competence of the Board in accordance with Article 30 of the Regulation (EU) No 2022/868. The data coordinators shall represent the Member States at the European Data Innovation Board established under Regulation (EU) 2022/868.		
Article 32				
G *391*	Article 32 Right to lodge a complaint with a competent authority	Article 32 Right to lodge a complaint with a ~~*competent authority*~~ ***data coordinator***	Article 32 Right to lodge a complaint with a competent authority	Article 32 Right to lodge a complaint ~~*with a competent authority*~~ G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
Article 32(1)				
392	1. Without prejudice to any other administrative or judicial remedy, natural and legal persons shall have the right to lodge a complaint, individually or, where relevant, collectively, with the relevant competent authority in the Member State of their habitual residence, place of work or establishment if they consider that their rights under this Regulation have been infringed.	1. Without prejudice to any other administrative or judicial remedy, natural and legal persons shall have the right to lodge a complaint, individually or~~, where relevant,~~ collectively, with the ~~relevant competent authority~~***data coordinator*** in the Member State of their habitual residence, place of work or establishment if they consider that their rights under this Regulation have been infringed.	1. Without prejudice to any other administrative or judicial remedy, natural and legal persons shall have the right to lodge a complaint, individually or, where relevant, collectively, with the relevant competent authority in the Member State of their habitual residence, place of work or establishment if they consider that their rights under this Regulation have been infringed.	1. Without prejudice to any other administrative or judicial remedy, natural and legal persons shall have the right to lodge a complaint, individually or, where relevant, collectively, with the ***[data coordinator]*** relevant competent authority in the Member State of their habitual residence, place of work or establishment if they consider that their rights under this Regulation have been infringed.

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		Such complaint may arise from the suspension of sharing of data identified as trade secrets, after receiving the notification by the data holder pursuant to Articles 4(3), 5(8) or 19 (2b).		Text Origin: Commission Proposal
Article 32(2)				
393	2. The competent authority with which the complaint has been lodged shall inform the complainant of the progress of the proceedings and of the decision taken.	2. The ~~*competent authority*~~***data coordinator*** with which the complaint has been lodged shall inform the complainant***, in accordance with national law,*** of the progress of the proceedings and of the decision taken.	2. The competent authority with which the complaint has been lodged shall inform the complainant***, in accordance with national law,*** of the progress of the proceedings and of the decision taken.	2. The ***[data coordinator]*** competent authority with which the complaint has been lodged shall inform the complainant***, in accordance with national law,*** of the progress of the proceedings and of the decision taken.

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
Article 32(3)				
394	3. Competent authorities shall cooperate to handle and resolve complaints, including by exchanging all relevant information by electronic means, without undue delay. This cooperation shall not affect the specific cooperation mechanism provided for by Chapters VI and VII of Regulation (EU) 2016/679.	3. Competent authorities shall cooperate ***from the beginning of the process*** to handle and resolve complaints ***effectively and in a timely manner***, including ***by setting reasonable deadlines for adopting formal decisions, ensuring equality of the parties, ensuring the right to be heard from complainants and access to the file throughout the process, and*** by exchanging all relevant	3. Competent authorities shall cooperate to handle and resolve complaints, including by exchanging all relevant information by electronic means, without undue delay. This cooperation shall not affect the specific cooperation mechanism provided for by Chapters VI and VII of Regulation (EU) 2016/679 ***and by Regulation (EU) 2017/2394***.	3. Competent authorities shall cooperate to handle and resolve complaints ***effectively and in a timely manner***, including by exchanging all relevant information by electronic means, without undue delay. This cooperation shall not affect the specific cooperation mechanism provided for by Chapters VI and VII of Regulation (EU) 2016/679 ***and by Regulation (EU) 2017/2394***.

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		information by electronic means, without undue delay. This cooperation shall not affect the specific cooperation mechanism provided for by Chapters VI and VII of Regulation (EU) 2016/679.		Text Origin: Council Mandate
Article 32a				
394a		***Article 32a*** ***Representation***		*deleted*
Article 32a(1)				
394b				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		1. Without prejudice to Directive (EU) 2020/1828 or to any other type of representation under national law, users, data holders and data recipients shall at least have the right to mandate a body, organisation or association to exercise the rights conferred by this Regulation on their behalf, provided the body, organisation or association meets all of the following conditions:		*deleted*
Article 32a(1), point (a)				
G	*394c*	***(a) it operates on a not-for-profit basis;***		*deleted*

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Article 32a(1), point (b)				
G *394d*		***(b) it has been properly constituted in accordance with the law of a Member State;***		*deleted* G
Article 32a(1), point (c)				
G *394e*		***(c) its statutory objectives include a legitimate interest in ensuring that this Regulation is complied with.***		*deleted* G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
	Article 32b				
G	*394f*		***Article 32b*** ***Right to an effective judicial remedy against a competent authority***		***Article 32b*** ***Right to an effective judicial remedy*** Text Origin: EP Mandate	G
Y	394g		***1. Without prejudice to any other administrative or non-judicial remedy, each user, data holder and data recipient shall have the***			Y

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		right to an effective judicial remedy against a legally binding decision of a competent authority concerning them.		
394h		***2. Without prejudice to any other administrative or non judicial remedy, each user shall have the right to an effective judicial remedy where the competent authority does not handle a complaint swiftly or does not inform the user, data holder and data recipient within three months on the progress or outcome of the***		

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		complaint lodged pursuant to Article 32.		
394i		***3. Proceedings against a competent authority shall be brought before the courts of the Member State of the habitual residence, place of work or establishment of the user or their representative organisation.***		
Article 32b(1)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
G 394j		***4. Where proceedings are brought against a decision of a competent authority which was preceded by an opinion or a decision of the Board in the consistency mechanism, the supervisory authority shall forward that opinion or decision to the court.***		***4. Where proceedings are brought against a decision of a competent authority which was preceded by an opinion or a decision of the Board in the consistency mechanism, the supervisory authority shall forward that opinion or decision to the court.*** Text Origin: EP Mandate
Article 32c				
G 394k				G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		Article 32c ***Right to an effective judicial remedy***		*deleted*
Article 32c(1)				
G *394l*		***1. Without prejudice to any available administrative or non-judicial remedy, including under Directive (EU) 2020/1828 and the right to lodge a complaint with a competent authority pursuant to Article 32b, user, data holder and data recipient shall have the right to an effective judicial remedy where they consider that their rights under***		*deleted* G

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		this Regulation have been infringed as a result of the non-compliance with this Regulation.		
Article 32c(2)				
394m		***2. Proceedings against a data holder, third party or data recipient shall be brought before the courts of the Member State where the user has their habitual residence, place or work or establishment.***		*deleted*
Article 33				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
395	Article 33 Penalties	Article 33 Penalties	Article 33 Penalties	Article 33 Penalties Text Origin: Commission Proposal
Article 33(1)				
396	1. Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties	1. Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties	1. Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective,	1. Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties

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	provided for shall be effective, proportionate and dissuasive.	provided for shall be effective, proportionate and dissuasive.	proportionate and dissuasive. ***Member States shall take into account the recommendations of the European Data Innovation Board. Member States shall, by [date of application of the Regulation], notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.***	provided for shall be effective, proportionate and dissuasive. Text Origin: Council Mandate
Article 33(1a)				
396a		***1a. Member States shall take into account the following non-exhaustive criteria for the***		***1a. Member States shall take into account the recommendations of the European Data Innovation Board and the following***

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		imposition of penalties for infringements of this Regulation;		***non-exhaustive criteria for the imposition of penalties for infringements of this Regulation:*** Text Origin: EP Mandate
Article 33(1a), point (a)				
G 396b		***(a) the nature, gravity, scale and duration of the infringement;***		***(a) the nature, gravity, scale and duration of the infringement;*** Text Origin: EP Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 33(1a), point (b)				
396c		***(b) any action taken by the infringing party to mitigate or remedy the damage caused by the infringement;***		***(b) any action taken by the infringing party to mitigate or remedy the damage caused by the infringement;*** Text Origin: EP Mandate
Article 33(1a), point (c)				
396d		***(c) any previous infringements by the infringing party;***		***(c) any previous infringements by the infringing party;***

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: EP Mandate
Article 33(1a), point (d)				
G 396e		***(d) the financial benefits gained or losses avoided by the infringing party due to the infringement, insofar as such benefits or losses can be reliably established;***		***(d) the financial benefits gained or losses avoided by the infringing party due to the infringement, insofar as such benefits or losses can be reliably established;*** Text Origin: EP Mandate
Article 33(1a), point (e)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
396f		***(e) any other aggravating or mitigating factors applicable to the circumstances of the case.***		***(e) any other aggravating or mitigating factors applicable to the circumstances of the case.*** Text Origin: EP Mandate
Article 33(1a), point (f)				
396g			***1a. Member States shall take into account the following non-exhaustive and indicative criteria for the imposition of penalties for infringements of this Regulation, where appropriate:***	*deleted*

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
	Article 33(1a), point (g)				
G	*396h*		***(a) the nature, gravity, scale and duration of the infringement;***	*deleted*	G
	Article 33(1a), point (h)				
G	*396i*		***(b) any action taken by the infringer to mitigate or remedy the damage caused by the infringement;***	*deleted*	G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 33(1a), point (i)				
G *396j*			***(c) any previous infringements by the infringer;***	*deleted* G
Article 33(1a), point (j)				
G *396k*			***(d) the financial benefits gained or losses avoided by the infringer due to the infringement, insofar as such benefits or losses can be reliably established;***	*deleted* G
Article 33(1a), point (k)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
G	*396l*		***(e) any other aggravating or mitigating fators applicable to the circumstances of the case;***	*deleted* Text Origin: Council Mandate
	Article 33(1a), point (l)			
G	*396m*		***(f) the infringer's annual turnover of the preceeding financial year in the Union.***	***(f) the infringer's annual turnover of the preceeding financial year in the Union.*** Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 33(2)				
397	2. Member States shall by [date of application of the Regulation] notify the Commission of those rules and measures and shall notify it without delay of any subsequent amendment affecting them.	2. Member States shall by [date of application of the Regulation] notify the Commission, ***the European Data Protection Board and the European Data Innovation Board*** of those rules and measures and shall notify ~~it~~***them*** without delay of any subsequent amendment affecting them. ***The Commission shall regularly update and maintain an easily accessible public register of those measures.***	2. Member States shall by [date of application of the Regulation] notify the Commission of those rules and measures and shall notify it without delay of any subsequent amendment affecting them.	2. Member States shall by [date of application of the Regulation] notify the Commission of those rules and measures and shall notify it without delay of any subsequent amendment affecting them. ***The Commission shall regularly update and maintain an easily accessible public register of those measures.*** Text Origin: EP Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 33(3)				
398	3. For infringements of the obligations laid down in Chapter II, III and V of this Regulation, the supervisory authorities referred to in Article 51 of the Regulation (EU) 2016/679 may within their scope of competence impose administrative fines in line with Article 83 of Regulation (EU) 2016/679 and up to the amount referred to in Article 83(5) of that Regulation.	3. For infringements of the obligations laid down in Chapter II, III and V of this Regulation, the supervisory authorities referred to in Article 51 of the Regulation (EU) 2016/679 may within their scope of competence impose administrative fines in line with Article 83 of Regulation (EU) 2016/679 and up to the amount referred to in Article 83(5) of that Regulation.	3. For infringements of the obligations laid down in Chapter II, III and V of this Regulation, the supervisory authorities referred to in Article 51 of the Regulation (EU) 2016/679 may within their scope of competence impose ~~*administrative*~~ fines in line with Article 83 of Regulation (EU) 2016/679 and up to the amount referred to in Article 83(5) of that Regulation.	3. For infringements of the obligations laid down in Chapter II, III and V of this Regulation, the supervisory authorities referred to in Article 51 of the Regulation (EU) 2016/679 may within their scope of competence impose administrative fines in line with Article 83 of Regulation (EU) 2016/679 and up to the amount referred to in Article 83(5) of that Regulation. Text Origin: Commission Proposal

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 33(4)				
399	4. For infringements of the obligations laid down in Chapter V of this Regulation, the supervisory authority referred to in Article 52 of Regulation (EU) 2018/1725 may impose within its scope of competence administrative fines in accordance with Article 66 of Regulation (EU) 2018/1725 up to the amount referred to in Article 66(3) of that Regulation.	4. For infringements of the obligations laid down in Chapter V of this Regulation, the supervisory authority referred to in Article 52 of Regulation (EU) 2018/1725 may impose within its scope of competence administrative fines in accordance with Article 66 of Regulation (EU) 2018/1725 up to the amount referred to in Article 66(3) of that Regulation.	4. For infringements of the obligations laid down in Chapter V of this Regulation, the supervisory authority referred to in Article 52 of Regulation (EU) 2018/1725 may impose within its scope of competence administrative fines in accordance with Article 66 of Regulation (EU) 2018/1725 up to the amount referred to in Article 66(3) of that Regulation.	4. For infringements of the obligations laid down in Chapter V of this Regulation, the supervisory authority referred to in Article 52 of Regulation (EU) 2018/1725 may impose within its scope of competence administrative fines in accordance with Article 66 of Regulation (EU) 2018/1725 up to the amount referred to in Article 66(3) of that Regulation. Text Origin: Commission Proposal

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 34				
400	Article 34 Model contractual terms	Article 34 Model contractual terms	Article 34 ***Model contractual terms and standard contractual clauses*** ~~*Model contractual terms*~~	Article 34 ***Model contractual terms and standard contractual clauses*** ~~*Model contractual terms*~~ Text Origin: Council Mandate
Article 34, first paragraph				
401	The Commission shall develop and recommend non-binding model	The Commission shall develop and recommend non-binding model	The Commission, ***before [date of application of the Regulation],***	The Commission, ***before [date of application of the Regulation],***

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	contractual terms on data access and use to assist parties in drafting and negotiating contracts with balanced contractual rights and obligations.	contractual terms on data access and use ***and standard contractual clauses for cloud computing contracts, based on Fair, Reasonable and Non-Discriminatory (FRAND) principles,*** to assist parties in drafting and negotiating contracts with balanced contractual rights and obligations. ***Such model contractual terms shall address at least the following elements:***	***shall*** ~~*shall develop and*~~ recommend non-binding model contractual terms on data access and use***, including reasonable compensation and the protection of trade secrets, and non-binding standard contractual clauses for cloud computing contracts*** to assist parties in drafting and negotiating contracts with balanced contractual rights and obligations.	***shall*** ~~*shall develop and*~~ recommend non-binding model contractual terms on data access and use***, including reasonable compensation for making data available and the protection of trade secrets, and non-binding standard contractual clauses for cloud computing contracts*** to assist parties in drafting and negotiating contracts with ~~*balanced*~~***fair, reasonable and non-discriminatory*** contractual rights and obligations. Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
401a		***(a) right to early termination of the contract and conditions for compensation in the case of early termination;***		
401b		***(b) data retention and storage policies;***		

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	401c		***(c) readability of the data for the user, including information on metadata and decryption;***		
	401d		***(d) the protection and preservation of the confidentiality of trade secrets, in accordance with this Regulation.***		
	401e				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		The model contractual terms referred to in the first subparagraph shall be published and shall be available free of charge in easily usable electronic format.		
Y	401f		***Article 34a*** ***Role of the European Data Innovation Board***	Y
Article 34, first paragraph a				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
401g			***The European Data Innovation Board to be set up as a Commission expert group in accordance with Article 29 of Regulation (EU) 2022/868 shall support the consistent application of this Regulation by:***	***The European Data Innovation Board to be set up as a Commission expert group in accordance with Article 29 of Regulation (EU) 2022/868, in which the [data coordinator/competent authority] shall be represented, shall support the consistent application of this Regulation by:*** Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
Y	401h		***(a) advising and assisting the Commission with regard to developing a consistent practice of competent authorities relating to the enforcement of Chapters II, III, V and VII;***		Y
Y	401i		***(b) facilitating cooperation between competent authorities through capacity-building and the exchange of information, in particular by establishing methods for the efficient exchange of***		Y

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			information relating to the enforcement of the rights and obligations under Chapters II, III and V in cross-border cases, including coordination with regard to the setting of penalties;	
	401j		***(c) advising and assisting the Commission with regard to:***	
	401k			

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			(i) whether to request the drafting of harmonised standards referred to in Article 28(4) and Article 30(5);	
	401l		***(ii) the preparation of the drafts of the implementing acts referred to in Article 28(5) and Article 30(6);***	
	401m			

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
			(iii) the preparation of the delegated acts referred to in Articles 25(4) and 28(2); and		
Y	401n		***(iv) the adoption of the guidelines laying down interoperability specifications for the functioning of common European data spaces referred to in Article 28(6).***		Y
	CHAPTER X				
G	402			CHAPTER X	G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	CHAPTER X SUI GENERIS RIGHT UNDER DIRECTIVE 1996/9/EC	CHAPTER X ***INAPPLICABILITY OF THE*** SUI GENERIS RIGHT UNDER DIRECTIVE ~~*1996/9/EC*~~***96/9/EC*** ***TO DATABASES CONTAINING CERTAIN DATA***	CHAPTER X SUI GENERIS RIGHT UNDER DIRECTIVE ~~*1996/9/EC*~~***96/9/EC***	SUI GENERIS RIGHT UNDER DIRECTIVE ~~*1996/9/EC*~~***96/9/EC*** Text Origin: Council Mandate
Article 35				
403	Article 35 Databases containing certain data	Article 35 Databases containing certain data	Article 35 Databases containing certain data	Article 35 Databases containing certain data Text Origin: Commission Proposal

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 35, first paragraph				
404	In order not to hinder the exercise of the right of users to access and use such data in accordance with Article 4 of this Regulation or of the right to share such data with third parties in accordance with Article 5 of this Regulation, the sui generis right provided for in Article 7 of Directive 96/9/EC does not apply to databases containing data obtained from or generated by the use of a product or a related service.	~~*In order not to hinder the exercise of the right of users to access and use such data in accordance with Article 4 of this Regulation or of the right to share such data with third parties in accordance with Article 5 of this Regulation,*~~ The sui generis right provided for in Article 7 of Directive 96/9/EC does not apply to databases containing data obtained from or generated by the use of a product or a related service ***falling within the scope of this Regulation***.	~~*In order not to hinder the exercise*~~***For the purposes*** of the ~~*right of users to access and use such data in accordance with Article 4 of this Regulation or*~~***exercise*** of the ~~*right to share such data with third parties in accordance with Article*~~***rights provided for in Articles 4 and*** 5 of this Regulation, the sui generis right provided for in Article 7 of Directive 96/9/EC ~~*does*~~ ***shall*** not apply ***when data is*** ~~*to databases containing data*~~ obtained from or generated by ~~*the use of*~~ a product or ~~*a*~~ related service.	~~*In order not to hinder the exercise of the right of users to access and use such data in accordance with Article 4 of this Regulation or of the right to share such data with third parties in accordance with Article 5 of this Regulation,*~~ The sui generis right provided for in Article 7 of Directive 96/9/EC ~~*does*~~***shall*** not apply ~~*to databases containing data*~~***when data is*** obtained from or generated by ***a product or related service falling within the scope of this Regulation, in particular in relation to Articles 4 and 5*** ~~*the use of a product or a related service*~~.

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
CHAPTER XI				
405	CHAPTER XI FINAL PROVISIONS	CHAPTER XI FINAL PROVISIONS	CHAPTER XI FINAL PROVISIONS	CHAPTER XI FINAL PROVISIONS Text Origin: Commission Proposal
Article 36				
406				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 36 Amendment to Regulation (EU) No 2017/2394	Article 36 Amendment to Regulation (EU) No 2017/2394	Article 36 Amendment to Regulation (EU) No 2017/2394	Article 36 Amendment to Regulation (EU) No 2017/2394 Text Origin: Commission Proposal
Article 36, first paragraph				
G 407	In the Annex to Regulation (EU) No 2017/2394 the following point is added:	In the Annex to Regulation (EU) No 2017/2394 the following point is added:	In the Annex to Regulation (EU) No 2017/2394 the following point is added:	In the Annex to Regulation (EU) No 2017/2394 the following point is added: Text Origin: Commission Proposal

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 36, first paragraph, amending provision, numbered paragraph (29)				
408	‘ 29. [Regulation (EU) XXX of the European Parliament and of the Council [Data Act]]. ,	‘ 29. [Regulation (EU) XXX of the European Parliament and of the Council [Data Act]]. ,	‘ 29. [Regulation (EU) XXX of the European Parliament and of the Council [Data Act]]. ,	‘ 29. [Regulation (EU) XXX of the European Parliament and of the Council [Data Act]]. , Text Origin: Commission Proposal
Article 37				
409	Article 37	Article 37	Article 37	Article 37

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Amendment to Directive (EU) 2020/1828	Amendment to Directive (EU) 2020/1828	Amendment to Directive (EU) 2020/1828	Amendment to Directive (EU) 2020/1828 Text Origin: Commission Proposal
Article 37, first paragraph				
410	In the Annex to Directive (EU) 2020/1828 the following point is added:	In the Annex to Directive (EU) 2020/1828 the following point is added:	In ~~the~~ Annex *I* to Directive (EU) 2020/1828 the following point is added:	In ~~the~~ Annex *I* to Directive (EU) 2020/1828 the following point is added: Text Origin: Council Mandate

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 37, first paragraph, amending provision, numbered paragraph (67)				
411	‘ 67. [Regulation (EU) XXX of the European Parliament and of the Council [Data Act]] ,	‘ 67. [Regulation (EU) XXX of the European Parliament and of the Council [Data Act]] ,	‘ 67. [Regulation (EU) XXX of the European Parliament and of the Council [Data Act]] ,	‘ 67. [Regulation (EU) XXX of the European Parliament and of the Council [Data Act]] , Text Origin: Commission Proposal
Article 38				
412	Article 38	Article 38	Article 38	Article 38 Exercise of the delegation

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Exercise of the delegation	Exercise of the delegation	Exercise of the delegation	Text Origin: Commission Proposal
Article 38(1)				
413	1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.	1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.	1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.	1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article. Text Origin: Commission Proposal
Article 38(2)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Y 414	2. The power to adopt delegated acts referred to in Articles 25(4), 28(2) and 29(5) shall be conferred on the Commission for an indeterminate period of time from […].	2. The power to adopt delegated acts referred to in Articles 25(4), 28(2) and 29(5) shall be conferred on the Commission for an indeterminate period of time from […].	2. The power to adopt delegated acts referred to in Articles 25(4), 28(2) and 29(5) shall be conferred on the Commission for an indeterminate period of time from [… ***date of entry into force of this Regulation***].	2. The power to adopt ***[***delegated acts***]*** referred to in Articles 25(4), 28(2) and 29(5) shall be conferred on the Commission for an indeterminate period of time from [… ***date of entry into force of this Regulation***]. Text Origin: Council Mandate
Article 38(3)				
G 415	3. The delegation of power referred to in Articles 25(4), 28(2)	3. The delegation of power referred to in Articles 25(4), 28(2)	3. The delegation of power referred to in Articles 25(4), 28(2)	3. The delegation of power referred to in Articles 25(4), 28(2) and 29(5) may be revoked at any

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	and 29(5) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.	and 29(5) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.	and 29(5) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.	time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force. Text Origin: Commission Proposal
Article 38(4)				
416				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.	4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.	4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.	4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. Text Origin: Commission Proposal
Article 38(5)				
G 417	5. As soon as it adopts a delegated act, the Commission shall notify it	5. As soon as it adopts a delegated act, the Commission shall notify it	5. As soon as it adopts a delegated act, the Commission shall notify it	5. As soon as it adopts a delegated act, the Commission shall notify it G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	simultaneously to the European Parliament and to the Council.	simultaneously to the European Parliament and to the Council.	simultaneously to the European Parliament and to the Council.	simultaneously to the European Parliament and to the Council. Text Origin: Commission Proposal
Article 38(6)				
418	6. A delegated act adopted pursuant to Articles 25(4), 28(2) and 29(5) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and to the	6. A delegated act adopted pursuant to Articles 25(4), 28(2) and 29(5) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and to the	6. A delegated act adopted pursuant to Articles 25(4), 28(2) and 29(5) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and to the	6. A delegated act adopted pursuant to Articles 25(4), 28(2) and 29(5) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and to the

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.	Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.	Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.	Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council. Text Origin: Commission Proposal
Article 39				
419	Article 39	Article 39	Article 39	Article 39 Committee procedure

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Committee procedure	Committee procedure	Committee procedure	Text Origin: Commission Proposal
Article 39(1)				
G 420	1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.	1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.	1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.	1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011. G Text Origin: Commission Proposal
Article 39(2)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
421	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. Text Origin: Commission Proposal
Article 40				
422	Article 40 Other Union legal acts governing rights and obligations on data access and use	Article 40 Other Union legal acts governing rights and obligations on data access and use	Article 40 Other Union legal acts governing rights and obligations on data access and use	Article 40 Other Union legal acts governing rights and obligations on data access and use

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
Article 40(1)				
423	1. The specific obligations for the making available of data between businesses, between businesses and consumers, and on exceptional basis between businesses and public bodies, in Union legal acts that entered into force on or before [xx XXX xxx], and delegated or implementing acts based thereupon, shall remain unaffected.	1. The specific obligations for the making available of data between businesses, between businesses and consumers, and on exceptional basis between businesses and public bodies, in Union legal acts that entered into force on or before [xx XXX xxx], and delegated or implementing acts based thereupon, shall remain unaffected.	1. The specific obligations for the making available of data between businesses, between businesses and consumers, and on exceptional basis between businesses and public bodies, in Union legal acts that entered into force on or before [~~xx XXX xxx~~ ***date of entry into force of this Regulation***], and delegated or implementing acts based thereupon, shall remain unaffected.	1. The specific obligations for the making available of data between businesses, between businesses and consumers, and on exceptional basis between businesses and public bodies, in Union legal acts that entered into force on or before [~~xx XXX xxx~~ ***date of entry into force of this Regulation***], and delegated or implementing acts based thereupon, shall remain unaffected.

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
Article 40(2)				
424	2. This Regulation is without prejudice to Union legislation specifying, in light of the needs of a sector, a common European data space, or an area of public interest, further requirements, in particular in relation to:	2. This Regulation is without prejudice to Union legislation specifying, in light of the needs of a sector, a common European data space, or an area of public interest, further requirements, in particular in relation to:	2. This Regulation is without prejudice to Union legislation specifying, in light of the needs of a sector, a common European data space, or an area of public interest, further requirements, in particular in relation to:	2. This Regulation is without prejudice to Union legislation specifying, in light of the needs of a sector, a common European data space, or an area of public interest, further requirements, in particular in relation to: Text Origin: Commission Proposal

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 40(2), point (a)				
425	(a) technical aspects of data access;	(a) technical aspects of data access;	(a) technical aspects of data access;	(a) technical aspects of data access; Text Origin: Commission Proposal
Article 40(2), point (b)				
426	(b) limits on the rights of data holders to access or use certain data provided by users;	(b) limits on the rights of data holders to access or use certain data provided by users;	(b) limits on the rights of data holders to access or use certain data provided by users;	(b) limits on the rights of data holders to access or use certain data provided by users;

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
Article 40(2), point (c)				
427	(c) aspects going beyond data access and use.	(c) aspects going beyond data access and use.	(c) aspects going beyond data access and use.	(c) aspects going beyond data access and use. Text Origin: Commission Proposal
Article 40(2a)				
427a			***2a. This Regulation is without prejudice to Union and national***	

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			law providing for access to and authorising the use of data for scientific research purposes.	
Article 41				
428	Article 41 Evaluation and review	Article 41 Evaluation and review	Article 41 Evaluation and review	Article 41 Evaluation and review Text Origin: Commission Proposal
Article 41, first paragraph				
429				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	By [two years after the date of application of this Regulation], the Commission shall carry out an evaluation of this Regulation and submit a report on its main findings to the European Parliament and to the Council as well as to the European Economic and Social Committee. That evaluation shall assess, in particular:	*1.* By [two years after the date of application of this Regulation], the Commission shall carry out an evaluation of this Regulation and submit a report on its main findings to the European Parliament and to the Council as well as to the European Economic and Social Committee. That evaluation shall assess, in particular:	By [two years after the date of application of this Regulation], the Commission shall carry out an evaluation of this Regulation and submit a report on its main findings to the European Parliament and to the Council as well as to the European Economic and Social Committee. That evaluation shall assess, in particular:	By [~~two~~*three* years*]* after the date of application of this Regulation~~]~~, the Commission shall carry out an evaluation of this Regulation and submit a report on its main findings to the European Parliament and to the Council as well as to the European Economic and Social Committee. That evaluation shall assess, in particular:
Article 41, first paragraph, point (-a)				
429a				*(-a) a) Situations to be deemed as exceptional needs for the purpose of Article 15 and the application of Chapter V in practice, in*

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				particular the experience in the application of Chapter V by public sector bodies, Union Institutions, agencies and bodies; the number and outcome of the proceedings brought to the competent authority/data coordinator under Art 18(6) on the application of Chapter V, as reported by the competent authorities/data coordinator; the impact of other obligations laid down in Union or national law for the purposes of complying with access to information requests; the impact of voluntary data-sharing mechanisms, such as data altruism organisations recognised under Regulation (EU) 2022/868, on meeting the

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				objectives of Chapter V, and the role of personal data in the context of Article 15, including the evolution of privacy-enhancing technologies;
Article 41, first paragraph, point (-b)				
G 429b		***(-a) the use of data by users, data holders, data recipients and third parties, the development of monetisation practices in the European data economy as well as the development of the arrangements for data sharing, including competitive dynamics in***		***(-b) (b) the impact of this Regulation on the use of data in the economy, including on data innovation, data monetisation practices and data intermediation services, as well as on data sharing within the common European data spaces;*** G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		data spaces and data intermediation services;		
Article 41, first paragraph, point (-c)				
429c		***(-aa) the effects of technical and administrative obligations to comply with this Regulation, in particular with Chapter II thereof on industry participants, also in view of the SME exemptions;***		*deleted*
Article 41, first paragraph, point (a)				
430				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(a) other categories or types of data to be made accessible;	(a) other categories or types of data to be made accessible;	(a) ~~*other*~~ categories or types of data to be made accessible;	(a) ~~*other categories or types of data to be made accessible*~~***(c) the accessibility and use of different categories and types of data***; Text Origin: Commission Proposal
Article 41, first paragraph, point (b)				
G 431	(b) the exclusion of certain categories of enterprises as beneficiaries under Article 5;	(b) the exclusion of certain categories of enterprises as beneficiaries under Article 5;	(b) the exclusion of certain categories of enterprises as beneficiaries under Article 5;	(b) the exclusion of certain categories of enterprises as beneficiaries under Article 5; Text Origin: Commission Proposal G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 41, first paragraph, point (ba)				
431a				***(ba) the absence of impact on intellectual property rights;***
Article 41, first paragraph, point (bb)				
431b		***(ba) whether the provisions of this Regulation related to trade secrets ensure respect for trade secrets while not hampering the access to and sharing of data; in particular, the evaluation shall assess whether and how the confidentiality of trade secrets is***		***(bb) (e) the impact on trade secrets, including on the protection against their unlawful acquisition, use and disclosure. This assessment shall, to the possible extent, take into account the revision of Directive (EU) 2016/943.***

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		ensured in practice despite their disclosure both in the context of data sharing with third parties and in the business-to-government context. This assessment shall be carried out in close relationship with the evaluation report on Directive (EU) 2016/943 expected by 9 June 2026 pursuant to Article 18(3) of the directive thereof;		
Article 41, first paragraph, point (bc)				
431c				***(bc) whether the list of unfair contractual terms referred to in Article 13 is up-to-date in light of***

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				new business practices, given the rapidity of market innovations; Text Origin: Comments and homework
Article 41, first paragraph, point (c)				
432	(c) other situations to be deemed as exceptional needs for the purpose of Article 15;	(c) other situations to be deemed as exceptional needs for the purpose of Article 15;	(c) ~~*other*~~ situations to be deemed as exceptional needs for the purpose of Article 15;	*deleted* *Moved to line 429*
Article 41, first paragraph, point (d)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
G	*433*	*(d)* changes in contractual practices of data processing service providers and whether this results in sufficient compliance with Article 24;	(d) changes in contractual practices of data processing service providers and whether this results in sufficient compliance with Article 24;	(d) ***(g)*** changes in contractual practices of data processing service providers and whether this results in sufficient compliance with Article 24; Text Origin: Commission Proposal
	Article 41, first paragraph, point (e)			
G	434	(e) diminution of charges imposed by data processing service providers for the switching process, in line with the gradual	(e) diminution of charges imposed by data processing service providers ~~*for the switching process*~~, in line with the gradual	(e) ***(h)*** diminution of charges imposed by data processing service providers for the switching process, in line with the gradual

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	withdrawal of switching charges pursuant to Article 25.	withdrawal of switching charges pursuant to Article 25**.;**	withdrawal of ~~*switching*~~ charges pursuant to Article 25**.;**	withdrawal of switching charges pursuant to Article 25. Text Origin: Commission Proposal
Article 41, first paragraph, point (ea)				
G 434a		***(ea) the interaction between the this Regulation and other relevant Union law to assess possible conflicting regulation, overregulation or legislative gaps;***		***(ea) (i) the interplay of this Regulation with other Union legal acts of relevance for the data economy.*** G
Article 41, first paragraph, point (eb)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
434b		***(eb) the contribution of this Regulation to ensuring the economic attractiveness of the collection and use of high quality data sets by Union companies;***		*deleted*
Article 41, first paragraph, point (ec)				
434c		***(ec) the contribution of this Regulation to innovation and to promoting the development of high-tech start-ups and SMEs, as well as to enabling access for European users to state-of-the-art computing services;***		*deleted*

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 41, first paragraph, point (ed)				
G *434d*		***(ed) the application and functioning of Article 27 on the international access and transfer of data.***		***(ed) (j) The prevention of unlawful governmental access to non-personal data.*** G
Article 41, first paragraph, point (ee)				
G 434e			***(ea) products or categories of services to which access and use rights or the switching obligations could apply;***	*deleted* G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 41, first paragraph, point (ef)				
434f			***(eb) impacts on trade secrets;***	*deleted*
Article 41, first paragraph, point (eg)				
434g			***(ec) impacts on intellectual property rights;***	*deleted*
Article 41, first paragraph, point (eh)				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
G	*434h*		***(ed) the efficacy of the enforcement regime required under Article 31;***	***(eh) (k) the efficacy of the enforcement regime required under Article 31;*** Text Origin: Council Mandate	G
	Article 41, first paragraph, point (ei)				
G	434i		***(ee) impacts of the data access rights and data sharing obligations on the development of new products or related services;***	*deleted*	G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
Article 41, first paragraph, point (ej)					
G	*434j*			***(ef) impacts on micro, small and medium sized enterprises, on their capacity to innovate and on the availability of data processing services for European users.***	***(ej) (l) impacts on micro, small and medium sized enterprises, on their capacity to innovate, on the burden of complying with the new obligations and on the availability of data processing services for European users.*** G
Article 41, first paragraph, point (ek)					
G	434k				***(ek) By [XX date of application + 3 years] of this Regulation, the Commission shall carry out an evaluation of this Regulation and submit a report on its main*** G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				findings to the European Parliament and to the Council as well as to the European Economic and Social Committee. That evaluation shall assess the impact of the provisions outlined in Chapter VI, Article 28a and Article 29, particularly with respect to pricing and diversity of data processing services offered within the Union, with a special focus on SMEs providers.
Article 41, first paragraph, point (el)				
G	434l			***(el) Member States shall provide the Commission with the***

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				information necessary for the preparation of those reports.
Article 41, first paragraph a				
G 434m		***1a On the basis of that report, the Commission shall, where appropriate, submit a legislative proposal to the Parliament and the Council to amend this Regulation.***		***On the basis of those reports, the Commission may, where appropriate, submit a legislative proposal to the Parliament and the Council to amend this Regulation.*** Text Origin: EP Mandate G
Article 42				

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
435	Article 42 Entry into force and application	Article 42 Entry into force and application	Article 42 Entry into force and application	Article 42 Entry into force and application Text Origin: Commission Proposal
Article 42, first paragraph				
436	This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
Article 42, second paragraph				
437	It shall apply from [12 months after the date of entry into force of this Regulation].	It shall apply from ~~[12~~ 18 months after the date of entry into force of this Regulation~~]~~.	It shall apply from [~~12~~ 24 months after the date of entry into force of this Regulation].	TRILOGUE
Article 42, second paragraph a				
437a		The obligations resulting from Article 4(1) shall apply to related services placed on the market within five years prior to the entry		*deleted*

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		into force of this Regulation and only where the provider of a related service is able to remotely deploy mechanisms to ensure the fulfilment of the requirements pursuant to Article 4(1) and where the deployment of such mechanisms would not place a disproportionate burden on the manufacturer or provider of related services.			
Article 42, fourth paragraph					
G	*437b*		***The obligation resulting from Article 3(1) shall apply to products and related services placed on the***	***The obligation resulting from Article 3(1) shall apply to products and those services related to them placed on the***	G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			market after [12 months] after the date of application of this Regulation.	***market after 12 months after the date of application of this Regulation.*** Text Origin: Council Mandate
Article 42, fifth paragraph				
G 437c			***The provisions of Chapter IV shall apply to contracts concluded after [date of application of this Regulation].***	***The provisions of Chapter IV shall apply to contracts concluded after date of application of this Regulation.*** ***The provisions of Chapter IV shall apply from [3 years] from the date of entry into force of this Regulation to contracts concluded*** G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				on or before the date of entry into force of this Regulation provided that they are: ***- of indefinite duration; or*** ***- due to expire at least [10 years] after the date of entry into force of this Regulation.*** Text Origin: Council Mandate
Formula				
438	Done at Brussels,	Done at ~~*Brussels*~~,	Done at Brussels,	Done at Brussels,

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
Formula				
G 439	For the European Parliament	For the European Parliament	For the European Parliament	For the European Parliament Text Origin: Commission Proposal G
Formula				
G 440	The President	The President	The President	The President G

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
Formula				
441	For the Council	For the Council	For the Council	For the Council Text Origin: Commission Proposal
Formula				
442	The President	The President	The President	The President

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal

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