



2022/0047(COD)

2.2.2023

OPINION

of the Committee on Civil Liberties, Justice and Home Affairs

for the Committee on Industry, Research and Energy

on the 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)
(COM(2022)0068 – C9-0051/2022 – 2022/0047(COD))

Rapporteur for opinion (*): Sergey Lagodinsky

(*) Associated committee – Rule 57 of the Rules of Procedure

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SHORT JUSTIFICATION

1. Background

The proposal for a Regulation on harmonised rules on fair access to and use of data (Data Act) is part of the Commission's European Strategy for Data, announced in February 2020.

According to the Commission, the Data Act was proposed trying to ensure "fairness in the allocation of value from data" and "to foster access to and use of data". Tapping into the unused 80% of industrial data, with an expected volume of "175 zettabytes in 2025", the Commission "expects to create €270 billion of additional GDP by 2028", according to its press release.

2. The Rapporteur's Position

The rapporteur aims at a number of improvements, most importantly the following:

A. Against a wild west for personal data

The fundamental right to the protection of personal data is rooted in the realisation that in a democratic society, an individual needs to be able to decide over the information others have over them, and to exercise control. To protect these fundamental interests, personal data must not be allowed to become a tradable commodity. Therefore, the sharing of data by data holders with third parties should take place mainly for purposes such as the provision of aftermarket services, to provide updates fixing security and usability problems, and for the purposes of data intermediation services and data altruism organisations under the Data Governance Act.

B. Strengthen data minimisation and storage limitation

The principles of data minimisation and storage limitation in the General Data Protection Regulation follow from the fundamental right to protection of personal data. Where this is no longer necessary for the purpose of processing, and where ever possible, data holders should delete, or anonymise data. Only where this is not possible in order to fulfil the purpose, aggregation, pseudonymisation, or encryption should be put in place. Through the increase in available data, and the combination of non-personal data sets, the re-identification of a data subject even based on anonymised data sets becomes more plausible. This must be prevented.

C. Include derived and inferred personal data

Data concerned by the provisions of the Data Act are not only produced by devices and communicated to data holders. Some data like metadata come into existence merely in the data holder's infrastructure. Such derived and inferred personal data should therefore also be in the scope and be provided to data subjects.

D. Separate product purchase from data service provision

The purchase of a product is often combined with the provision of a related service. To facilitate contractual autonomy of users, the LIBE opinion proposes to separate the contract for the purchase of a product from the agreement to the provision of such a related service.

E. Calibrate Business to Government data sharing

The provisions on business to government data sharing have raised concerns regarding legal certainty and proportionality. The definitions of exceptional need and of public emergency have been reformulated to be more precise and avoid uncertainty. Article 15 in particular now avoids interfering with the fundamental rights requirement of foreseeability of law and uncertainty in that the reduction of administrative burden cannot easily be weighed against the potential impacts on fundamental rights of the provision.

AMENDMENTS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Industry, Research and Energy, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation

Recital 1

Text proposed by the Commission

(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 unlimited degree, without any loss in its quality or quantity.

Amendment

(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 unlimited degree, without any loss in its quality or quantity, ***while respecting users' choices and applicable legislation to protect them.***

Amendment 2

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) In order ***to respond to the needs of the digital economy 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 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.

Amendment

(4) In order to remove barriers to a well-functioning internal market for ***connected products and related services***, it is necessary to lay down a harmonised framework specifying who, other than the manufacturer or other data holder is entitled, ***upon request by a user***, 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.

Amendment 3

Proposal for a regulation

Recital 5

Text proposed by the Commission

(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 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

Amendment

(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 ***data lawfully obtained, collected, or generated during the provision of 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 to make data available to users and third parties nominated by the users in certain circumstances. It also ensures that data holders make data available, ***upon request by a user***, 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

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 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 data holder effectively enjoys, de facto or de jure, over data generated by products or related services.

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 institutions, agencies or bodies, where there is an exceptional need in the *context of a public emergency*. 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 data holder effectively enjoys, de facto or de jure, over data generated by products or related services.

Amendment 4

Proposal for a regulation Recital 6

Text proposed by the Commission

(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 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.

Amendment

(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 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 *non-personal* data is preferable to awarding exclusive rights of access and

use.

Amendment 5

Proposal for a regulation

Recital 7

Text proposed by the Commission

(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 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.

Amendment

(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 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. ***The obtaining, collection, or generation of personal data through the use of a product or related service should require a legal basis pursuant to applicable data protection law. This Regulation should not be interpreted as constituting a legal basis for the processing of personal data. In the event of a conflict between this Regulation and Union law on the protection of personal data and privacy or national law adopted in accordance with such Union law, the relevant Union or national law on the protection of personal data and privacy should prevail. Where personal data is generated by the use of a product or related service, the term***

"user" should be understood as "data subject" within the meaning of applicable data protection law.

Amendment 6

Proposal for a regulation Recital 8

Text proposed by the Commission

(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 unnecessary copying of the raw or structured data themselves.

Amendment

(8) ***All principles of Regulation (EU) 2016/679 and in particular*** the principles of data minimisation and data protection by design and by default are essential when processing ***can lead to*** 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 ***anonymisation***, 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 unnecessary copying of the raw or structured data themselves.

Amendment 7

Proposal for a regulation Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) The goal of anonymisation is to prevent identification. In accordance with Regulation (EU) 2016/679, anonymised data is formerly personal data that has been processed in such a way as to remove the possibility to relate them to an identified or identifiable natural person

and rendered anonymous in such a manner that the data subject is not or no longer identifiable. Although improbable, the combination of non-personal data sets could lead to the identification or, in the case of previously anonymised data, the re-identification and therefore reattribution to a natural person. The principle of data minimisation requires that personal data must be anonymised where the purpose or purposes for which they are processed can be fulfilled without the use of personal data.

Amendment 8

Proposal for a regulation

Recital 10

Text proposed by the Commission

(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 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 (“Budapest Convention”). **This Regulation is without prejudice to the competences of the Member States regarding activities***

Amendment

(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 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], Regulation **(EU) 2022/2065** of the European Parliament and of the Council **of 19 October 2022** 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 (“Budapest Convention”).

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.

Amendment 9

Proposal for a regulation Recital 13

Text proposed by the Commission

(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.

Amendment

(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. ***Data collected or generated by defence products or services or in the context of defence-related activities should be excluded from the scope of this Regulation as the disclosure of such data would create strategic vulnerabilities for Union security and defence.***

Amendment 10

Proposal for a regulation Recital 14

Text proposed by the Commission

(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 Things) should be

Amendment

(14) Physical products that obtain, generate or collect, by means of their components ***or embedded software***, 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

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 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.

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 ***when it is not personal data***. 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.

Amendment 11

Proposal for a regulation

Recital 17

Text proposed by the Commission

(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 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.

Amendment

(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, ***sensor-generated data or data captured by embedded applications, and data recorded by a device***, 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 in which they are generated by the product, but not pertain to data resulting from any software process that ***infers or derives*** data from such data, ***unless this data is personal***

data, as such software process may be subject to intellectual property rights.

Amendment 12

Proposal for a regulation

Recital 18

Text proposed by the Commission

(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.

Amendment

(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 *or she* 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. *A product or service may have been purchased, rented or leased by a business, and provided or otherwise made available to one or more employees. Where such provision of a product or service results in the data concerned to be personal data, such data are subject to applicable Union law, in particular on the protection of personal data, of privacy, and the protection of employees.*

Amendment 13

Proposal for a regulation

Recital 18 a (new)

Text proposed by the Commission

Amendment

(18a) Where the right to access data is exercised by a legal person, the notion of ‘right’ is understood to describe the claim to the obligation of the data holder to provide access to data to a recipient as laid down in this Regulation, subject to all

Amendment 14

Proposal for a regulation

Recital 19

Text proposed by the Commission

(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 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.

Amendment

(19) In practice, not all data ***obtained, collected, or*** 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. 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 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.

Amendment 15

Proposal for a regulation

Recital 21

Text proposed by the Commission

(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

Amendment

(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 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.

local area networks connected to a 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 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. ***Where on-device access to data is technically supported, the manufacturer should make this means of access also technically available to third-party service providers in a non-discriminatory manner. Products should be designed, and related services should be provided, in such a way that it is possible to use the products and services in the least privacy-invasive way possible. Where users can reasonably expect it due to the nature of the product, products should be designed, and related services should be provided, in such a manner that a basic set of functionalities is maintained when the product or related service is used offline.***

Amendment 16

Proposal for a regulation Recital 22

Text proposed by the Commission

(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

Amendment

(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. 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, including those manufactured by other parties and can replace the use of manufacturer-provided interfaces such as touchscreens or smart phone apps. The user

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 unrelated to the use of a product is not the object of this Regulation.

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 unrelated to the use of a product is not the object of this Regulation.

Amendment 17

Proposal for a regulation

Recital 23

Text proposed by the Commission

(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 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.

Amendment

(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, *including on the type, format, and collection frequency of data, the nature and estimated volume of any data obtained, collected, generated, and personal data derived or inferred*, how the data may be accessed, *whether the data is to be or can be shared with third parties, and other relevant information*. This obligation provides transparency over the data generated and enhances the easy access for the user. 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.

Amendment 18

Proposal for a regulation

Recital 24

Text proposed by the Commission

(24) This Regulation imposes the obligation on data holders to make data available 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, 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 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 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

Amendment

(24) This Regulation imposes the obligation on data holders to make data available in certain circumstances. Insofar as personal data are processed, the data holder **is** a controller **pursuant to** 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 by the use of a product or related service. This applies in particular where the manufacturer is the data holder. ***The performance of a contract can only be a legal ground for processing of personal data if the data subject is a party or if steps are being taken at the request of the data subject prior to entering into a contract. The necessity requirement for processing personal data for the performance of a contract pursuant to Article 6(1)(b) of Regulation (EU) 2016/679 cannot be fulfilled by merely providing for processing in a contractual clause. Assessing what is objectively necessary for the individual services requested by the data subject must be fact-based.*** 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

such data by the data holder on well-defined public policy grounds.

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 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.

Amendment 19

Proposal for a regulation Recital 24 a (new)

Text proposed by the Commission

Amendment

(24a) After the data has been made available to a user or data recipient according to the provisions of this Regulation, the data holder should not be liable for any direct or indirect damages arising from, relating to, or in connection with the processing of the data by the user or by the third party.

Amendment 20

Proposal for a regulation Recital 27

Text proposed by the Commission

Amendment

(27) The data holder may require appropriate user identification to verify the user's entitlement to 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

(27) The data holder may require appropriate user identification ***or authentication*** to verify the user's entitlement to access the data. In the case of personal data processed by a processor on behalf of the controller, the data holder

request is received and handled by the processor.

should ensure that the access request is received and handled by the processor.

Amendment 21

Proposal for a regulation

Recital 28

Text proposed by the Commission

(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 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 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.

Amendment

(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 with a service provided by the data holder, or to instruct the data holder to do so, ***for maintenance and repair, for software updates, or for intermediation services or data altruism organisations in the framework of Regulation (EU) 2022/868 (Data Governance Act)***. 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 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.

Amendment 22

Proposal for a regulation

Recital 30

Text proposed by the Commission

(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 inextricably linked⁶⁴. 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 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

Amendment

(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 inextricably linked⁶⁴. 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, **including derived or inferred data**, 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 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 of Regulation (EU) 2016/679, such as the consent of the data subject or legitimate interest. **Where relevant, the conditions laid down in Article 9 of Regulation (EU) 2016/679 and Article 5(3) of Directive 2002/58/EC should also be required to be fulfilled. Where personal data is processed and the user is a Union institution, agency or**

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.

⁶⁴ OJ L 303, 28.11.2018, p. 59–68.

Amendment 23

Proposal for a regulation

Recital 31

Text proposed by the Commission

(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, 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

body, this Regulation should apply without prejudice to Regulation (EU) 2018/1725. 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 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.

⁶⁴ OJ L 303, 28.11.2018, p. 59–68.

Amendment

(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, 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 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 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 contractual agreement does not allow for the processing of special categories of personal data by the data holder or the third party.

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 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 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, **which should not exceed** 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 contractual agreement does not allow for the processing of special categories of personal data by the data holder or the third party.

Amendment 24

Proposal for a regulation

Recital 32

Text proposed by the Commission

(32) Access to any data stored in and accessed from terminal equipment is subject to Directive 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 or indirectly connected to a public communications network.

Amendment

(32) Access to any data stored in and accessed from terminal equipment is subject to Directive 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') [**for** the proposed ePrivacy Regulation, ***in case already adopted***] 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 or indirectly connected to a public communications network.

Amendment 25

Proposal for a regulation

Recital 34

Text proposed by the Commission

(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 access by the third party to the

Amendment

(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 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, 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 2000/31/EC and Directive 98/6/EC.

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, **or a part thereof, including its structure, design, function or manner of operation**. 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, 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 2000/31/EC and Directive 98/6/EC.

Amendment 26

Proposal for a regulation Recital 35

Text proposed by the Commission

(35) The third party should also refrain from using the data to profile individuals unless these 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

Amendment

(35) The third party should also refrain from using the data to profile individuals unless these processing activities are **permitted by Regulation (EU) 2016/679**. The requirement to delete data when no longer required for the purpose agreed with the user complements the right to erasure

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.

of the data subject pursuant to Article 17 of Regulation 2016/679. ***The third party should also refrain from using the data to re-identify any data subject, and should take technical and operational measures to prevent re-identification.*** Where the third party is a provider of a data intermediation service within the meaning of ***Regulation (EU) 2022/868*** (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.

Amendment 27

Proposal for a regulation

Recital 36

Text proposed by the Commission

(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 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 Commission to

Amendment

(36) Start-ups, ***micro***, 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 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 of 14 September 2022*** on contestable and fair markets in the digital sector (Digital Markets Act) aims to redress these

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 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 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.

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 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 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 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.

Amendment 28

Proposal for a regulation
Recital 42

Text proposed by the Commission

(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 itself, but ***in the case of micro, small or medium-sized enterprises***, for the costs incurred ***and investment required*** for making the data available.

Amendment

(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 itself, but for the costs ***directly*** incurred for making the data available.

Amendment 29

Proposal for a regulation
Recital 44

Text proposed by the Commission

(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.

Amendment

deleted

Amendment 30

Proposal for a regulation
Recital 45

Text proposed by the Commission

(45) Direct costs for making data available are the costs necessary for data reproduction, dissemination via electronic

Amendment

(45) Direct costs for making data available are the costs necessary for data reproduction ***and*** dissemination via

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, 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.

electronic means, but not of data collection, **generation, or storage, as long as this is not induced by a request**. 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, 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.

Amendment 31

Proposal for a regulation Recital 47

Text proposed by the Commission

(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 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.

Amendment

(47) Transparency is an important principle to ensure that the compensation requested by the data holder is reasonable, **and** 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 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.

Amendment 32

Proposal for a regulation Recital 51

Text proposed by the Commission

(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 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.

Amendment

(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 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, ***or the data recipient or user, respectively***, when they have been unilaterally imposed on them.

Amendment 33

Proposal for a regulation
Recital 54

Text proposed by the Commission

(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.

Amendment

(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. ***A contractual term should not be considered unfair where it arises from applicable Union law.***

Amendment 34

Proposal for a regulation Recital 56

Text proposed by the Commission

(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 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.***

Amendment

(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 ***or to help assist in the recovery from*** public emergencies. Research-performing organisations and research-funding organisations could also be organised as public sector bodies or bodies governed by public law.

Amendment 35

Proposal for a regulation Recital 57

Text proposed by the Commission

(57) In case of public emergencies, such as public health emergencies, emergencies resulting 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 Member States or of relevant international***

Amendment

(57) In case of public emergencies ***for which non-emergency measures for the maintenance of public safety, health and order are manifestly inadequate***, such as public health emergencies, emergencies resulting 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 ***duly justified*** request ***that is limited***

organisations.

in time and scope. The existence of a public emergency is determined *and officially declared in accordance with the applicable* procedures *under Union or national law.*

Amendment 36

Proposal for a regulation Recital 58

Text proposed by the Commission

(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 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 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.***

Amendment

(58) An exceptional need may also arise when a public sector body can demonstrate that the data are necessary to assist recovery from a public emergency, in circumstances that are reasonably proximate to the public emergency in question.

Amendment 37

Proposal for a regulation Recital 59 a (new)

Text proposed by the Commission

Amendment

(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 223/2009 on European Statistics and its related legal acts as well as national legal acts related to official statistics.

Amendment 38

Proposal for a regulation Recital 61

Text proposed by the Commission

Amendment

(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 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 prevents the

(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 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, ***necessity to address the exceptional need, duration, nature, volume*** and their granularity. ***Public sector bodies or Union institutions, agencies or bodies should only request personal data if non-personal data is demonstrated to be insufficient to respond to the exceptional need to use data, and request personal data in aggregated or pseudonymised form. They should demonstrate the need and legal basis in case personal data are requested.*** The purpose of the request and

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.

the intended use of the data requested should be specific and clearly explained. 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 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.

Amendment 39

Proposal for a regulation Recital 61 a (new)

Text proposed by the Commission

Amendment

(61a) In order to avoid duplicate requests and requests not fulfilling the requirements and conditions of Chapter V, and therefore to limit the number of requests to data holders, Member States should be encouraged to designate one or more points of contact to coordinate requests pursuant to that Chapter.

Amendment 40

Proposal for a regulation Recital 62

Text proposed by the Commission

Amendment

(62) The objective of the obligation to provide the data is to ensure that public

(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 entities may be commercially sensitive. Therefore, Directive (EU) 2019/1024 of the European Parliament and of the Council⁶⁵ 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 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.

⁶⁵ 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).

Amendment 41

Proposal for a regulation

Recital 63

Text proposed by the Commission

(63) Data holders should have the possibility to either ask for a modification of the request made by a public sector body

sector bodies and Union institutions, agencies or bodies have the necessary knowledge to respond to, prevent or recover from public emergencies. The data obtained by those entities may be commercially sensitive. Therefore, Directive (EU) 2019/1024 of the European Parliament and of the Council⁶⁵ 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 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.

⁶⁵ 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).

Amendment

(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* 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 under Directive 96/6/EC of the European Parliament and of the Council⁶⁶ 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.

⁶⁶ 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).

Amendment 42

Proposal for a regulation **Recital 64**

Text proposed by the Commission

(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

or Union institution, agency and body or its cancellation in a period of 5 working days. 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 under Directive 96/6/EC of the European Parliament and of the Council⁶⁶ 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.

⁶⁶ 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).

Amendment

(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 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.

Amendment 43

Proposal for a regulation

Recital 67

Text proposed by the Commission

(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 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 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

use 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 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.

Amendment

(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 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. Data holders should be entitled to a reasonable compensation which should not exceed the technical and organisational costs incurred in complying with the request 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.

compensation should not be understood as constituting payment for the data itself and as being compulsory.

Amendment 44

Proposal for a regulation Recital 68

Text proposed by the Commission

(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 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.

Amendment

(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 data it had provided. Individuals conducting research or research organisations with whom these data may be shared should **be vetted researchers pursuant to Regulation 2022/2065 (Digital Services Act), or demonstrate that they act** 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. **Further, individuals conducting research or research organisations with whom these data may be shared should demonstrate they are affiliated to a research organisation as defined in Article 2, point (1), of Directive (EU) 2019/790, they are independent from**

commercial interests, they disclose the funding of the research, they are in a capacity to preserve the specific data security and confidentiality requirements corresponding to each request, to protect personal data and demonstrate the appropriate technical and organisational measures put in place to this end, they justify the necessity and proportionality for the purpose of their research of the data requested and the timeframes within which they request access to the data, and they demonstrate the contribution to scientific or academic progress, or benefits for the public interest, of the expected research results, and they commit to making their research results publicly available for further research free of charge, within a reasonable period after the completion of the research and taking into account the rights and interests of users of the product or service concerned.

Amendment 45

Proposal for a regulation

Recital 71

Text proposed by the Commission

(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, 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

Amendment

(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 **storage and** 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, 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

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 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 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 should be open and interoperable from the outset.

'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 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 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 should be open and interoperable from the outset.

Amendment 46

Proposal for a regulation

Recital 77

Text proposed by the Commission

(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 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 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 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

Amendment

(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 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 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 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 contractual undertakings regarding confidentiality.

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 contractual undertakings regarding confidentiality. ***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 should request the relevant bodies or authorities competent pursuant to applicable data protection legislation for authorisation before transferring or giving access to data.***

Amendment 47

Proposal for a regulation Recital 78

Text proposed by the Commission

(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. 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

Amendment

(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. 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 ***appropriate*** 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.

of corporate policies.

Amendment 48

Proposal for a regulation

Recital 79

Text proposed by the Commission

(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 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 should be enabled to mandate the development of harmonised standards for the interoperability of data processing services.

Amendment

(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 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. ***Common specifications should be developed in an open, transparent manner, in consultation with industry and relevant stakeholders.*** 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 should be enabled to mandate the development of harmonised standards for the interoperability of data processing services.

Amendment 49

Proposal for a regulation Recital 82

Text proposed by the Commission

(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 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 Council⁶⁸ and Directive (EU) 2020/1828 of the European Parliament and of the Council⁶⁹.

⁶⁸ Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on 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).

⁶⁹ 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).

Amendment 50

Amendment

(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 coordinating or any other relevant*** competent authorities. Those authorities should be obliged to cooperate to ensure the complaint 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 Council⁶⁸ and Directive (EU) 2020/1828 of the European Parliament and of the Council⁶⁹.

⁶⁸ Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on 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).

⁶⁹ 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).

Proposal for a regulation
Recital 83

Text proposed by the Commission

(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 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 towards fairer contractual relations when accessing and sharing data.

Amendment 51

Proposal for a regulation
Recital 90

Amendment

(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 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 towards fairer contractual relations when accessing and sharing data. ***Insofar as these model contractual terms concern the processing of personal data, the Commission should adopt those terms in the form of a delegated act, in consultation with the EDPB.***

Text proposed by the Commission

(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]*.

Amendment

(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 **4 May 2022**.

Amendment 52

Proposal for a regulation
Article 1 – paragraph 1

Text proposed by the Commission

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 performance of a task carried out** in the public **interest**:

Amendment

1. This Regulation lays down harmonised rules on making data, **collected, or** generated by the use of a product or **data lawfully obtained, collected, or generated during the provision of a** related service available to the user of that product or **providers of related services**, on the making data available by data holders **upon request by a user to data recipients, on contractual terms between users and data holders, and users and** 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 in the **context of a public emergency**.

Amendment 53

Proposal for a regulation
Article 1 – paragraph 2 – point a

Text proposed by the Commission

(a) manufacturers of products and **suppliers** of related services placed on the market in the Union and the users of such products or services;

Amendment

(a) manufacturers of products and **providers** of related services placed on the market in the Union and the users of such products or **related services or in the case**

of personal data, identified or identifiable natural person the data obtained, collected, or generated by the use, relates to;

Amendment 54

Proposal for a regulation

Article 1 – paragraph 2 – point d

Text proposed by the Commission

(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 data holders that provide those data in response to such request;

Amendment

(d) public sector bodies and Union institutions, agencies or bodies that request data holders to make data available where there is an exceptional need in the ***context of a public emergency*** and the data holders that provide those data in response to such request;

Amendment 55

Proposal for a regulation

Article 1 – paragraph 3

Text proposed by the Commission

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 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

Amendment

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 require a legal basis pursuant to applicable data protection law.*** This Regulation ***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,

complement the right of data portability under Article 20 of Regulation (EU) 2016/679.

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, 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 confidentiality of communications.***

Amendment 56

Proposal for a regulation Article 1 – paragraph 4

Text proposed by the Commission

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 Council⁷² 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

Amendment

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 Council⁷² 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

laundrying 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 the health and safety of citizens in accordance with Union law.

system for the purposes of money laundrying 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 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.***

⁷² 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).

⁷² 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).

Amendment 57

Proposal for a regulation Article 2 – paragraph 1 – point 1 a (new)

Text proposed by the Commission

Amendment

(1a) ‘personal data’ means personal data as defined in Article 4, point (1), of Regulation (EU) 2016/679;

Amendment 58

Proposal for a regulation Article 2 – paragraph 1 – point 1 b (new)

Text proposed by the Commission

Amendment

(1b) ‘non-personal data’ means data other than personal data;

Amendment 59

Proposal for a regulation

Article 2 – paragraph 1 – point 1 c (new)

Text proposed by the Commission

Amendment

(1c) ‘data generated by the use of a product or a related service’ means any data recorded intentionally by the user or as a by-product of the user’s action, as well as data generated or recorded without any action by the user among others in standby mode or while the product is switched off. This includes sensor-generated data, data captured by embedded applications and diagnostics data;

Amendment 60

Proposal for a regulation

Article 2 – paragraph 1 – point 1 d (new)

Text proposed by the Commission

Amendment

(1d) ‘consent’ means consent as defined in Article 4, point (11), of Regulation (EU) 2016/679;

Amendment 61

Proposal for a regulation

Article 2 – paragraph 1 – point 1 e (new)

Text proposed by the Commission

Amendment

(1e) ‘data subject’ means data subject as referred to in Article 4, point (1), of Regulation (EU) 2016/679;

Amendment 62

Proposal for a regulation
Article 2 – paragraph 1 – point 2

Text proposed by the Commission

(2) ‘product’ means a tangible, ***movable item, including where 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;

Amendment

(2) ‘product’ means a tangible item, that, ***through its design and features*** obtains, generates or collects, data concerning its use or environment, and that is able to communicate data and whose primary function is not the storing and processing of data, ***with the exception of products that are primarily designed to display or play content, or to record and transmit content, including general-purpose computers, tablets and smart phones, cameras, sound recording systems and text scanners;***

Amendment 63

Proposal for a regulation
Article 2 – paragraph 1 – point 3

Text proposed by the Commission

(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;

Amendment

(3) ‘related service’ means a digital service, including software, which is ***necessary in order for the product to perform one or more*** of its functions, ***and which involves communicating data from the product to the related service;***

Amendment 64

Proposal for a regulation
Article 2 – paragraph 1 – point 4

Text proposed by the Commission

(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

Amendment

(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 ***to other*** services or control

or control *their own and third party devices*;

products;

Amendment 65

Proposal for a regulation

Article 2 – paragraph 1 – point 5

Text proposed by the Commission

(5) ‘user’ means a natural or legal person that owns, rents or leases a product or receives *a* services;

Amendment

(5) ‘user’ means a natural or legal person that owns, rents or leases a product or receives *related* services, ***and, where the product or related service involves the processing of personal data, the data subject***;

Amendment 66

Proposal for a regulation

Article 2 – paragraph 1 – point 6

Text proposed by the Commission

(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;

Amendment

(6) ‘data holder’ means a legal or natural person ***that is not the user, who has access to data communicated to it, and*** 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 ***has the contractually agreed right to process and*** make available certain data;

Amendment 67

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Text proposed by the Commission

(7) ‘data recipient’ means a legal or natural person, acting for purposes which are related to that person’s trade, business,

Amendment

(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 law or national legislation implementing Union law;

craft or profession, other than the user of a product or related service, to whom the data holder makes data available, following **an explicit** request by the user **or the data subject** to the data holder or in accordance with a legal obligation under Union law or national legislation implementing Union law, **and including a third party to whom the data is directly made available by the user or the data subject**;

Amendment 68

Proposal for a regulation Article 2 – paragraph 1 – point 10

Text proposed by the Commission

(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);

Amendment

(10) ‘public emergency’ means an exceptional situation negatively affecting the population of the Union, a Member State or part of it, **such as a public health emergency, emergency resulting from a natural disaster or a human-induced major disaster, such as major cybersecurity incident**, 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), **for which non-emergency measures for the maintenance of public safety, health and order are manifestly inadequate, and which is determined and officially declared in accordance with the applicable procedures under Union or national law**;

Amendment 69

Proposal for a regulation Article 2 – paragraph 1 – point 11 a (new)

Text proposed by the Commission

Amendment

(11a) ‘making available of data

obtained, collected, or generated by the use of a product or a related service’ means the making accessible of data, following a simple request through electronic means, enabling the user or a third party to copy the data and to receive the data in a structured, commonly used, interoperable and machine-readable format;

Amendment 70

Proposal for a regulation Article 2 – paragraph 1 – point 12

Text proposed by the Commission

(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 scalable and elastic pool of shareable computing resources of a centralised, distributed or highly distributed nature;**

Amendment

(12) ‘data processing service’ means a 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 **storage and** computing resources;

Amendment 71

Proposal for a regulation Article 2 – paragraph 1 – point 19

Text proposed by the Commission

(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;

Amendment

(19) ‘interoperability’ means the ability of two or more communication networks, systems, products, applications, components, **or services** to exchange and use data in order to perform their functions;

Amendment 72

Proposal for a regulation Article 3 – title

Text proposed by the Commission

Obligation **to make data** generated by the use of products or related services **accessible**

Amendment

Obligation **of designers, manufacturers and providers of related services regarding data obtained, collected, or** generated by the use of products or related services

Amendment 73

Proposal for a regulation Article 3 – paragraph 1

Text proposed by the Commission

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.

Amendment

1. Products shall be designed and manufactured, and related services shall be provided, in such a manner that data **obtained, collected, or** generated by their use are, by default, easily, securely and, where relevant and appropriate, directly accessible to **that user in a structured, commonly used and machine-readable format, including access to derived or inferred data in the case of personal data, and information necessary to interpret and use the data.** The user shall be able to process the data outside the data holders' control. **In case that user is a data subject, products shall offer possibilities to directly exercise the data subjects' rights, where technically feasible. Products shall be designed and manufactured, and related services shall be provided, in such a way that a data subject, irrespective of their legal title over the product, is offered the possibility to use the products covered by this Regulation in the least privacy-invasive way possible. Where users can reasonably expect it due to the nature of the product, products shall be designed and manufactured, and related services shall be provided, in such a manner that a basic set of functionalities is maintained when the product or related service is used offline.**

Amendment 74

Proposal for a regulation Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. *The usability of the product or related service shall not be made dependent on the user allowing it to process data not required for the functionality of the product or provision of the related service.*

Amendment 75

Proposal for a regulation Article 3 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. *Where on-device access to data is technically supported, the manufacturer shall make this means of access also technically available to third-party service providers in a non-discriminatory manner.*

Amendment 76

Proposal for a regulation Article 3 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

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 **the user concludes** a contract for the purchase, rent or lease of a product, at least the following information shall be provided to the user, in a **timely and prominent manner, in an easily accessible**, clear and comprehensible format:

Amendment 77

Proposal for a regulation Article 3 – paragraph 2 – point a

Text proposed by the Commission

(a) the *nature and* volume of the data *likely to be generated by the use of* the product *or related service*;

Amendment

(a) the *type, format, estimated* volume *and collection frequency* of the data *which* the product *is capable to obtain, collect, or generate*;

Amendment 78

Proposal for a regulation Article 3 – paragraph 2 – point b

Text proposed by the Commission

(b) whether the data is likely to be generated continuously and in real-time;

Amendment

(b) whether the data is likely to be *obtained, collected, or* generated continuously and in real-time;

Amendment 79

Proposal for a regulation Article 3 – paragraph 2 – point c

Text proposed by the Commission

(c) how the user may access those data;

Amendment

(c) how the user may access, *retrieve, and request the deletion of* those data;

Amendment 80

Proposal for a regulation Article 3 – paragraph 2 – point d

Text proposed by the Commission

(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*

Amendment

deleted

purposes for which those data will be used;

Amendment 81

Proposal for a regulation Article 3 – paragraph 2 – point e

Text proposed by the Commission

Amendment

(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; **deleted**

Amendment 82

Proposal for a regulation Article 3 – paragraph 2 – point f

Text proposed by the Commission

Amendment

(f) the means of communication which enable the user to contact the data holder quickly and communicate with that data holder efficiently; **deleted**

Amendment 83

Proposal for a regulation Article 3 – paragraph 2 – point g

Text proposed by the Commission

Amendment

(g) how the user may request that the data are shared with a third-party; **deleted**

Amendment 84

Proposal for a regulation Article 3 – paragraph 2 – point h

Text proposed by the Commission

Amendment

(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.

deleted

Amendment 85

Proposal for a regulation

Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Before the user concludes an agreement for the provision of a related service, at least the following information shall be provided to the user in a clear and comprehensible format:

(a) the type, format, and collection frequency of data communicated from the product to the related service, as well as modalities for the user of the product to access or retrieve the data;

(b) the nature and estimated volume of any data obtained, collected, generated, and personal data derived or inferred during the provision of the related service, as well as modalities for the user to access or retrieve the data;

(c) whether the provider of the related service intends to process the data itself, whether it intends to allow a third party to process the data, and if so, the identity of the third party, the purposes for which those data will be processed, the period for which they can be accessed, and the necessary safeguards after the data access has ended;

(d) the identity of the data holder and, where applicable, other data processing parties, such as the trading name, contact details and the geographical address of

establishment;

(e) the means of communication which enable the user to easily contact the data holder and, where applicable, other data processing party, and communicate with them efficiently;

(f) how the user may request that the data be shared with or transferred to a third-party;

(g) the foreseen duration of the agreement, as well as the modalities for early termination of the agreement;

(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.

Amendment 86

Proposal for a regulation Article 4 – paragraph 1

Text proposed by the Commission

1. Where data cannot be directly accessed by the user from the product, the data holder shall make available to the user the data ***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.

Amendment

1. Where data cannot be directly accessed by the user from the product, the data holder shall make available to the user ***any data communicated to the data holder from the product or obtained, collected, or generated during the provision of the*** related service without undue delay, free of charge and, where applicable, continuously and in real-time, ***in a structured, commonly used and machine-readable format, including access to derived or inferred data in the case of personal data, pursuant to Article 15 of Regulation (EU) 2016/679, and including the relevant information to interpret and use the data.*** This shall be done on the basis of a simple request through electronic means. Where ***such an electronic request is not*** technically feasible, ***the data holder shall provide a simple and comparably efficient***

alternative.

Amendment 87

Proposal for a regulation

Article 4 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. *Where available, the data holder shall provide information on the data structures, data formats, vocabularies, classification schemes, taxonomies and code lists, , which shall be described in a consistent manner and made publicly available.*

Amendment 88

Proposal for a regulation

Article 4 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. *The data holder shall describe the technical means to use the data, such as software development kits or application programming interfaces, and their terms of use and quality of service, in sufficient detail to enable such access.*

Amendment 89

Proposal for a regulation

Article 4 – paragraph 2

Text proposed by the Commission

Amendment

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

2. The data holder shall not require the user to provide any information beyond what is necessary to verify **their** quality as **the** 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.

execution of the user's access request and for the security and the maintenance of the data infrastructure.

Amendment 90

Proposal for a regulation Article 4 – paragraph 4

Text proposed by the Commission

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.

Amendment

4. The user shall not use **any non-personal** 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.

Amendment 91

Proposal for a regulation Article 4 – paragraph 5

Text proposed by the Commission

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.

Amendment

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** 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.

Amendment 92

Proposal for a regulation Article 5 – title

Text proposed by the Commission

Right to share data with third parties

Amendment

Right **of users and data subjects** to share,

and the obligation of data holders to provide for the sharing of, data with third parties

Amendment 93

Proposal for a regulation Article 5 – paragraph 1

Text proposed by the Commission

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.

Amendment

1. Upon request by ***a data subject, or*** a user, or by a party acting on behalf of a user, the data holder shall make available the data ***obtained, collected, or*** generated by the use of a product or related service to a third party, without undue delay, free of charge to ***the data subject or*** the user, of the same quality as is available to the data holder and, where applicable, continuously and in real-time, ***for the purpose specified by the data subject or user, such as for the purposes of:***

Amendment 94

Proposal for a regulation Article 5 – paragraph 1 – point a (new)

Text proposed by the Commission

Amendment

(a) the provision of after-market services, such as the maintenance and repair of the product, including after-market services in competition with a product or service provided by the data holder;

Amendment 95

Proposal for a regulation Article 5 – paragraph 1 – point b (new)

Text proposed by the Commission

Amendment

(b) enabling the user to update the software of its product or related services in particular to fix security and usability problems;

Amendment 96

Proposal for a regulation Article 5 – paragraph 1 – point c (new)

Text proposed by the Commission

Amendment

(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 (Data Governance Act);

Amendment 97

Proposal for a regulation Article 5 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

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)⁷³], shall not be an eligible third party under this Article and therefore shall not:

2. Any 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 (EU) 2022/1925** on contestable and fair markets in the digital sector (Digital Markets Act)⁷³, shall not be an eligible third party under this Article and therefore shall not:

⁷³ OJ [...].

⁷³ OJ [...].

Amendment 98

Proposal for a regulation
Article 5 – paragraph 2 – point a

Text proposed by the Commission

(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);

Amendment

(a) solicit or commercially incentivise a user **or a data recipient** 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), **or that the data recipient has obtained pursuant to this Article;**

Amendment 99

Proposal for a regulation
Article 5 – paragraph 3

Text proposed by the Commission

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.

Amendment

3. The user or third party shall not be required to provide any information beyond what is **strictly** necessary to verify **their** quality as **the** 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.

Amendment 100

Proposal for a regulation
Article 5 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The data holder and the third party shall not solicit or commercially incentivise a user in any manner, including by providing monetary or any other compensation, to make data available, which the consumer or data

subject has obtained pursuant to a request under Article 4(1).

Amendment 101

Proposal for a regulation Article 5 – paragraph 6

Text proposed by the Commission

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.

Amendment

6. *In the case of a* data subject *who is not the user requesting access*, any personal data *obtained, collected, or* generated by *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** 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.

Amendment 102

Proposal for a regulation Article 5 – paragraph 9

Text proposed by the Commission

9. The right referred to in paragraph 1 shall not adversely affect *data protection* rights of others.

Amendment

9. The right referred to in paragraph 1 shall not adversely affect *the rights of data subjects* of others *pursuant to the applicable data protection law*.

Amendment 103

Proposal for a regulation Article 6 – paragraph 1

Text proposed by the Commission

1. A third party shall process the data made available to it pursuant to Article 5

Amendment

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 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**.

only for the **specific** purposes **referred to in Article 5(1) of this Regulation**, and under the conditions agreed with the user, **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. **The third party** shall delete the data when they are no longer necessary for the **purposes referred to in Article 5(1) of this Regulation**.

Amendment 104

Proposal for a regulation Article 6 – paragraph 2 – point a

Text proposed by the Commission

(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;

Amendment

(a) coerce, deceive or manipulate the user in any way, **or subvert or impair** the autonomy, decision-making or choices of the user, including by means of a digital interface with the user, **or a part thereof, including its structure, design, function or manner of operation**;

Amendment 105

Proposal for a regulation Article 6 – paragraph 2 – point b

Text proposed by the Commission

(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**;

Amendment

(b) use the data it receives for the profiling of natural persons within the meaning of Article 4, **point (4)**, of Regulation (EU) 2016/679, **other than in accordance with that Regulation**;

Amendment 106

Proposal for a regulation

Article 6 – paragraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(ba) use data it receives to re-identify any data subject to whom the data relates and shall take technical and operational measures to prevent re-identification; it shall notify any data breach resulting in the re-identification of the data subjects concerned to the competent data protection authority;

Amendment 107

Proposal for a regulation

Article 6 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(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 to another third party, in raw, aggregated or derived form, unless this is necessary to provide the service requested by the user, ***and the user has explicitly been made aware of this in a clear, easily accessible and prominent way;***

Amendment 108

Proposal for a regulation

Article 6 – paragraph 2 – point d

Text proposed by the Commission

Amendment

(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 (EU) 2022/1925*** on contestable and fair markets in the digital sector (Digital Markets Act);

Amendment 109

Proposal for a regulation Article 7 – paragraph 1

Text proposed by the Commission

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, 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.

Amendment

1. The obligations of this Chapter ***related to business to business data sharing*** shall not apply to enterprises that qualify as micro or small enterprises, 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 which do not qualify as a micro or small enterprise.

Amendment 110

Proposal for a regulation Article 7 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The obligations of this Chapter related to business to consumer data sharing shall not apply to non-personal 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, 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.

Amendment 111

Proposal for a regulation
Article 7 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The data holder shall not be liable towards the user for any direct or indirect damages arising from the processing of the data by the user after the data has been made available.

Amendment 112

Proposal for a regulation
Article 7 a (new)

Text proposed by the Commission

Amendment

Article 7a

Unfair contractual terms imposed on users and data subjects

Any contractual term by data holders, third parties or data recipients which, to the detriment of the user, excludes the application of this Chapter, derogates from it, or alters its effect, shall not be binding on the user.

Amendment 113

Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

Amendment

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 ***the costs directly incurred by*** making data available shall be ***fair and*** reasonable, ***and shall not exceed the costs directly related to making the data available. These costs include the costs necessary for data reproduction and dissemination via electronic means, but not of data collection, generation, or storage, as long***

as this is not induced by a request.

Amendment 114

Proposal for a regulation Article 9 – paragraph 2

Text proposed by the Commission

2. ***Where the data recipient is a micro, small or medium enterprise, 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.

Amendment

2. Article 8(3) shall apply accordingly.

Amendment 115

Proposal for a regulation Article 11 – paragraph 1

Text proposed by the Commission

1. The data holder may apply appropriate technical protection measures, ***including smart contracts***, to prevent unauthorised access to the data and to ensure 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).

Amendment

1. The data holder may apply appropriate technical protection measures to prevent unauthorised ***disclosure of and*** access to the data and to ensure 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 or*** hinder the user's right to ***access data, obtain a copy or*** 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).

Amendment 116

Proposal for a regulation
Article 11 – paragraph 2 – introductory part

Text proposed by the Commission

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:

Amendment

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 ***or in the case of personal data, an appropriate legal basis under Regulation (EU) 2016/679***, shall without undue delay, unless the data holder or the user instruct otherwise:

Amendment 117

Proposal for a regulation
Article 11 – paragraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(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.

Amendment 118

Proposal for a regulation
Article 11 – paragraph 3 – introductory part

Text proposed by the Commission

3. Paragraph 2, point (b), shall not apply in either of the following cases:

Amendment

3. Paragraph 2, point (b), shall not apply in either of the following cases ***where non-personal data are concerned:***

Amendment 119

Proposal for a regulation Article 12 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The data holder shall not be liable for any direct or indirect damages arising from, relating to, or in connection with the processing of the data by the data recipient after the data has been made available.

Amendment 120

Proposal for a regulation Article 12 – paragraph 2

Text proposed by the Commission

Amendment

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 **be void**.

Amendment 121

Proposal for a regulation Article 12 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

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

Amendment 122

Proposal for a regulation
Article 13 – paragraph 1

Text proposed by the Commission

1. A contractual term, concerning the access to and use of data or the 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.

Amendment

1. A contractual term, concerning the access to and use of data or the 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, ***or which has been unilaterally imposed by an enterprise which is the source of the data they hold*** shall not be binding on the ***micro, small or medium-sized*** enterprise, ***or the data recipient or user, respectively***, if it is unfair.

Amendment 123

Proposal for a regulation
Article 13 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. A contractual term is not to be considered unfair where it arises from applicable Union law.

Amendment 124

Proposal for a regulation
Article 14 – paragraph 1

Text proposed by the Commission

Amendment

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 duly justified*** request ***that is limited in time and scope***, a data holder ***that is a legal person*** shall make data available to a public sector body or to ***the*** Union institution, agency or body demonstrating an exceptional need ***pursuant to Article 15*** to use the data

requested.

Amendment 125

Proposal for a regulation

Article 14 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. A public sector body or a Union institution, agency or body shall be able to extend the time for which the data are requested by making a justified request, providing a specific time limit, where the exceptional need pursuant to Article 15 demonstrably continues, and where so provided for in Union or national law.

Amendment 126

Proposal for a regulation

Article 14 – paragraph 2

Text proposed by the Commission

Amendment

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

Amendment 127

Proposal for a regulation

Article 15 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

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 data within the meaning of this Chapter shall be deemed to exist ***where*** any of the following ***conditions are met***:

Amendment 128

Proposal for a regulation
Article 15 – paragraph 1 – point a

Text proposed by the Commission

(a) *where* the data *requested is* necessary to respond to a public emergency;

Amendment

(a) the data *are strictly* necessary to respond to a public emergency;

Amendment 129

Proposal for a regulation
Article 15 – paragraph 1 – point b

Text proposed by the Commission

(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;

Amendment

(b) the data *are strictly* necessary to *help* assist the recovery from a public emergency.

Amendment 130

Proposal for a regulation
Article 15 – paragraph 1 – point c

Text proposed by the Commission

(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*

(1) *the public sector body or Union institution, agency or body has been unable to obtain such data by alternative means, 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*

(2) *obtaining the data in line with the procedure laid down in this Chapter would substantively reduce the administrative burden for data holders or*

Amendment

deleted

other enterprises.

Amendment 131

Proposal for a regulation Article 16 – paragraph 1

Text proposed by the Commission

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.

Amendment

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, ***including in relation to official statistics.***

Amendment 132

Proposal for a regulation Article 16 – paragraph 2

Text proposed by the Commission

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.

Amendment

2. This Chapter shall not ***apply to*** public sector bodies and Union institutions, agencies and bodies ***that*** carry out activities for the prevention, investigation, detection or prosecution of criminal or administrative offences or the execution of criminal penalties, or ***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.

Amendment 133

Proposal for a regulation Article 17 – paragraph 1 – point b

Text proposed by the Commission

(b) demonstrate the exceptional need for which the data are requested;

Amendment

(b) demonstrate the exceptional need ***pursuant to Article 15*** for which the data are requested, ***and in particular the need and legal basis for personal data to be included***;

Amendment 134

Proposal for a regulation

Article 17 – paragraph 1 – point c

Text proposed by the Commission

(c) explain the purpose of the request, the intended use of the data requested, ***and*** the duration of that use;

Amendment

(c) explain the purpose of the request, the intended use of the data requested, ***including how the processing of the data is to address the exceptional need, and indicate*** the duration of that use, ***and to which third parties the data is to be disclosed pursuant to Article 21***;

Amendment 135

Proposal for a regulation

Article 17 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) where personal data are requested, specify any measures necessary and proportionate to implement data-protection principles, in particular the extent to which anonymisation can be applied, or the level of aggregation or pseudonymisation to be applied by the data holder before making data available;

Amendment 136

Proposal for a regulation

Article 17 – paragraph 1 – point e

Text proposed by the Commission

(e) specify the deadline by which the data are to be made available **or within which the data holder may request the public sector body, Union institution, agency or body to modify or withdraw the request.**

Amendment

(e) specify the deadline by which the data are to be made available.

Amendment 137

Proposal for a regulation

Article 17 – paragraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) where the request is made by a public sector body to a data holder established in another Member State, confirm that the public sector body has notified the competent authority of that Member State in conformity with Article 22(3).

Amendment 138

Proposal for a regulation

Article 17 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(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 proportionate to the exceptional need, in terms of the granularity, volume **and nature** of the data requested, **as well as the** frequency of access of the data requested;

Amendment 139

Proposal for a regulation

Article 17 – paragraph 2 – point d

Text proposed by the Commission

(d) concern, insofar as possible, non-personal data;

Amendment

(d) concern, insofar as possible, non-personal data, ***and only if this is demonstrated to be insufficient to respond to the exceptional need to use data, request personal data in aggregated or pseudonymised form;***

Amendment 140

Proposal for a regulation

Article 17 – paragraph 4 – subparagraph 1

Text proposed by the Commission

Paragraph 3 does not preclude a public sector body or a Union institution, agency or body ***to 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.

Amendment

Paragraph 3 does not preclude a public sector body or a Union institution, agency or body 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, ***also to such third parties.***

Amendment 141

Proposal for a regulation

Article 17 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Where a public sector body or a Union institution, agency, or body has reason to believe that the exchange of or access to non-personal data may lead to the risk of re-identification of non-personal, or anonymised data, the public sector body, Union institution, agency, or

body shall request the relevant bodies or authorities competent pursuant to applicable data protection legislation for authorisation before exchanging or giving access to data.

Amendment 142

Proposal for a regulation Article 17 a (new)

Text proposed by the Commission

Amendment

Article 17a

Point of contact for data requests

- 1. Member States are encouraged to designate one or more points of contact to coordinate and support public sector bodies in requesting data pursuant to this Chapter. The points of contact shall help prevent duplicate requests and requests not fulfilling the requirements and conditions of this Chapter.***
- 2. Member States shall notify the Commission of points of contact they have designated.***
- 3. The Commission shall maintain a public register of the points of contact.***

Amendment 143

Proposal for a regulation Article 18 – paragraph 1

Text proposed by the Commission

Amendment

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 ***and for the duration of the intended use pursuant to Article 17(1)(c).***

Amendment 144

Proposal for a regulation

Article 18 – paragraph 2 – introductory part

Text proposed by the Commission

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 emergency **and within 15 working days in other cases of exceptional need**, on either of the following grounds:

Amendment

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 **and the requested deadline** within 5 working days following the receipt of a request for the data necessary to respond to a public emergency on either of the following grounds:

Amendment 145

Proposal for a regulation

Article 18 – paragraph 2 – point a

Text proposed by the Commission

(a) the data *is* unavailable;

Amendment

(a) **force majeure or de facto impossibility not attributable to the data holder, including technical and organisational grounds, such as the data being** unavailable;

Amendment 146

Proposal for a regulation

Article 18 – paragraph 2 – point b

Text proposed by the Commission

(b) the request does not meet the conditions laid down in Article 17(1) and (2).

Amendment

(b) **the data holder declares that** the request **is incomplete, contains manifest errors in form or content, is manifestly abusive, or** does not meet **or exceeds any of** the conditions laid down in Article 17(1) and (2).

Amendment 147

Proposal for a regulation Article 18 – paragraph 5

Text proposed by the Commission

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.**

Amendment

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 pseudonymise the **personal data to be made available.**

Amendment 148

Proposal for a regulation Article 18 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. A data holder complying with a request for access to data pursuant to this Article shall not be liable for any actions or, direct or indirect harm arising from the actions of a recipient of data under this Chapter.

Amendment 149

Proposal for a regulation Article 19 – paragraph 1 – introductory part

Text proposed by the Commission

1. A public sector body or a Union institution, agency or body **having received data pursuant to a request made** under Article 14 shall:

Amendment

1. A public sector body or a Union institution, agency or body **requesting data** under Article 14 shall:

Amendment 150

Proposal for a regulation
Article 19 – paragraph 1 – point a

Text proposed by the Commission

(a) **not** use the data in a manner ***incompatible*** with the purpose for which they were requested;

Amendment

(a) **only** use the data in a manner ***compatible*** with the purpose for which they were requested ***and within the intended duration of the intended use pursuant to Article 17(1)(c)***;

Amendment 151

Proposal for a regulation
Article 19 – paragraph 1 – point b

Text proposed by the Commission

(b) implement, insofar as the processing of personal data is necessary, technical and organisational measures that safeguard the rights and freedoms of data subjects;

Amendment

(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***;

Amendment 152

Proposal for a regulation
Article 19 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) inform the data holder without undue delay of any security incidents that have occurred, where they affect the confidentiality, integrity, or availability of the data provided;

Amendment 153

Proposal for a regulation
Article 19 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) destroy any derived or inferred personal data as soon as they are no longer necessary for the stated purpose and inform the data holder that the data have been destroyed.

Amendment 154

Proposal for a regulation Article 20 – paragraph 1

Text proposed by the Commission

Amendment

1. Data made available to respond to a public emergency pursuant to Article 15, **point (a)**, shall be provided free of charge.

1. Data made available to respond to a public emergency pursuant to Article 15, shall be provided free of charge.

Amendment 155

Proposal for a regulation Article 20 – paragraph 2

Text proposed by the Commission

Amendment

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 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**.

2. **After providing the data**, the data holder **shall be entitled to claim** compensation for making data available in compliance with a request made pursuant to Article 15. Such compensation shall not exceed the technical and organisational costs incurred to comply with the request including, where necessary, the costs of anonymisation, **aggregation**, and of technical adaptation. 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.

Amendment 156

Proposal for a regulation
Article 21 – paragraph 1

Text proposed by the Commission

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 institutes and Eurostat*** for the compilation of official statistics.

Amendment 157

Proposal for a regulation
Article 21 – paragraph 2

Text proposed by the Commission

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.***

Amendment 158

Proposal for a regulation
Article 21 – paragraph 2 – point a (new)

Text proposed by the Commission

Amendment

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, ***including national statistical institutes and Eurostat***, in view of carrying out scientific research or analytics ***for*** the purpose for which the data was requested, or for the compilation of official statistics.

Amendment

2. Individuals or organisations receiving the data pursuant to paragraph 1 shall ***be vetted researchers pursuant to Regulation 2022/2065 (Digital Services Act), or demonstrate that they meet all of the following criteria:***

(a) they act on a not-for-profit basis or in the context of a public-interest mission recognised in Union or Member State law;

Amendment 159

Proposal for a regulation Article 21 – paragraph 2 – point b (new)

Text proposed by the Commission

Amendment

(b) they do not include organisations upon which commercial undertakings have a decisive influence or which could result in preferential access to the results of the research;

Amendment 160

Proposal for a regulation Article 21 – paragraph 2 – point c (new)

Text proposed by the Commission

Amendment

(c) they are affiliated to a research organisation as defined in Article 2, point (1), of Directive (EU) 2019/790;

Amendment 161

Proposal for a regulation Article 21 – paragraph 2 – point d (new)

Text proposed by the Commission

Amendment

(d) they are independent from commercial interests;

Amendment 162

Proposal for a regulation Article 21 – paragraph 2 – point e (new)

Text proposed by the Commission

Amendment

(e) they disclose the funding of the research;

Amendment 163

Proposal for a regulation Article 21 – paragraph 2 – point f (new)

Text proposed by the Commission

Amendment

(f) they are in a capacity to preserve the specific data security and confidentiality requirements corresponding to each request [and to protect personal data], and they demonstrate the appropriate technical and organisational measures they put in place to this end;

Amendment 164

Proposal for a regulation Article 21 – paragraph 2 – point g (new)

Text proposed by the Commission

Amendment

(g) they justify the necessity and proportionality for the purpose of their research of the data requested and the timeframes within which they request access to the data, and they demonstrate the contribution to scientific or academic progress, or benefits for the public interest, of the expected research results;

Amendment 165

Proposal for a regulation Article 21 – paragraph 2 – point h (new)

Text proposed by the Commission

Amendment

(h) they commit to making their research results publicly available for further research free of charge, within a reasonable period after the completion of the research and taking into account the rights and interests of users of the product or service concerned.

Amendment 166

Proposal for a regulation Article 21 – paragraph 3

Text proposed by the Commission

3. Individuals or organisations receiving the data pursuant to paragraph 1 shall comply with the provisions of Article 17(3) and Article 19.

Amendment

3. Individuals or organisations receiving the data pursuant to paragraph 1 shall comply with the provisions of Article 17(3) and Article 19. ***Where this is necessary for the scientific research, analytics or official statistical purpose, Article 19 paragraph 1 points (c) and (c a) shall not apply.***

Amendment 167

Proposal for a regulation Article 21 – paragraph 4

Text proposed by the Commission

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.

Amendment

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, ***providing the identity and contact details of the data recipient and information on the purposes and intended duration of data processing.***

Amendment 168

Proposal for a regulation Article 22 – paragraph 1

Text proposed by the Commission

1. Public sector bodies and Union institutions, agencies and bodies shall cooperate and assist one another, to implement this Chapter in a consistent manner.

Amendment

1. Public sector bodies and Union institutions, agencies and bodies ***that this Chapter applies to*** shall cooperate and assist one another, to implement this Chapter in a consistent manner.

Amendment 169

Proposal for a regulation Article 27 – paragraph 1

Text proposed by the Commission

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.***

Amendment

1. Providers of data processing services shall take all **appropriate** 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.

Amendment 170

Proposal for a regulation Article 27 – paragraph 3 – subparagraph 2

Text proposed by the Commission

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.

Amendment

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. ***If the opinion of the competent authorities concludes that the conditions are not met, the recipient shall not provide access to the data.***

Amendment 171

Proposal for a regulation Article 27 – paragraph 3 – subparagraph 3

Text proposed by the Commission

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.

Amendment

The European Data Innovation Board established under Regulation (EU) 2022/868 shall advise and assist the Commission in developing guidelines on the assessment of whether these conditions are met.

Amendment 172

**Proposal for a regulation
Article 27 – paragraph 4 a (new)**

Text proposed by the Commission

Amendment

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.

Amendment 173

**Proposal for a regulation
Article 28 – paragraph 4**

Text proposed by the Commission

Amendment

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 **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

Amendment 174

Proposal for a regulation
Article 28 – paragraph 5

Text proposed by the Commission

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 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).

Amendment

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 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). ***Common specifications shall be developed in an open, transparent manner, in consultation with industry and relevant stakeholders.***

Amendment 175

Proposal for a regulation
Article 29 – paragraph 4

Text proposed by the Commission

4. The 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 of data processing services.

Amendment

4. The Commission ***shall***, 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 of data processing services.

Amendment 176

Proposal for a regulation
Article 30 – paragraph 5

Text proposed by the Commission

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.

Amendment

5. The Commission **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.

Amendment 177

**Proposal for a regulation
Article 30 – paragraph 6**

Text proposed by the Commission

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).

Amendment

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). ***Common specifications shall be developed in an open, transparent, technology-neutral manner, in consultation with industry and relevant stakeholders.***

Amendment 178

**Proposal for a regulation
Article 31 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

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 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 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.

Amendment 179

Proposal for a regulation Article 31 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) 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 apply mutatis mutandis. The tasks and powers of the supervisory authorities shall be exercised with regard to the processing of personal data;

deleted

Amendment 180

Proposal for a regulation Article 31 – paragraph 3 – point g

Text proposed by the Commission

(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;

Amendment

(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 according to its provisions***;

Amendment 181

Proposal for a regulation

Article 31 – paragraph 3 – point i a (new)

Text proposed by the Commission

Amendment

(ia) ensuring data sharing is free of charge for users, in accordance with Articles 4 and 5.

Amendment 182

Proposal for a regulation

Article 31 – paragraph 4

Text proposed by the Commission

Amendment

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 this Regulation. ***In such cases, relevant Member States shall designate a coordinating competent authority.***

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. ***In such cases, relevant Member States shall designate a coordinating competent authority. Competent authorities shall cooperate*** with the supervisory authority responsible for monitoring the application of Regulation (EU) 2016/679, to ensure the consistent application of this Regulation.

Amendment 183

Proposal for a regulation

Article 31 – paragraph 6

Text proposed by the Commission

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 take instructions from any other public authority or any private party.

Amendment

6. When carrying out their tasks and exercising their powers in accordance with this Regulation, the competent authorities shall ***act in an independent and impartial manner, and*** remain free from any external influence, whether direct or indirect, and shall neither seek nor take instructions from any other public authority or any private party.

Amendment 184

**Proposal for a regulation
Article 31 – paragraph 7**

Text proposed by the Commission

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.

Amendment

7. Member States shall ensure that the designated competent authorities are provided with ***sufficient human and technical resources, expertise, premises and infrastructure*** necessary ***for the effective performance*** to adequately carry out their tasks in accordance with this Regulation.

Amendment 185

**Proposal for a regulation
Article 32 – paragraph 1**

Text proposed by the Commission

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.

Amendment

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 ***coordinating competent authority, or any other*** 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.

Amendment 186

Proposal for a regulation Article 34 – paragraph 1

Text proposed by the Commission

The Commission shall develop and recommend non-binding model contractual terms on data access and use to assist parties in drafting and negotiating contracts with balanced contractual rights and obligations.

Amendment

The Commission shall develop and recommend non-binding model contractual terms on data access and use to assist parties in drafting and negotiating contracts with balanced contractual rights and obligations. ***The Commission shall consult the European Data Protection Board when developing such model contractual terms, as far as personal data are concerned.***

Amendment 187

Proposal for a regulation Article 41 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) the protection of trade secrets in Article 4(3) and Article 5(8);

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Harmonised rules on fair access to and use of data (Data Act)
References	COM(2022)0068 – C9-0051/2022 – 2022/0047(COD)
Committee responsible Date announced in plenary	ITRE 23.3.2022
Opinion by Date announced in plenary	LIBE 23.3.2022
Associated committees - date announced in plenary	7.7.2022
Rapporteur for the opinion Date appointed	Sergey Lagodinsky 15.6.2022
Discussed in committee	8.11.2022
Date adopted	31.1.2023
Result of final vote	+ : 56 - : 2 0 : 2
Members present for the final vote	Konstantinos Arvanitis, Malik Azmani, Pietro Bartolo, Vladimír Bilčík, Vasile Blaga, Karolin Braunsberger-Reinhold, Patrick Breyer, Saskia Bricmont, Joachim Stanisław Brudziński, Annika Bruna, Damien Carême, Patricia Chagnon, Caterina Chinnici, Clare Daly, Lena Düpont, Lucia Ďuriš Nicholsonová, Cornelia Ernst, Nicolaus Fest, Maria Grapini, Sylvie Guillaume, Andrzej Halicki, Evin Incir, Sophia in 't Veld, Assita Kanko, Fabienne Keller, Łukasz Kohut, Moritz Körner, Alice Kuhnke, Jeroen Lenaers, Juan Fernando López Aguilar, Lukas Mandl, Erik Marquardt, Javier Moreno Sánchez, Theresa Muigg, Emil Radev, Karlo Ressler, Diana Riba i Giner, Isabel Santos, Birgit Sippel, Sara Skytvedal, Tineke Strik, Ramona Strugariu, Annalisa Tardino, Yana Toom, Milan Uhrík, Tom Vandendriessche, Jadwiga Wiśniewska, Elena Yoncheva
Substitutes present for the final vote	Delara Burkhardt, Beata Kempa, Alessandra Mussolini, Matjaž Nemeč, Jan-Christoph Oetjen, Rob Rooken, Róza Thun und Hohenstein, Dragoş Tudorache, Loránt Vincze, Tomáš Zdechovský
Substitutes under Rule 209(7) present for the final vote	Niyazi Kizilyürek, David Lega

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

56	+
ECR	Joachim Stanisław Brudziński, Assita Kanko, Beata Kempa, Jadwiga Wiśniewska
ID	Annika Bruna, Patricia Chagnon, Nicolaus Fest, Annalisa Tardino, Tom Vandendriessche
PPE	Vladimír Bilčík, Vasile Blaga, Karolin Braunsberger-Reinhold, Lena Düpont, Andrzej Halicki, Jeroen Lenaers, Lukas Mandl, Alessandra Mussolini, Emil Radev, Karlo Ressler, Loránt Vincze, Tomáš Zdechovský
Renew	Malik Azmani, Lucia Ďuriš Nicholsonová, Sophia in 't Veld, Fabienne Keller, Moritz Körner, Jan-Christoph Oetjen, Ramona Strugariu, Róza Thun und Hohenstein, Yana Toom, Dragoș Tudorache
S&D	Pietro Bartolo, Delara Burkhardt, Caterina Chinnici, Maria Grapini, Sylvie Guillaume, Evin Incir, Łukasz Kohut, Juan Fernando López Aguilar, Javier Moreno Sánchez, Theresa Muigg, Matjaž Nemeč, Isabel Santos, Birgit Sippel, Elena Yoncheva
The Left	Konstantinos Arvanitis, Clare Daly, Cornelia Ernst, Niyazi Kizilyürek
Verts/ALE	Patrick Breyer, Saskia Briemont, Damien Carême, Alice Kuhnke, Erik Marquardt, Diana Riba i Giner, Tineke Strik

2	-
ECR	Rob Rooken
NI	Milan Uhrík

2	0
PPE	David Lega, Sara Skytvedal

Key to symbols:

+ : in favour

- : against

0 : abstention