



**2020/0340(COD)**

24.6.2021

# **OPINION**

of the Committee on the Internal Market and Consumer Protection

for the Committee on Industry, Research and Energy

on the proposal for a regulation of the European Parliament and of the Council  
on European data governance (Data Governance Act)  
(COM(2020)0767 – C9-0377/2020 – 2020/0340(COD))

Rapporteur for opinion: Sandro Gozi

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## SHORT JUSTIFICATION

Creating a genuine and innovative single market for data as the backbone of the EU's data economy and competitiveness is crucial. The EU must take decisive steps in this regard to strengthen Europe's digital sovereignty, ensure increasing access to commercial, as well as non-commercial data and to improve consumer rights and the control over their own data. It is important to enhance cross-sector interoperability and portability on data, building on existing standards, and to ensure trust in digital services and in smart products, allowing European companies and citizens to develop and benefit from innovative and competitive services and products.

The rapporteur therefore welcomes the Commission's proposal for a Data Governance Act as a crucial milestone to strengthen data exchange within the Union to the benefit of businesses and consumers.

Regarding the **re-use of certain categories of public sector data** (Chapter II), the rapporteur suggests to link the single information point to the Single Digital Gateway and offer an online public register of national single information points, as well as information on the conditions for allowing re-use and the procedure for requesting it. Furthermore, he proposes some additional **safeguards for re-use of data outside of the Union**, such as the designation of a legal representative inside the Union for re-users located outside of the Union.

Regarding the requirements applicable to **data sharing services** (Chapter III), the Rapporteur proposes **new and stronger definitions**, including on 'data intermediation service', 'data intermediary' and 'data exchange'.

On the concept of **data altruism** (Chapter IV), the Rapporteur would like to highlight the need for **national policies on Data altruism and technical arrangements** to facilitate it. Data intermediaries and data altruism organisations that fulfil the requirements set out in the Regulation should be able to obtain a 'label' and to use a dedicated Union logo that provides a coherent visual identity and link to the respective public registers.

The rapporteur stresses that the fees applicable under this Regulation should be transparent, proportionate, non-discriminatory and objectively justified. Furthermore, competent authorities should be able to apply reduced or no fees for micro, small and medium-sized enterprises and start-ups.

Regarding the **supervision and compliance**, the rapporteur stresses the need for competent authorities to cooperate and to have sufficient financial and human resources to perform their tasks. Furthermore, the rapporteur suggests streamlining and shortening the procedural deadlines in the Regulation. Both data intermediaries and data altruism organisations should be removed from the respective national and Union registers in case of non-compliance.

Further to the right of judicial redress, the rapporteur believes that the rights provided under Representative Actions Directive should apply in case of infringements of this Regulation. He stresses the importance of compensation in case of loss of data for data holders and in case of material and non-material damage for data subjects.

Regarding the **European Data Innovation Board** (Chapter VI), the rapporteur stresses the

need for it to be aligned with other Union-level bodies established on related issues, notably on artificial intelligence. Furthermore, he makes suggestions to improve the board's inclusiveness, functioning and transparency. The SME Envoy, standardisation organisations, consumer and civil society organisations among others should be part thereof. The Board could meet in different configurations and its deliberations should be made public. Furthermore, the rapporteur clarifies the Board's functions, including **addressing harmful fragmentation of the internal market by enhancing cross-sector interoperability and portability**, building on existing standards and creating European data spaces.

## AMENDMENTS

The Committee on the Internal Market and Consumer Protection 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) The Treaty on the functioning of the European Union ('TFEU') provides for the establishment of an internal market and the institution of a system ensuring that competition in the internal market is not distorted. The establishment of common rules and practices in the Member States relating to the development of a framework for data governance should contribute to the achievement of those objectives.

###### *Amendment*

(1) The Treaty on the functioning of the European Union ('TFEU') provides for the establishment of an internal market and the institution of a system ensuring that competition in the internal market is not distorted. The establishment of common rules and practices in the Member States relating to the development of a framework for data governance ***and the development of a fair and competitive genuine single market for data where businesses, in particular microenterprises, small and medium-sized enterprises (SMEs) and start-ups have facilitated access to high-quality data allowing for technological developments and innovation*** should contribute to the achievement of those objectives.

### Amendment 2

## Proposal for a regulation

### Recital 2

#### *Text proposed by the Commission*

(2) Over the last few years, digital technologies have transformed the economy and society, affecting all sectors of activity and daily life. Data is at the centre of this transformation: data-driven innovation will bring enormous benefits for **citizens**, for example through improved personalised medicine, new mobility, and its contribution to the European Green Deal<sup>23</sup>. In its Data Strategy<sup>24</sup>, the Commission described the vision of a common European data space, a Single Market for data in which data could be used irrespective of its physical location of storage in the Union in compliance with applicable law. It also called for the free and safe flow of data with third countries, subject to exceptions and restrictions for public security, public order and other legitimate public policy objectives of the European Union, in line with international obligations. In order to turn that vision into reality, it proposes to establish domain-specific common European data spaces, as the concrete arrangements in which data sharing and data pooling can happen. As foreseen in that strategy, such common European data spaces can cover areas such as health, mobility, manufacturing, financial services, energy, or agriculture or thematic areas, such as the European green deal or European **data spaces** for public administration or skills.

#### *Amendment*

(2) Over the last few years, digital technologies have transformed the economy and society, affecting all sectors of activity and daily life. Data is at the centre of this transformation: data-driven innovation will bring enormous benefits for **both businesses and consumers**, for example through improved personalised medicine, new mobility, and its contribution to the European Green Deal<sup>23</sup>. In its Data Strategy<sup>24</sup>, the Commission described the vision of a common European data space, a Single Market for data in which data could be used irrespective of its physical location of storage in the Union in compliance with applicable law **and will facilitate and enhance access to and the use of data, especially for microenterprises, SMEs and start-ups**. It also called for the free and safe flow of **non-personal** data with third countries, subject to exceptions and restrictions for public security, public order and other legitimate public policy objectives of the European Union, in line with international obligations. In order to turn that vision into reality **and to increase flows of non-personal data between businesses, relevant stakeholders and the public sector within the internal market**, it proposes to establish domain-specific common European data spaces, as the concrete arrangements in which data sharing and data pooling can happen. As foreseen in that strategy, such common European data spaces can cover areas such as health, mobility, manufacturing, financial services, energy, or agriculture or thematic areas, such as the European green deal or European **dataspaces** for public administration or skills. **They should be designed in full compliance with the principles of the Regulation on the free flow of non-personal data and should, as**

*a matter of principle and where possible, be based on existing regulatory and technical standards for interoperability, portability and openness, such as those already developed under the European Cloud infrastructure initiative Gaia-X or similar projects.*

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<sup>23</sup> Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions on the European Green Deal. Brussels, 11.12.2019. (COM(2019) 640 final)

<sup>24</sup> COM (2020) 66 final.

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<sup>23</sup> Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions on the European Green Deal. Brussels, 11.12.2019. (COM(2019) 640 final)

<sup>24</sup> COM (2020) 66 final.

### Amendment 3

#### Proposal for a regulation

##### Recital 3

*Text proposed by the Commission*

(3) It is necessary to improve the conditions for data sharing in the internal market, by creating a harmonised framework for data exchanges. Sector-specific legislation can develop, adapt and propose new and complementary elements, depending on the specificities of the sector, such as the envisaged legislation on the European health data space<sup>25</sup> and on access to vehicle data. Moreover, certain sectors of the economy are already regulated by sector-specific Union law that include rules relating to cross-border or Union wide sharing or access to data<sup>26</sup>. This Regulation is therefore without prejudice to Regulation (EU) 2016/679 of the European Parliament and of the Council (<sup>27</sup>), and in particular the implementation of this Regulation shall not prevent cross border transfers of data in accordance with Chapter V of Regulation (EU) 2016/679 from taking place, Directive (EU)

*Amendment*

(3) It is necessary ***to create a genuine single market for data by ensuring a level playing field and*** to improve the conditions for data sharing in the internal market ***in order to facilitate access to data for all relevant stakeholders, especially for microenterprises, SMEs and start-ups,*** by creating a harmonised framework for data exchanges. Sector-specific legislation can develop, adapt and propose new and complementary elements, depending on the specificities of the sector, such as the envisaged legislation on the European health data space<sup>25</sup> and on access to vehicle data. Moreover, certain sectors of the economy are already regulated by sector-specific Union law that include rules relating to cross-border or Union wide sharing or access to data<sup>26</sup>. This Regulation is therefore without prejudice to Regulation (EU) 2016/679 of the European Parliament and of the Council (<sup>27</sup>), and in

2016/680 of the European Parliament and of the Council <sup>(28)</sup> ), Directive (EU) 2016/943 of the European Parliament and of the Council <sup>(29)</sup> ), Regulation (EU) 2018/1807 of the European Parliament and of the Council <sup>(30)</sup> ), Regulation (EC) No 223/2009 of the European Parliament and of the Council <sup>(31)</sup> ), Directive 2000/31/EC of the European Parliament and of the Council <sup>(32)</sup> ), Directive 2001/29/EC of the European Parliament and of the Council <sup>(33)</sup> ), Directive (EU) 2019/790 of the European Parliament and of the Council <sup>(34)</sup> ), Directive 2004/48/EC of the European Parliament and of the Council <sup>(35)</sup> ), Directive (EU) 2019/1024 of the European Parliament and of the Council <sup>(36)</sup> ), as well as Regulation 2018/858/EU of the European Parliament and of the Council <sup>(37)</sup> ), Directive 2010/40/EU of the European Parliament and of the Council <sup>(38)</sup> ) and Delegated Regulations adopted on its basis, and any other sector-specific Union legislation that organises the access to and re-use of data. This Regulation should be without prejudice to the access and use of data for the purpose of international cooperation in the context of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties. A horizontal regime for the re-use of certain categories of protected data held by public sector bodies, the provision of data sharing services and of services based on data altruism in the Union should be established. Specific characteristics of different sectors may require the design of sectoral data-based systems, while building on the requirements of this Regulation. Where a sector-specific Union legal act requires public sector bodies, **providers of data sharing services** or registered entities providing data altruism services to comply with specific additional technical, administrative or organisational requirements, including through an authorisation or certification regime, those provisions of that sector-specific Union

particular the implementation of this Regulation shall not prevent cross border transfers of data in accordance with Chapter V of Regulation (EU) 2016/679 from taking place, Directive (EU) 2016/680 of the European Parliament and of the Council <sup>(28)</sup> ), Directive (EU) 2016/943 of the European Parliament and of the Council <sup>(29)</sup> ), Regulation (EU) 2018/1807 of the European Parliament and of the Council <sup>(30)</sup> ), Regulation (EC) No 223/2009 of the European Parliament and of the Council <sup>(31)</sup> ), Directive 2000/31/EC of the European Parliament and of the Council <sup>(32)</sup> ), Directive 2001/29/EC of the European Parliament and of the Council <sup>(33)</sup> ), Directive (EU) 2019/790 of the European Parliament and of the Council <sup>(34)</sup> ), Directive 2004/48/EC of the European Parliament and of the Council <sup>(35)</sup> ), Directive (EU) 2019/1024 of the European Parliament and of the Council <sup>(36)</sup> ), as well as Regulation 2018/858/EU of the European Parliament and of the Council <sup>(37)</sup> ), Directive 2010/40/EU of the European Parliament and of the Council <sup>(38)</sup> ) and Delegated Regulations adopted on its basis, and any other sector-specific Union legislation that organises the access to and re-use of data. This Regulation should be without prejudice to the access and use of data for the purpose of international cooperation in the context of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties. ***This Regulation should be without prejudice to the competences of the Member States regarding activities concerning public security, defence and national security.*** A horizontal regime for the re-use of certain categories of protected data held by public sector bodies, the provision of data sharing services and of services based on data altruism in the Union should be established. Specific characteristics of different sectors may require the design of sectoral data-based systems, while building on the requirements of this Regulation. Where a

legal act should also apply.

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<sup>25</sup> See: Annexes to the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Commission Work Programme 2021 (COM(2020) 690 final).

<sup>26</sup> For example, Directive 2011/24/EU in the context of the European Health Data Space, and relevant transport legislation such as Directive 2010/40/EU, Regulation 2019/1239 and Regulation (EU) 2020/1056, in the context of the European Mobility Data Space.

<sup>27</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), (OJ L 119, 4.5.2016, p.1)

<sup>28</sup> Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA. (OJ L 119, 4.5.2016, p.89)

<sup>29</sup> Directive (EU) 2016/943 of the European Parliament and of the Council of

sector-specific Union legal act requires public sector bodies, *data intermediaries* or registered entities providing data altruism services to comply with specific additional technical, administrative or organisational requirements, including through an authorisation or certification regime, those provisions of that sector-specific Union legal act should also apply.

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<sup>25</sup> See: Annexes to the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Commission Work Programme 2021 (COM(2020) 690 final).

<sup>26</sup> For example, Directive 2011/24/EU in the context of the European Health Data Space, and relevant transport legislation such as Directive 2010/40/EU, Regulation 2019/1239 and Regulation (EU) 2020/1056, in the context of the European Mobility Data Space.

<sup>27</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), (OJ L 119, 4.5.2016, p.1)

<sup>28</sup> Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA. (OJ L 119, 4.5.2016, p.89)

<sup>29</sup> Directive (EU) 2016/943 of the European Parliament and of the Council of

8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure. (OJ L 157, 15.6.2016, p.1)

<sup>30</sup> Regulation (EU) 2018/1807 of the European Parliament and of the Council of 14 November 2018 on a framework for the free flow of non-personal data in the European Union. (OJ L 303, 28.11.2018, p. 59)

<sup>31</sup> Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities. (OJ L 87, 31.03.2009, p. 164)

<sup>32</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000, on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce). (OJ L 178, 17.07.2000, p. 1)

<sup>33</sup> Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society. (OJ L 167, 22.6.2001, p. 10)

<sup>34</sup> Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC. (OJ L 130, 17.5.2019, p. 92)

<sup>35</sup> Directive 2004/48/EC of the European

8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure. (OJ L 157, 15.6.2016, p.1)

<sup>30</sup> Regulation (EU) 2018/1807 of the European Parliament and of the Council of 14 November 2018 on a framework for the free flow of non-personal data in the European Union. (OJ L 303, 28.11.2018, p. 59)

<sup>31</sup> Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities. (OJ L 87, 31.03.2009, p. 164)

<sup>32</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000, on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce). (OJ L 178, 17.07.2000, p. 1)

<sup>33</sup> Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society. (OJ L 167, 22.6.2001, p. 10)

<sup>34</sup> Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC. (OJ L 130, 17.5.2019, p. 92)

<sup>35</sup> Directive 2004/48/EC of the European

Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights. (OJ L 157, 30.4.2004).

<sup>36</sup> 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).

<sup>37</sup> Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (OJ L 151, 14.6.2018).

<sup>38</sup> Directive 2010/40/EU of the European Parliament and of the Council of 7 July 2010 on the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other modes of transport. (OJ L 207, 6.8.2010, p. 1)

Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights. (OJ L 157, 30.4.2004).

<sup>36</sup> 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).

<sup>37</sup> Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (OJ L 151, 14.6.2018).

<sup>38</sup> Directive 2010/40/EU of the European Parliament and of the Council of 7 July 2010 on the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other modes of transport. (OJ L 207, 6.8.2010, p. 1)

#### Amendment 4

##### Proposal for a regulation Recital 3 a (new)

*Text proposed by the Commission*

*Amendment*

***(3a) Union and national law on the protection of personal and non-personal data should apply to data processed under this Regulation. Therefore, this Regulation should be without prejudice to Regulation (EU) 2016/679, Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>1a</sup> and Directive 2002/58/EC of the European Parliament and of the Council<sup>1b</sup>.***

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<sup>1a</sup> ***Regulation (EU) 2018/1725 of the***

*European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39)*

*<sup>1b</sup> Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37)*

## Amendment 5

### Proposal for a regulation Recital 4

*Text proposed by the Commission*

(4) Action at Union level is necessary in order to address the barriers to a well-functioning data-driven economy **and to create** a Union-wide governance framework for data access and use, in particular regarding the re-use of certain types of data held by the public sector, the provision of services by data **sharing providers** to business users and to data subjects, **as well as** the collection and processing of data made available for altruistic purposes by natural and legal persons.

*Amendment*

(4) Action at Union level is necessary in order **to build trust among individuals and companies and** to address the barriers to a well-functioning data-driven economy **by creating** a Union-wide governance framework for data access and use, in particular regarding the re-use of certain types of data held by the public sector, the provision of services by data **intermediaries** to business users and to data subjects, the collection and processing of data made available for altruistic purposes by natural and legal persons, **and for the establishment of a European Data Innovation Board. It is furthermore crucial to ensure access to high-quality data sets for the development and training of effective, properly functioning and unbiased artificial intelligence (AI) systems, as well as effective access to data on the edge, which includes addressing interoperability challenges coming from**

*the unprecedented scale and the distributed nature of edge computing.*

## Amendment 6

### Proposal for a regulation

#### Recital 5

##### *Text proposed by the Commission*

(5) The idea that data that has been generated at the expense of public budgets should benefit society has been part of Union policy for a long time. Directive (EU) 2019/1024 as well as sector-specific legislation ensure that the public sector makes more of the data it produces easily available for use and re-use. However, certain categories of data (commercially confidential data, data subject to statistical confidentiality, data protected by intellectual property rights of third parties, including trade secrets and personal data not accessible on the basis of specific national or Union legislation, such as Regulation (EU) 2016/679 and Directive (EU) 2016/680) in public databases is often not made available, not even for research or innovative activities. Due to the sensitivity of this data, certain technical and legal procedural requirements must be met before they are made available, in order to ensure the respect of rights others have over such data. Such requirements are usually time- and knowledge-intensive to fulfil. This has led to the underutilisation of such data. While some Member States are setting up structures, processes and sometimes legislate to facilitate this type of re-use, this is not the case across the Union.

##### *Amendment*

(5) The idea that data that has been generated at the expense of public budgets should benefit society has been part of Union policy for a long time. Directive (EU) 2019/1024 as well as sector-specific legislation ensure that the public sector makes more of the data it produces easily available for use and re-use. However, certain categories of data (commercially confidential data, data subject to statistical confidentiality, data protected by intellectual property rights of third parties, including trade secrets and personal data not accessible on the basis of specific national or Union legislation, such as Regulation (EU) 2016/679 and Directive (EU) 2016/680) in public databases is often not made available, not even for research or innovative activities. Due to the sensitivity of this data, certain technical and legal procedural requirements must be met before they are made available, in order to ensure the respect of rights others have over such data. Such *legitimate* requirements are usually time- and knowledge-intensive to fulfil. This has led to the underutilisation of such data. While some Member States are setting up structures, processes and sometimes legislate to facilitate this type of re-use, this is not the case across the Union.

***Therefore, the Member States are encouraged to ensure better access to and clear and transparent conditions for re-use of certain categories of public sector data that could be re-used in a secure and user-friendly manner as well as to ensure***

*the improved and enhanced usability of such data, especially for microenterprises, SMEs and start-ups.*

## Amendment 7

### Proposal for a regulation

#### Recital 6

##### *Text proposed by the Commission*

(6) There are techniques enabling privacy-friendly analyses on databases that contain personal data, such as anonymisation, pseudonymisation, differential privacy, generalisation, or suppression and randomisation. Application of these privacy-enhancing technologies, together with comprehensive data protection approaches should ensure the safe re-use of personal data and commercially confidential business data for research, innovation and statistical purposes. In many cases this implies that the data use and re-use in this context can only be done in a secure processing environment set in place and supervised by the public sector. There is experience at Union level with such secure processing environments that are used for research on statistical microdata on the basis of Commission Regulation (EU) 557/2013 <sup>(39)</sup> ). In general, insofar as personal data are concerned, the processing of personal data should rely upon one or more of the grounds for processing provided in Article 6 of Regulation (EU) 2016/679.

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<sup>39</sup> Commission Regulation (EU) 557/2013 of 17 June 2013 implementing Regulation (EC) No 223/2009 of the European Parliament and of the Council on European Statistics as regards access to confidential data for scientific purposes and repealing Commission Regulation (EC) No 831/2002

##### *Amendment*

(6) There are techniques enabling privacy-friendly analyses on databases that contain personal data, such as anonymisation, pseudonymisation, differential privacy, generalisation, or suppression and randomisation. Application of these privacy-enhancing technologies, together with comprehensive data protection approaches should ***be prioritised in order to ensure privacy by design and by default, permitting*** the safe re-use of personal data and commercially confidential business data for research, innovation and statistical purposes. In many cases this implies that the data use and re-use in this context can only be done in a secure processing environment set in place and supervised by the public sector. There is experience at Union level with such secure processing environments that are used for research on statistical microdata on the basis of Commission Regulation (EU) 557/2013 <sup>(39)</sup> ). In general, insofar as personal data are concerned, the processing of personal data should rely upon one or more of the grounds for processing provided in Article 6 of Regulation (EU) 2016/679.

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<sup>39</sup> Commission Regulation (EU) 557/2013 of 17 June 2013 implementing Regulation (EC) No 223/2009 of the European Parliament and of the Council on European Statistics as regards access to confidential data for scientific purposes and repealing Commission Regulation (EC) No 831/2002

## Amendment 8

### Proposal for a regulation

#### Recital 9

##### *Text proposed by the Commission*

(9) Public sector bodies should comply with competition law when establishing the principles for re-use of data they hold, avoiding *as far as possible* the conclusion of agreements, which might have as their objective or effect the creation of exclusive rights for the re-use of certain data. Such agreement should be only possible when justified and necessary for the provision of a service of general interest. This may be the case when exclusive use of the data is the only way to maximise the societal benefits of the data in question, for example where there is only one entity (which has specialised in the processing of a specific dataset) capable of delivering the service or the product which allows the public sector body to provide an advanced digital service in the general interest. Such arrangements should, however, be concluded in compliance with public procurement rules and be subject to regular review based on a market analysis in order to ascertain whether such exclusivity continues to be necessary. In addition, such arrangements should comply with the relevant State aid rules, as appropriate, and should be concluded for a limited period, which should not exceed *three* years. In order to ensure transparency, such exclusive agreements should be published online, regardless of a possible publication of an award of a public procurement contract.

##### *Amendment*

(9) Public sector bodies should comply with competition law when establishing the principles for re-use of data they hold, avoiding the conclusion of agreements, which might have as their objective or effect the creation of exclusive rights for the re-use of certain data. Such agreement should be only possible when justified and necessary for the provision of a service of general interest. This may be the case when exclusive use of the data is the only way to maximise the societal benefits of the data in question, for example where there is only one entity (which has specialised in the processing of a specific dataset) capable of delivering the service or the product which allows the public sector body to provide an advanced digital service in the general interest. Such arrangements should, however, be concluded in compliance with public procurement rules and be subject to regular review based on a market analysis in order to ascertain whether such exclusivity continues to be necessary. In addition, such arrangements should comply with the relevant State aid rules, as appropriate, and should be concluded for a limited period, which should not exceed *two* years. ***Any exclusive right to the re-use of data that does not meet the conditions set out in this Regulation should be invalid.*** In order to ensure transparency, such exclusive agreements should be published online ***at least two months before their entry into force***, regardless of a possible publication of an award of a public procurement contract. ***This Regulation should not be***

*understood as preventing data licensors to public sector bodies from concluding agreements, which limit the re-use of such licenced data, where a data license addresses the manner of delivery, maintenance and control of the data, as well as data security policies, practices and protocols.*

## Amendment 9

### Proposal for a regulation Recital 10

*Text proposed by the Commission*

(10) Prohibited exclusive agreements and other practices or arrangements between data holders and data re-users which do not expressly grant exclusive rights but which can reasonably be expected to **restrict** the availability of data for re-use that have been concluded or have been already in place before the entry into force of this Regulation should not be renewed after the expiration of their term. In the case of indefinite or longer-term agreements, they should be terminated within three years from the date of entry into force of this Regulation.

*Amendment*

(10) Prohibited exclusive agreements and other practices or arrangements between data holders and data re-users **and pertaining to the re-use of data held by public sector bodies**, which do not expressly grant exclusive rights but which can reasonably be expected to **hamper the functioning of the internal market by restricting** the availability of data for re-use that have been concluded or have been already in place before the entry into force of this Regulation should not be renewed after the expiration of their term. In the case of indefinite or longer-term agreements, they should be terminated within three years from the date of entry into force of this Regulation.

## Amendment 10

### Proposal for a regulation Recital 11

*Text proposed by the Commission*

(11) Conditions for re-use of protected data that apply to public sector bodies competent under national law to allow re-use, and which should be without prejudice to rights or obligations concerning access

*Amendment*

(11) **It is necessary to establish conditions** for re-use of protected data that apply to public sector bodies competent under national law to allow re-use, and which should be without prejudice to rights

to such data, ***should be laid down***. Those conditions should be non-discriminatory, proportionate and objectively justified, while not restricting competition. In particular, public sector bodies allowing re-use should have in place the technical means necessary to ensure the protection of rights and interests of third parties. Conditions attached to the re-use of data should be limited to what is necessary to preserve the rights and interests of others in the data and the integrity of the information technology and communication systems of the public sector bodies. Public sector bodies should apply conditions which best serve the interests of the re-user without ***leading to*** a disproportionate effort for the public sector. Depending on the case at hand, before its transmission, personal data should be fully anonymised, so as to definitively not allow the identification of the data subjects, or data containing commercially confidential information modified in such a way that no confidential information is disclosed. Where provision of anonymised or modified data would not respond to the needs of the re-user, on-premise or remote re-use of the data within a secure processing environment could be permitted. Data analyses in such secure processing environments should be supervised by the public sector body, so as to protect the rights and interests of others. In particular, personal data should only be transmitted for re-use to a third party where a legal basis allows such transmission. The public sector body could make the use of such secure processing environment conditional on the signature by the re-user of a confidentiality agreement that prohibits the disclosure of any information that jeopardises the rights and interests of third parties that the re-user may have acquired despite the safeguards put in place. The public sector bodies, where relevant, should facilitate the re-use of data on the basis of consent of data subjects or permissions of legal persons on the re-use of data pertaining to them through

or obligations concerning access to such data. Those conditions should be ***transparent, lawful, clearly indicated***, non-discriminatory, proportionate and objectively justified, while not restricting competition. In particular, public sector bodies allowing re-use should have in place the technical means necessary to ensure the protection of rights and interests of third parties. Conditions attached to the re-use of data should be limited to what is necessary to preserve the rights and interests of others in the data and the integrity of the information technology and communication systems of the public sector bodies. Public sector bodies should apply conditions which best serve the interests of the re-user without ***requiring*** a disproportionate effort for the public sector. Depending on the case at hand, before its transmission, personal data should be fully anonymised, so as to definitively not allow the identification of the data subjects, or data containing commercially confidential information modified in such a way that no confidential information is disclosed. ***Safeguards against the de-anonymisation and identification of natural persons should be provided for. Moreover, companies should not have direct access to protected data and, as a consequence, de-anonymisation should not be carried out by them.*** Where provision of anonymised or modified data would not respond to the needs of the re-user, on-premise or remote re-use of the data within a secure processing environment could be permitted. Data analyses in such secure processing environments should be supervised by the public sector body, so as to protect the rights and interests of others. In particular, personal data should only be transmitted for re-use to a third party where a legal basis allows such transmission. The public sector body could make the use of such secure processing environment conditional on the signature by the re-user of a confidentiality agreement that

adequate technical means. In this respect, the public sector body *should* support potential re-users in seeking such consent by establishing technical mechanisms that permit transmitting requests for consent from re-users, where practically feasible. No contact information should be given that allows re-users to contact data subjects or companies directly.

prohibits the disclosure of any information that jeopardises the rights and interests of third parties that the re-user may have acquired despite the safeguards put in place. The public sector bodies, where relevant, should facilitate the re-use of data on the basis of consent of data subjects or permissions of legal persons on the re-use of data pertaining to them through *the use of* adequate technical means. In this respect, the public sector body *could* support potential re-users in seeking such consent by establishing technical mechanisms that permit transmitting requests for consent from re-users, where practically feasible. No contact information should be given that allows re-users to contact data subjects or companies directly. *When transmitting the request to consent, the public sector body should ensure that the data subject is clearly informed about the implications involved in giving consent, the possibility to refuse such a request, and to subsequently easily revoke it at any time.*

## Amendment 11

### Proposal for a regulation Recital 14

#### *Text proposed by the Commission*

(14) Companies and data subjects should be able to trust that the re-use of certain categories of protected data, which are held by the public sector, will take place in a manner that respects their rights and interests. Additional safeguards should thus be put in place for situations in which the re-use of such public sector data is taking place on the basis of a processing of the data outside the public sector. Such an additional safeguard could be found in the requirement that public sector bodies should *take fully into account* the rights and interests of natural and legal persons (in particular the protection of personal

#### *Amendment*

(14) Companies and data subjects should be able to trust that the re-use of certain categories of protected data, which are held by the public sector, will take place in a manner that respects their rights and interests. Additional safeguards should thus be put in place for situations in which the re-use of such public sector data is taking place on the basis of a processing of the data outside the public sector. Such an additional safeguard could be found in the requirement that public sector bodies should fully *respect* the rights and interests of natural and legal persons (in particular the protection of personal data,

data, commercially sensitive data and the protection of intellectual property rights) in case such data is transferred to third countries.

commercially sensitive data and the protection of intellectual property rights) in case such data is transferred to third countries. ***Re-users located in a third country, except for scientific establishments working on a not-for-profit basis, should designate a legal representative on the territory of the Union for the purposes of re-use of certain categories of protected data, which are held by the public sector.***

## Amendment 12

### Proposal for a regulation Recital 15

#### *Text proposed by the Commission*

(15) Furthermore, it is important to protect commercially sensitive data of non-personal nature, notably trade secrets, but also non-personal data representing content protected by intellectual property rights from unlawful access that may lead to IP theft or industrial espionage. In order to ensure the protection of fundamental rights or interests of data holders, non-personal data which is to be protected from unlawful or unauthorised access under Union or national law, and which is held by public sector bodies, should be transferred only to third-countries where appropriate safeguards for the use of data are provided. Such appropriate safeguards should be considered to exist when in that third-country there are equivalent measures in place which ensure that non-personal data benefits from a level of protection similar to that applicable by means of Union or national law in particular as regards the protection of trade secrets and the protection of intellectual property rights. To that end, the Commission may adopt implementing acts that declare that a third country provides a level of protection that is essentially equivalent to those provided by Union or national law. The assessment

#### *Amendment*

(15) Furthermore, it is important to protect commercially sensitive data of non-personal nature, notably trade secrets, but also non-personal data representing content protected by intellectual property rights from unlawful access that may lead to IP theft or industrial espionage. In order to ensure the protection of fundamental rights or interests of data holders, non-personal data which is to be protected from unlawful or unauthorised access under Union or national law, and which is held by public sector bodies, should be transferred only to third-countries where appropriate safeguards for the use of data are provided. Such appropriate safeguards should be considered to exist when in that third-country there are equivalent measures in place which ensure that non-personal data benefits from a level of protection similar to that applicable by means of Union or national law in particular as regards the protection of trade secrets and the protection of intellectual property rights. To that end, the Commission may adopt implementing acts that declare that a third country provides a level of protection that is essentially equivalent to those provided by Union or national law. ***Additionally, if***

of the level of protection afforded in such third-country should, in particular, take into consideration the relevant legislation, both general and sectoral, including concerning public security, defence, national security and criminal law concerning the access to and protection of non-personal data, any access by the public authorities of that third country to the data transferred, the existence and effective functioning of one or more independent supervisory authorities in the third country with responsibility for ensuring and enforcing compliance with the legal regime ensuring access to such data, or the third countries' international commitments regarding the protection of data the third country concerned has entered into, or other obligations arising from legally binding conventions or instruments as well as from its participation in multilateral or regional systems. The existence of effective legal remedies for data holders, public sector bodies or data *sharing providers* in the third country concerned is of particular importance in the context of the transfer of non-personal data to that third country. Such safeguards should therefore include the availability of enforceable rights and of effective legal remedies.

*there is any information about worrying cases concerning the re-use of non-personal data in third countries, the Commission should take it into account when considering the adoption of implementing acts.* The assessment of the level of protection afforded in such third-country should, in particular, take into consideration the relevant legislation, both general and sectoral, including concerning public security, defence, national security and criminal law concerning the access to and protection of non-personal data, any access by the public authorities of that third country to the data transferred, the existence and effective functioning of one or more independent supervisory authorities in the third country with responsibility for ensuring and enforcing compliance with the legal regime ensuring access to such data, or the third countries' international commitments regarding the protection of data the third country concerned has entered into, or other obligations arising from legally binding conventions or instruments as well as from its participation in multilateral or regional systems. The existence of effective legal remedies for data holders, public sector bodies or data *intermediaries* in the third country concerned is of particular importance in the context of the transfer of non-personal data to that third country. Such safeguards should therefore include the availability of enforceable rights and of effective legal remedies.

## **Amendment 13**

### **Proposal for a regulation Recital 17**

#### *Text proposed by the Commission*

(17) Some third countries adopt laws, regulations and other legal acts which aim at directly transferring or providing access to non-personal data in the Union under the

#### *Amendment*

(17) Some third countries adopt laws, regulations and other legal acts which aim at directly transferring or providing access to non-personal data in the Union under the

control of natural and legal persons under the jurisdiction of the Member States. Judgments of courts or tribunals or decisions of administrative 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 some cases, situations may arise where the obligation to transfer or provide access to non-personal data arising from a third country law conflicts with a competing obligation to protect such data under Union or national law, in particular as regards the protection of commercially sensitive data 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 under certain conditions, in particular that the third-country 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 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.

control of natural and legal persons under the jurisdiction of the Member States. Judgments of courts or tribunals or decisions of administrative 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. ***The public sector bodies, natural and legal entities, data intermediaries and data altruism organisations which have granted or have been granted the right to exchange or re-use data, should ensure that the transfer of data to third countries fully comply with Union and national law.*** In some cases, situations may arise where the obligation to transfer or provide access to non-personal data arising from a third country law conflicts with a competing obligation to protect such data under Union or national law, in particular as regards the protection of commercially sensitive data 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 under certain conditions, in particular that the third-country 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 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.

## **Amendment 14**

### **Proposal for a regulation Recital 18**

*Text proposed by the Commission*

(18) In order to prevent unlawful access to non-personal data, public sector bodies, natural or legal persons to which the right to re-use data was granted, data **sharing providers** and entities entered in the register of recognised data altruism organisations should take all reasonable measures to prevent access to the systems where non-personal data is stored, including encryption of data or corporate policies.

*Amendment*

(18) In order to prevent unlawful access to non-personal data, public sector bodies, natural or legal persons to which the right to re-use data was granted, data **intermediaries** and entities entered in the register of recognised data altruism organisations should take all reasonable measures to prevent access to the systems where non-personal data is stored, including encryption of data or corporate policies.

## **Amendment 15**

### **Proposal for a regulation**

#### **Recital 19**

*Text proposed by the Commission*

(19) In order to build trust in re-use mechanisms, it may be necessary to attach stricter conditions for certain types of non-personal data that have been identified as highly sensitive, as regards the transfer to third countries, if such transfer could jeopardise public policy objectives, in line with international commitments. For example, in the health domain, certain datasets held by actors in the public health system, such as public hospitals, could be identified as highly sensitive health data. In order to ensure harmonised practices across the Union, such types of highly sensitive non-personal public data should be defined by Union law, for example in the context of the European Health Data Space or other sectoral legislation. The conditions attached to the transfer of such data to third countries should be laid down in delegated acts. Conditions should be proportionate, non-discriminatory and necessary to protect legitimate public policy objectives **identified**, such as the protection of public health, public order, safety, the environment, public morals, consumer

*Amendment*

(19) In order to build trust in re-use mechanisms, it may be necessary to attach stricter conditions for certain types of non-personal data that have been identified as highly sensitive **according to Union law**, as regards the transfer to third countries, if such transfer could jeopardise public policy objectives, in line with international commitments. For example, in the health domain, certain datasets held by actors in the public health system, such as public hospitals, could be identified as highly sensitive health data. In order to ensure harmonised practices across the Union, such types of highly sensitive non-personal public data should be defined by Union law, for example in the context of the European Health Data Space or other sectoral legislation. The conditions attached to the transfer of such data to third countries should be laid down in delegated acts. Conditions should be **transparent**, proportionate, non-discriminatory and necessary to protect **clearly identified** legitimate public policy objectives, such as the protection of public health, public

protection, privacy and personal data protection. The conditions should correspond to the risks identified in relation to the sensitivity of such data, including in terms of the risk of the re-identification of individuals. These conditions could include terms applicable for the transfer or technical arrangements, such as the requirement of using a secure processing environment, limitations as regards the re-use of data in third-countries or categories of persons which are entitled to transfer such data to third countries or who can access the data in the third country. In exceptional cases they could also include restrictions on transfer of the data to third countries to protect the public interest.

order, safety, the environment, public morals, consumer protection, privacy and personal data protection. The conditions should correspond to the risks identified in relation to the sensitivity of such data, including in terms of the risk of the re-identification of individuals. These conditions could include terms applicable for the transfer or technical arrangements, such as the requirement of using a secure processing environment, limitations as regards the re-use of data in third-countries or categories of persons which are entitled to transfer such data to third countries or who can access the data in the third country. In exceptional cases they could also include restrictions on transfer of the data to third countries to protect the public interest.

## Amendment 16

### Proposal for a regulation

#### Recital 20

##### *Text proposed by the Commission*

(20) Public sector bodies should be able to charge fees for the re-use of data **but** should also be able to decide to make the data available at lower or no cost, for example for certain categories of re-uses such as non-commercial re-use, or re-use by ***small and medium-sized enterprises***, so as to incentivise such re-use in order to stimulate research and innovation and support companies that are an important source of innovation and typically find it more difficult to collect relevant data themselves, in line with State aid rules. ***Such fees should be reasonable, transparent, published online and non-discriminatory.***

##### *Amendment*

(20) Public sector bodies should be able to charge ***cost-based*** fees for the re-use of data. ***Such fees should be transparent, reasonable and non-discriminatory and should be published online, and should cover the costs of monitoring and enforcement. Public sector bodies*** should also be able to decide to make the data available at lower or no cost, for example for certain categories of re-uses such as non-commercial re-use, or re-use by ***microenterprises, SMEs and start-ups*** so as to incentivise such re-use in order to stimulate research and innovation and support companies that are an important source of innovation and typically find it more difficult to collect relevant data themselves. ***The list of categories of re-users for which discounted or no fees apply should be made public together with the criteria used to establish such list, in***

line with State aid rules *and competition law*.

## Amendment 17

### Proposal for a regulation

#### Recital 25

*Text proposed by the Commission*

(25) In order to increase trust in such data sharing services, in particular related to the use of data and the compliance with the conditions imposed by data holders, it is necessary to create a Union-level regulatory framework, which would set out highly harmonised requirements related to the trustworthy provision of such data sharing services. This will contribute to ensuring that data holders and data users have better control over the access to and use of their data, in accordance with Union law. Both in situations where data sharing occurs in a business-to-business context and where it occurs in a business-to-consumer context, data sharing providers should offer a novel, ‘European’ way of data governance, by providing a separation in the data economy between data provision, intermediation and use. Providers of data sharing services may also make available specific technical infrastructure for the interconnection of data holders and data users.

*Amendment*

(25) In order to increase trust in such data sharing services, in particular related to the use of data and the compliance with the conditions imposed by data holders, it is necessary to create a Union-level regulatory framework, which would set out highly harmonised requirements related to the trustworthy *and non-discriminatory* provision of such data sharing services. This will contribute to ensuring that data holders and data users have better control over the access to and use of their data, in accordance with Union law. Both in situations where data sharing occurs in a business-to-business context and where it occurs in a business-to-consumer context, data sharing providers should offer a novel, ‘European’ way of data governance, by providing a separation in the data economy between data provision, intermediation and use. Providers of data sharing services may also make available specific technical infrastructure for the interconnection of data holders and data users.

## Amendment 18

### Proposal for a regulation

#### Recital 26

*Text proposed by the Commission*

(26) A key element to bring trust and more control for data holder and data users in data sharing services is the neutrality of data *sharing service providers* as regards

*Amendment*

(26) A key element to bring trust and more control for data holder and data users in data sharing services is the neutrality of data *intermediaries* as regards the data

the data exchanged between data holders and data users. It is therefore necessary that data **sharing service providers** act only as intermediaries in the transactions, and do not use the data exchanged for any other purpose. This will also require structural separation between the data sharing service and any other services provided, so as to avoid issues of conflict of interest. This means that the data sharing service should be provided through a legal entity that is separate from the other activities of that data **sharing provider**. **Data sharing providers** that intermediate the exchange of data between individuals as data holders and legal persons should, in addition, bear fiduciary duty towards the individuals, to ensure that they act in the best interest of the data holders.

exchanged between data holders and data users. It is therefore necessary that data **intermediaries** act only as intermediaries in the transactions, and do not use the data exchanged for any other purpose. This will also require structural separation between the data sharing service and any other services provided, so as to avoid issues of conflict of interest. This means that the data sharing service should be provided through a legal entity that is separate from the other activities of that data **intermediary**. **Data intermediaries should comply with a number of other conditions in order to ensure trust, including sufficient guarantees in the case of insolvency. Where a data intermediary provides additional data-related services, the pricing and terms of the data intermediation services should not be influenced by whether and to what extent these additional services are being used. Furthermore, data intermediaries should compensate data holders in the case of a loss of data.** **Data intermediaries** that intermediate the exchange of data between individuals as data holders and legal persons should, in addition, bear fiduciary duty towards the individuals, to ensure that they act in the best interest of the data holders.

## Amendment 19

### Proposal for a regulation

#### Recital 27

##### *Text proposed by the Commission*

(27) In order to ensure the compliance of **the providers of data sharing services** with the conditions set out in this Regulation, such **providers** should have a place of establishment in the Union. Alternatively, where a **provider of data sharing services** not established in the Union offers services within the Union, it should designate a representative.

##### *Amendment*

(27) In order to ensure the compliance of **data intermediaries** with the conditions set out in this Regulation, such **intermediaries** should have a place of establishment in the Union. Alternatively, where a **data intermediary** not established in the Union offers services within the Union, it should designate a representative. Designation of a representative is

Designation of a representative is necessary, given that such **providers of data sharing services** handle personal data as well as commercially confidential data, which necessitates the close monitoring of the compliance of **such service providers** with the conditions laid out in this Regulation. In order to determine whether such a **provider of data sharing services** is offering services within the Union, it should be ascertained whether it is apparent that the **provider of data sharing services** is planning to offer services to persons in one or more Member States. The mere accessibility in the Union of the website or of an email address and of other contact details of the **provider of data sharing services**, or the use of a language generally used in the third country where the **provider of data sharing services** is established, should be considered insufficient to ascertain such an intention. However, factors such as the use of a language or a currency generally used in one or more Member States with the possibility of ordering services in that other language, or the mentioning of users who are in the Union, may make it apparent that the **provider of data sharing services** is planning to offer services within the Union. The representative should act on behalf of the **provider of data sharing services** and it should be possible for competent authorities to contact the representative. The representative should be designated by a written mandate of the **provider of data sharing services** to act on the latter's behalf with regard to the latter's obligations under this Regulation.

necessary, given that such **data intermediaries** handle personal data as well as commercially confidential data, which necessitates the close monitoring of the compliance of **data intermediaries** with the conditions laid out in this Regulation. In order to determine whether such a **data intermediary** is offering services within the Union, it should be ascertained whether it is apparent that the **data intermediary** is planning to offer services to persons in one or more Member States. The mere accessibility in the Union of the website or of an email address and of other contact details of the **data intermediary**, or the use of a language generally used in the third country where the **data intermediary** is established, should be considered insufficient to ascertain such an intention. However, factors such as the use of a language or a currency generally used in one or more Member States with the possibility of ordering services in that other language, or the mentioning of users who are in the Union, may make it apparent that the **data intermediary** is planning to offer services within the Union. The representative should act on behalf of the **data intermediary** and it should be possible for competent authorities to contact the representative. The representative should be designated by a written mandate of the **data intermediary** to act on the latter's behalf with regard to the latter's obligations under this Regulation.

## Amendment 20

### Proposal for a regulation Recital 28

*Text proposed by the Commission*

(28) This Regulation should be without

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*Amendment*

(28) This Regulation should be without

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prejudice to the obligation of **providers of data sharing services** to comply with Regulation (EU) 2016/679 and the responsibility of supervisory authorities to ensure compliance with that Regulation. Where the data **sharing service providers** are data controllers or processors in the sense of Regulation (EU) 2016/679 they are bound by the rules of that Regulation. This Regulation should be also without prejudice to the application of competition law.

prejudice to the obligation of **data intermediaries** to comply with Regulation (EU) 2016/679 and the responsibility of supervisory authorities to ensure compliance with that Regulation. Where the data **intermediaries** are data controllers or processors in the sense of Regulation (EU) 2016/679 they are bound by the rules of that Regulation. **Data subjects have a range of rights vis-à-vis such service providers, including the right to compensation in the case of material or non-material damage suffered.** This Regulation should be also without prejudice to the application of competition law.

## Amendment 21

### Proposal for a regulation

#### Recital 29

*Text proposed by the Commission*

(29) **Providers of data sharing services** should also take measures to ensure compliance with competition law. Data sharing may generate various types of efficiencies but may also lead to restrictions of competition, in particular where it includes the sharing of competitively sensitive information. This applies in particular in situations where data sharing enables businesses to become aware of market strategies of their actual or potential competitors. Competitively sensitive information typically includes information on future prices, production costs, quantities, turnovers, sales or capacities.

*Amendment*

(29) **Data intermediaries** should also take measures to ensure compliance with competition law. Data sharing may generate various types of efficiencies but may also lead to restrictions of competition, in particular where it includes the sharing of competitively sensitive information. This applies in particular in situations where data sharing enables businesses to become aware of market strategies of their actual or potential competitors. Competitively sensitive information typically includes information on future prices, production costs, quantities, turnovers, sales or capacities.

## Amendment 22

### Proposal for a regulation

#### Recital 30 a (new)

*Text proposed by the Commission*

*Amendment*

***(30a) If the competent authority has confirmed that a data intermediary complies with the requirements laid down in this Regulation, that data intermediary should be able to refer to itself as a ‘data intermediary recognised in the Union’ in its written and spoken communications. The data intermediaries should use a dedicated Union logo or QR code that provides for a link to the European register. The objective of that logo should be to provide a coherent visual identity to data intermediaries of the Union and contribute to increase trust for data holders and data users. The logo should be created and displayed with rules established in a separate implementing act.***

## **Amendment 23**

### **Proposal for a regulation Recital 30 b (new)**

*Text proposed by the Commission*

*Amendment*

***(30b) The competent authority for data intermediaries should be able to charge fees. Such fees should be transparent, proportionate and objective and be based on the administrative costs related to the monitoring of compliance and other market control activities of the competent authorities in relation to notifications of data sharing services. The competent authority for data intermediaries should be able to decide to apply reduced or no fees to microenterprises, SMEs and start-ups.***

## **Amendment 24**

**Proposal for a regulation**  
**Recital 31**

*Text proposed by the Commission*

(31) In order to support effective cross-border provision of services, the data ***sharing provider*** should be requested to send a notification only to the designated competent authority from the Member State where its main establishment is located or where its legal representative is located. Such a notification should not entail more than a mere declaration of the intention to provide such services and should be completed only by the information set out in this Regulation.

*Amendment*

(31) In order to support effective cross-border provision of services, the data ***intermediary*** should be requested to send a notification only to the designated competent authority from the Member State where its main establishment is located or where its legal representative is located. Such a notification should not entail more than a mere declaration of the intention to provide such services and should be completed only by the information set out in this Regulation.

**Amendment 25**

**Proposal for a regulation**  
**Recital 32**

*Text proposed by the Commission*

(32) The main establishment of ***a provider of data sharing services*** in the Union should be the Member State with the place of its central administration in the Union. The main establishment of ***a provider of data sharing services*** in the Union should be determined according to objective criteria and should imply the effective and real exercise of management activities.

*Amendment*

(32) The main establishment of ***data intermediary*** in the Union should be the Member State with the place of its central administration in the Union. The main establishment of ***data intermediary*** in the Union should be determined according to objective criteria and should imply the effective and real exercise of management activities.

**Amendment 26**

**Proposal for a regulation**  
**Recital 36**

*Text proposed by the Commission*

(36) Legal entities that seek to support purposes of general interest by making available relevant data based on data

*Amendment*

(36) Legal entities that seek to support purposes of general interest by making available relevant data based on data

altruism at scale and meet certain requirements, should be able to register as ‘Data Altruism Organisations recognised in the Union’. This could lead to the establishment of data repositories. As registration in a Member State would be valid across the Union, and this should facilitate cross-border data use within the Union and the emergence of data pools covering several Member States. Data subjects in this respect would consent to specific purposes of data processing, but could also consent to data processing in certain areas of research or parts of research projects as it is often not possible to fully identify the purpose of personal data processing for scientific research purposes at the time of data collection. Legal persons could give permission to the processing of their non-personal data for a range of purposes not defined at the moment of giving the permission. The voluntary compliance of such registered entities with a set of requirements should bring trust that the data made available on altruistic purposes *is serving* a general interest purpose. Such trust should result in particular from a place of establishment within the Union, as well as from the requirement that registered entities have a not-for-profit character, from transparency requirements and from specific safeguards in place to protect rights and interests of data subjects and companies. Further safeguards should include making it possible to process relevant data within a secure processing environment operated by the registered entity, oversight mechanisms such as ethics councils or boards to ensure that the data controller maintains high standards of scientific ethics, effective technical means to withdraw or modify consent at any moment, based on the information obligations of data processors under Regulation (EU) 2016/679 as well as means for data subjects to stay informed about the use of data they made available.

altruism at scale and meet certain requirements, should be able to register as ‘Data Altruism Organisations recognised in the Union’. This could lead to the establishment of data repositories. As registration in a Member State would be valid across the Union, and this should facilitate cross-border data use within the Union and the emergence of data pools covering several Member States. Data subjects in this respect would consent to specific purposes of data processing, but could also consent to data processing in certain areas of research or parts of research projects as it is often not possible to fully identify the purpose of personal data processing for scientific research purposes at the time of data collection. Legal persons could give permission to the processing of their non-personal data for a range of purposes not defined at the moment of giving the permission. The voluntary *registration as ‘Data Altruism Organisation Recognised in the Union’ and the* compliance of such registered entities with a set of requirements should bring trust that the data made available on altruistic purposes *serves* a general interest purpose *only, and should ensure that the use of such data is in strict compliance with the purpose for which consent or permission was given*. Such trust should result in particular from a place of establishment within the Union, as well as from the requirement that registered entities have a not-for-profit character, from transparency requirements and from specific safeguards in place to protect rights and interests of data subjects and companies. *Such safeguards should include the application of the rights provided for in Directive (EU) 2020/1828 of the European Parliament and of the Council<sup>a</sup> for infringements of this Regulation and should guarantee that legal entities will not use misleading marketing practices to solicit donations of data*. Further safeguards should include making it possible to process relevant data

within a secure processing environment operated by the registered entity, oversight mechanisms such as ethics councils or boards to ensure that the data controller maintains high standards of scientific ethics, effective technical means to withdraw or modify consent at any moment, based on the information obligations of data processors under Regulation (EU) 2016/679 as well as means for data subjects to stay informed about the use of data they made available.

***Furthermore, without prejudice to Regulation (EU) 2016/679 data intermediaries should compensate data holders in the case of a loss of data.***

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***1<sup>a</sup> 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 27**

### **Proposal for a regulation**

#### **Recital 37**

##### *Text proposed by the Commission*

(37) This Regulation is without prejudice to the establishment, organisation and functioning of entities that seek to engage in data altruism pursuant to national law. It builds on national law requirements to operate lawfully in a Member State as a not-for-profit organisation. Entities which meet the requirements in this Regulation should be able to use the title of ‘Data Altruism Organisations recognised in the Union’.

##### *Amendment*

(37) This Regulation is without prejudice to the establishment, organisation and functioning of entities that seek to engage in data altruism pursuant to national law. It builds on national law requirements to operate lawfully in a Member State as a not-for-profit organisation. Entities which meet the requirements in this Regulation should be able to use the title of ‘Data Altruism Organisations recognised in the Union’.

***The entity should use a dedicated Union logo or QR code that provides for a link to the European register of recognised data altruism organisations, both online and***

*offline. The objective of the logo should be to provide for a coherent visual identity to data altruism organisations of the Union and contribute to increase trust for data subjects and legal entities. The logo should be created and displayed with rules established in a separate implementing act.*

## Amendment 28

### Proposal for a regulation Recital 39

#### *Text proposed by the Commission*

(39) To bring additional legal certainty to granting and withdrawing of consent, in particular in the context of scientific research and statistical use of data made available on an altruistic basis, a European data altruism consent **form** should be developed and used in the context of altruistic data sharing. Such **a form** should contribute to additional transparency for data subjects that their data will be accessed and used in accordance with their consent and also in full compliance with the data protection rules. It could also be used to streamline data altruism performed by companies and provide a mechanism allowing such companies to withdraw their permission to use the data. In order to take into account the specificities of individual sectors, including from a data protection perspective, there should be a possibility for sectoral adjustments of the European data altruism consent **form**.

#### *Amendment*

(39) To bring additional legal certainty to granting and withdrawing of consent, in particular in the context of scientific research and statistical use of data made available on an altruistic basis, a European data altruism consent **interface** should be developed and used in the context of altruistic data sharing. Such **an interface** should contribute to additional transparency for data subjects that their data will be accessed and used in accordance with their consent and also in full compliance with the data protection rules. It could also be used to streamline data altruism performed by companies and provide a mechanism allowing such companies to withdraw their permission to use the data. In order to take into account the specificities of individual sectors, including from a data protection perspective, there should be a possibility for sectoral adjustments of the European data altruism consent **interface**. **The interface should provide up-to-date information concerning the types of data that have been used, the frequency of their use and the purposes for which they have been used by users of the data altruism organisation.**

## Amendment 29

### Proposal for a regulation Recital 40

*Text proposed by the Commission*

(40) In order to successfully implement the data governance framework, a European Data Innovation Board should be established, in the form of an expert group. The Board should consist of representatives of the Member States, the Commission **and** representatives of relevant data spaces **and** specific sectors (such as health, agriculture, transport and statistics). The European Data Protection Board should be invited to appoint a representative to the European Data Innovation Board.

*Amendment*

(40) In order to successfully implement the data governance framework, a European Data Innovation Board should be established, in the form of an expert group. The Board should consist of representatives of the Member States, the Commission, ***the EU SME Envoy or a representative appointed by the network of SME envoys***, representatives of relevant data spaces, ***representatives of relevant agencies and competent authorities in specific sectors (such as health, agriculture, transport and statistics)***. The European Data Protection Board ***as well as relevant standardisation organisations*** should be invited to appoint a representative to the European Data Innovation Board. ***Representatives from industry, including representatives of national, trans-national or common European data spaces, SMEs, research organisations, non-governmental organisations (NGOs), European social partners, and consumers' and civil society organisations should be invited to attend meetings of the Board and to participate in its work. Moreover, experts appointed in their personal capacity, who have proven knowledge and experience in the areas covered by this Regulation should also be invited to attend meetings of the Board and to participate, to the extent relevant, in its work. The Board should meet in different configurations, depending on the subjects to be discussed, and its deliberations and documents should be made public.***

## Amendment 30

**Proposal for a regulation**  
**Recital 41**

*Text proposed by the Commission*

(41) The Board should support the Commission in coordinating national practices and policies on the topics covered by this Regulation, and in supporting cross-sector data use by adhering to the European Interoperability Framework (EIF) principles and through the utilisation of standards and specifications (such as the Core Vocabularies<sup>44</sup> and the CEF Building Blocks<sup>45</sup>), without prejudice to standardisation work taking place in specific sectors or domains. Work on technical standardisation may include the identification of priorities for the development of standards and establishing and maintaining a set of technical and legal standards for transmitting data between two processing environments that allows data spaces to be organised without making recourse to an intermediary. The Board should cooperate with sectoral bodies, networks or expert groups, or other cross-sectoral organisations dealing with re-use of data. Regarding data altruism, the Board should assist the Commission in the development of the data altruism consent form, in consultation with the European Data Protection Board.

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<https://joinup.ec.europa.eu/collection/sema>

*Amendment*

(41) The Board should support the Commission in coordinating national practices and policies on the topics covered by this Regulation, and in supporting cross-sector data use by adhering to the European Interoperability Framework (EIF) principles and through the utilisation of standards and specifications (such as the Core Vocabularies<sup>44</sup> and the CEF Building Blocks<sup>45</sup>), without prejudice to standardisation work taking place in specific sectors or domains. ***Work on technical standardisation should build on industry and internal market initiatives, receiving wide and significant acceptance. When establishing technical standards for data sharing across sectors, particular attention should be paid to existing standards applying within the relevant sector in order to ensure coherent standards for cross-sector data sharing and interoperability, and to avoid one sector being advantaged at the expense of another. Furthermore,*** work on technical standardisation may include the identification of priorities for the development of standards and establishing and maintaining a set of technical and legal standards for transmitting data between two processing environments that allows data spaces to be organised without making recourse to an intermediary. The Board should cooperate with sectoral bodies, networks or expert groups, or other cross-sectoral organisations dealing with re-use of data. Regarding data altruism, the Board should assist the Commission in the development of the data altruism consent form, in consultation with the European Data Protection Board.

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<https://joinup.ec.europa.eu/collection/sema>

ntic-interoperability-community-  
semic/core-vocabularies

45

<https://joinup.ec.europa.eu/collection/connecting-europe-facility-cef>

ntic-interoperability-community-  
semic/core-vocabularies

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<https://joinup.ec.europa.eu/collection/connecting-europe-facility-cef>

## Amendment 31

### Proposal for a regulation Recital 41 a (new)

*Text proposed by the Commission*

*Amendment*

***(41a) The Commission should ensure alignment between this Board and other Union-level bodies established in other legislation on related issues, in particular legislative acts on data and artificial intelligence. Therefore, in addition to the purposes laid down in this Regulation, the Board should also provide advice and assistance to the Commission for the purposes as laid down in Regulation ... [laying down harmonised rules on artificial intelligence (Artificial Intelligence Act)(2021/0106 (COD))].***

## Amendment 32

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

*Text proposed by the Commission*

*Amendment*

(b) a notification and supervisory framework for the provision of data ***sharing*** services;

(b) a notification and supervisory framework for the provision of data ***intermediation*** services;

## Amendment 33

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

*Text proposed by the Commission*

*Amendment*

***(ca) provisions for the establishment of the European Data Innovation Board and its tasks for the purposes of this Regulation.***

## **Amendment 34**

### **Proposal for a regulation**

#### **Article 1 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

(2) This Regulation is without prejudice to specific provisions in other Union ***legal acts*** regarding access to or re-use of certain categories of data, or requirements related to processing of personal or non-personal data. Where a sector-specific Union legal act requires public sector bodies, providers of data sharing services or registered entities providing data altruism services to comply with specific additional technical, administrative or organisational requirements, including through an authorisation or certification regime, those provisions of that sector-specific Union legal act shall also apply.

(2) This Regulation is without prejudice to specific provisions in other Union ***or national law*** regarding access to or re-use of certain categories of data, or requirements related to processing of personal ***data, including employees' personal data processed in the context of employment*** or non-personal data. Where a sector-specific Union legal act requires public sector bodies, providers of data sharing services or registered entities providing data altruism services to comply with specific additional technical, administrative or organisational requirements, including through an authorisation or certification regime, those provisions of that sector-specific Union legal act shall also apply.

## **Amendment 35**

### **Proposal for a regulation**

#### **Article 1 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. Union and national law on the protection of personal data shall apply to any personal data processed in connection with this Regulation. This Regulation is without prejudice to Regulations (EU)***

*2016/679 and (EU) 2018/1725 and Directive 2002/58/EC, including the powers of supervisory authorities. In the event of a conflict between the provisions of this Regulation and Union law on the protection of personal data, the latter prevails.*

## **Amendment 36**

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

*Text proposed by the Commission*

*Amendment*

**2b. This Regulation is without prejudice to the competences of the Member States regarding activities concerning public security, defence and national security.**

## **Amendment 37**

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

*Text proposed by the Commission*

*Amendment*

**(2a) ‘data intermediation service’ means the provision of a commercial service for the exchange, or pooling of data, excluding:**

**(a) cloud services;**

**(b) services that obtain data from data holders, aggregate, enrich or transform the data and license the use of the resulting data to data users, without establishing a direct relationship between data holders and data users;**

**(c) services that focus on the intermediation of content, in particular on copyright-protected content;**

**(d) the services of data exchange platforms that are exclusively used by one data holder in order to enable the use of**

*data they hold as well as platforms developed in the context of objects and devices connected to the Internet-of-Things that have as their main objective of ensuring functionalities of the connected object or device and allow value added services;*

*(e) the services of consolidated tape providers as defined in point (53) of Article 4(1) of Directive 2014/65/EU; and*

*(f) the services of account information service providers as defined in point (19) of Article 4 of Directive(EU) 2015/2366;*

## **Amendment 38**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 2 b (new)**

*Text proposed by the Commission*

*Amendment*

*(2b) ‘data intermediary’ means a provider of a data intermediation service, which, through the provision of technical, legal and other services establishes relationships between an undefined number of data holders and data users for the exchange, pooling or trade of data;*

## **Amendment 39**

### **Proposal for a regulation**

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

*Text proposed by the Commission*

*Amendment*

*(2c) ‘personal data’ means personal data as defined in point (1) of Article 4 of Regulation (EU) 2016/679;*

## **Amendment 40**

**Proposal for a regulation**  
**Article 2 – paragraph 1 – point 3 a (new)**

*Text proposed by the Commission*

*Amendment*

**(3a) ‘consent’ means consent as defined in point (11) of Article 4 of Regulation (EU) 2016/679;**

**Amendment 41**

**Proposal for a regulation**  
**Article 2 – paragraph 1 – point 3 b (new)**

*Text proposed by the Commission*

*Amendment*

**(3b) ‘data subject’ means an identified or identifiable natural person as referred to in point (1) of Article 4 of Regulation (EU) 2016/679;**

**Amendment 42**

**Proposal for a regulation**  
**Article 2 – paragraph 1 – point 3 c (new)**

*Text proposed by the Commission*

*Amendment*

**(3c) ‘processing’ means processing as defined in point (2) of Article 4 of Regulation (EU) 2016/679;**

**Amendment 43**

**Proposal for a regulation**  
**Article 2 – paragraph 1 – point 6**

*Text proposed by the Commission*

*Amendment*

(6) ‘data user’ means a natural or legal person who has lawful access to certain personal or non-personal data and **is authorised** to use that data for commercial or non-commercial purposes;

(6) ‘data user’ means a natural or legal person who has lawful access to certain personal or non-personal data and, **without prejudice to Regulation (EU) 2016/679 and Regulation (EU) 2018/1807, has the right** to use that data for commercial or

non-commercial purposes;

#### Amendment 44

##### Proposal for a regulation

##### Article 2 – paragraph 1 – point 6 a (new)

*Text proposed by the Commission*

*Amendment*

**(6a) ‘data re-user’ means a natural or legal person who re-uses data;**

#### Amendment 45

##### Proposal for a regulation

##### Article 2 – paragraph 1 – point 7

*Text proposed by the Commission*

*Amendment*

(7) ‘data **sharing**’ means the provision by a data holder of data to a data user for the purpose of joint or individual use of the shared data, based on voluntary agreements, directly or through an intermediary;

(7) ‘data **exchange**’ means the provision by a data holder, **based on their consent or permission, or by a data intermediary** of data to a data user for the purpose of joint or individual use of the shared data, based on voluntary agreements, directly or through an intermediary, **under open data or commercial licences, for free or against remuneration;**

*([to apply coherently throughout the text])*

#### Amendment 46

##### Proposal for a regulation

##### Article 2 – paragraph 1 – point 9 a (new)

*Text proposed by the Commission*

*Amendment*

**(9a) ‘data cooperative’ means an organisation supporting and advising its members, who are data subjects or one-person companies, microenterprises or SMEs, in making informed choices before consenting to data processing, or in negotiating terms and conditions for data**

*processing and data sharing;*

#### Amendment 47

##### Proposal for a regulation

##### Article 2 – paragraph 1 – point 10

*Text proposed by the Commission*

(10) ‘data altruism’ means *the* consent by data subjects to process personal data pertaining to them, or permissions of other data holders to allow the use of their non-personal data *without seeking a reward, for purposes* of general interest, such as scientific research purposes or improving public services;

*Amendment*

(10) ‘data altruism’ means *voluntary sharing of data by data holders without seeking or receiving a reward by giving* consent by data subjects to process personal data pertaining to them, or permissions of other data holders to allow the use of their non-personal data *for objectives* of general interest, *defined in accordance with Union and national law, where applicable*, such as scientific research purposes or improving public services;

#### Amendment 48

##### Proposal for a regulation

##### Article 2 – paragraph 1 – point 14

*Text proposed by the Commission*

(14) ‘secure processing environment’ means the physical or virtual environment and organisational means to provide the opportunity to re-use data in a manner that allows for the operator of the secure processing environment to determine and supervise all data processing actions, including to display, storage, download, export of the data and calculation of derivative data through computational algorithms.

*Amendment*

(14) ‘secure processing environment’ means the physical or virtual environment and organisational means to provide the opportunity to re-use data in a manner, *without prejudice to Regulation (EU) 2016/679 as well as commercial and statistical confidentiality, that ensures compliance with applicable legislation*, that allows for the operator of the secure processing environment to determine and supervise all data processing actions, including to display, storage, download, export of the data and calculation of derivative data through computational algorithms.

## Amendment 49

### Proposal for a regulation Article 3 – paragraph 1 – point d

*Text proposed by the Commission*

(d) protection of personal data.

*Amendment*

(d) protection of personal data, *insofar as such data fall outside the scope of Directive (EU) 2019/1024.*

## Amendment 50

### Proposal for a regulation Article 4 – paragraph 1

*Text proposed by the Commission*

(1) Agreements or other practices pertaining to the re-use of data held by public sector bodies containing categories of data referred to in Article 3 (1) which grant exclusive rights or which have as their object or effect to grant such exclusive rights or to restrict the availability of data for re-use by entities other than the parties to such agreements or other practices shall be prohibited.

*Amendment*

(1) Agreements or other practices pertaining to the re-use of data held by public sector bodies containing categories of data referred to in Article 3 (1) which grant exclusive rights or which have as their object or effect to grant such exclusive rights or to restrict the availability of data for re-use by entities other than the parties to such agreements or other practices shall be prohibited. *Agreements or other practices, which restrict the re-use of data which has been licensed or otherwise provided to a public sector body by a commercial data holder, are not subject to this Article.*

## Amendment 51

### Proposal for a regulation Article 4 – paragraph 2

*Text proposed by the Commission*

(2) By way of derogation from paragraph 1, an exclusive right to re-use data referred to in that paragraph may be granted to the extent necessary for the provision of a service or a product in the

*Amendment*

(2) By way of derogation from paragraph 1, an exclusive right to re-use data referred to in that paragraph may be granted to the extent necessary for the provision of a service or *the supply of a*

general interest.

product in the general interest, ***that would have otherwise not been possible, and subject to justifications as to why it is of general interest.***

## Amendment 52

### Proposal for a regulation Article 4 – paragraph 5

*Text proposed by the Commission*

(5) The period of exclusivity of the right to re-use data shall not exceed ***three years***. Where a contract is concluded, the duration of the contract awarded shall be as aligned with the period of exclusivity.

*Amendment*

(5) The period of exclusivity of the right to re-use data shall not exceed ***12 months with the possibility of a further 12-month extension, subject to approval by the competent body referred to in Article 7(1)***. Where a contract is concluded, the duration of the contract awarded shall be as aligned with the period of exclusivity.

## Amendment 53

### Proposal for a regulation Article 4 – paragraph 6

*Text proposed by the Commission*

(6) The award of an exclusive right pursuant to paragraphs (2) to (5), including the ***reasons*** why it is necessary to grant such a right, shall be transparent and be made publicly available online, regardless of a possible publication of an award of a public procurement and concessions contract.

*Amendment*

(6) The award of an exclusive right pursuant to paragraphs (2) to (5), including the ***reasoned justification*** why it is necessary to grant such a right, shall be transparent and be made publicly available online, regardless of a possible publication of an award of a public procurement and concessions contract.

## Amendment 54

### Proposal for a regulation Article 4 – paragraph 7

*Text proposed by the Commission*

(7) Agreements or other practices falling within the scope of the prohibition in paragraph 1, which do not meet the conditions set out in paragraph 2, and which were concluded before the date of entry into force of this Regulation shall be terminated at the end of the contract and in any event at the latest within **three** years after the date of entry into force of this Regulation.

*Amendment*

(7) Agreements or other practices falling within the scope of the prohibition in paragraph 1, which do not meet the conditions set out in paragraph 2, and which were concluded before the date of entry into force of this Regulation shall be terminated at the end of the contract and in any event at the latest within **two** years after the date of entry into force of this Regulation.

**Amendment 55**

**Proposal for a regulation  
Article 5 – paragraph 1**

*Text proposed by the Commission*

(1) Public sector bodies which are competent under national law to grant or refuse access for the re-use of one or more of the categories of data referred to in Article 3 (1) shall make publicly available the conditions for allowing such re-use. In that task, they may be assisted by the competent bodies referred to in Article 7 (1).

*Amendment*

(1) Public sector bodies which are competent under national law to grant or refuse access for the re-use of one or more of the categories of data referred to in Article 3 (1) shall make publicly available the conditions for allowing such re-use **and the procedure to request the re-use via the single information point referred to in Article 8**. In that task, they may be assisted by the competent bodies referred to in Article 7 (1).

**Amendment 56**

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

*Text proposed by the Commission*

(2) Conditions for re-use shall be non-discriminatory, proportionate and objectively justified with regard to categories of data and purposes of re-use and the nature of the data for which re-use is allowed. These conditions shall not be

*Amendment*

(2) Conditions for re-use shall be **transparent, lawful, clearly indicated**, non-discriminatory, proportionate and objectively justified with regard to categories of data and purposes of re-use and the nature of the data for which re-use

used to restrict competition.

is allowed.. These conditions shall not be used to restrict competition.

#### **Amendment 57**

##### **Proposal for a regulation Article 5 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**(2a) Public sector bodies shall implement appropriate technical and contractual measures to ensure that access to and use of data by the data users comply with the conditions set out by the data holder.**

#### **Amendment 58**

##### **Proposal for a regulation Article 5 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**(3) Public sector bodies *may* impose an obligation to re-use only pre-processed data where such pre-processing aims to anonymize or pseudonymise personal data or delete commercially confidential information, including trade secrets.**

**(3) Public sector bodies *shall, without prejudice to Regulation EU) 2016/679 and in accordance with Union and national law, impose the conditions necessary for preserving the protected nature of the data, including in the context of employment. Those conditions may consist of the requirement for re-users:***

#### **Amendment 59**

##### **Proposal for a regulation Article 5 – paragraph 4 – introductory part**

*Text proposed by the Commission*

*Amendment*

**(4) Public sector bodies may impose obligations**

***deleted***

#### **Amendment 60**

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

*Text proposed by the Commission*

*Amendment*

***(-aa) to use only pre-processed data, where such pre-processing, performed by the public sector itself aims to anonymize or pseudonymise personal data or delete commercially confidential information, including trade secrets, or content protected by intellectual property rights;***

**Amendment 61**

**Proposal for a regulation**  
**Article 5 – paragraph 4 – point a**

*Text proposed by the Commission*

*Amendment*

(a) to access and re-use the data within a secure processing environment provided and controlled by the public sector ;

(a) to access and re-use the data ***remotely*** within a secure processing environment provided and controlled by the public sector;

**Amendment 62**

**Proposal for a regulation**  
**Article 5 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

(5) The public sector bodies shall impose conditions that preserve the integrity of the functioning of the technical systems of the secure processing environment used. The public sector body shall be able to verify any results of processing of data undertaken by the re-user and reserve the right to prohibit the use of results that contain information jeopardising the rights and interests of third parties.

(5) The public sector bodies shall impose conditions that preserve the integrity of the functioning of the technical systems of the secure processing environment used, ***including high level of cybersecurity standards***. The public sector body shall be able to verify ***the means and*** any results of processing of data undertaken by the re-user and reserve the right to prohibit the use of results that contain information jeopardising the rights and interests of third parties. ***To this end, the public sector bodies shall be equipped***

*with the necessary human and financial resources for monitoring and law enforcement.*

## **Amendment 63**

### **Proposal for a regulation Article 5 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***(5a) Public sector bodies shall apply technical means to prevent re-users from identifying any data subject and shall require re-users to continuously assess the risk of identification and de-anonymisation, and to report to the public sector body concerned, in particular where any data breach has resulted in identification of an individual, breaches of the confidentiality, the integrity, or the security of the data have occurred, notwithstanding any reporting obligations under Union law.***

## **Amendment 64**

### **Proposal for a regulation Article 5 – paragraph 6 a (new)**

*Text proposed by the Commission*

*Amendment*

***(6a) Where public sector bodies make personal data available for re-use pursuant to this Article, they shall inform data subjects accordingly of this re-use and of their rights. The public sector body shall support data subjects in exercising their rights, including in relation to other re-users. In that task they may be assisted by the competent bodies referred to in Article 7 (1).***

## **Amendment 65**

**Proposal for a regulation**  
**Article 5 – paragraph 8 a (new)**

*Text proposed by the Commission*

*Amendment*

**(8a) Re-users located in a country outside of the Union, except for scientific establishments working on a non-for profit basis, shall designate a legal representative on the territory of the Union for the purposes of this Chapter.**

**Amendment 66**

**Proposal for a regulation**  
**Article 5 – paragraph 9 – subparagraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

(9) The Commission may adopt implementing acts **declaring** that the legal, supervisory and enforcement arrangements of a third country:

(9) The Commission may adopt implementing acts **allowing, without prejudice to Regulations (EU) 2016/679 and (EU) 2018/1807, re-users to make transfers of data to a third country. Those implementing acts shall declare** that the legal, supervisory and enforcement arrangements of a third country:

**Amendment 67**

**Proposal for a regulation**  
**Article 5 – paragraph 13**

*Text proposed by the Commission*

*Amendment*

(13) Where the re-user intends to transfer non-personal data to a third country, the public sector body shall inform the data holder about the transfer **of** data to that third country.

(13) Where the re-user intends to transfer non-personal data to a third country, the public sector body shall inform the data holder about the **intention to transfer the data to that third country and the purpose for such transfer, and shall include relevant risk analyses.**

**Amendment 68**

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

*Text proposed by the Commission*

(2) Any fees shall be non-discriminatory, proportionate and objectively justified and shall not restrict competition.

*Amendment*

(2) Any fees shall be **transparent, reasonable**, non-discriminatory, proportionate and objectively justified and shall not restrict competition **or prevent use of data for the objectives of general interest. Fees shall be cost-based and cover the costs of monitoring and enforcement.**

**Amendment 69**

**Proposal for a regulation**  
**Article 6 – paragraph 4**

*Text proposed by the Commission*

(4) Where they apply fees, public sector bodies shall take measures to incentivise the re-use of the categories of data referred to in Article 3 (1) for non-commercial purposes **and by small and medium-sized enterprises** in line with State aid rules.

*Amendment*

(4) Where they apply fees, public sector bodies shall take measures to incentivise the re-use of the categories of data referred to in Article 3 (1) for non-commercial purposes, **such as scientific research purposes and the re-use by microenterprises, SMEs and start-ups** in line with State aid rules. **This may include allowing re-use at lower or no cost.**

**Amendment 70**

**Proposal for a regulation**  
**Article 6 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

**(4a) Public sector bodies may set up a list of categories of re-users for which data is made available at reduced or no cost, which shall be published together with the criteria used to establish such list and which shall have the objective to foster a wider re-use of data held by public sector bodies as referred to in**

*Article 3(1) and accessibility by a wider range of re-users, in line with State aid rules and competition law.*

## **Amendment 71**

### **Proposal for a regulation Article 7 – paragraph 2 – point a**

*Text proposed by the Commission*

(a) providing technical support **by making available** a secure processing environment for providing access for the re-use of data;

*Amendment*

(a) providing technical support **to ensure** a secure processing environment for providing access for the re-use of data;

## **Amendment 72**

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

*Text proposed by the Commission*

*Amendment*

***(aa) providing guidance and technical support on how to best structure and store data to make data easily accessible, in particular through application programming interfaces (APIs), as well as promoting the use of existing regulatory and technical standards for the purpose of ensuring that data is interoperable, transferable and searchable, while taking into account best practices for data processing and data protection;***

## **Amendment 73**

### **Proposal for a regulation Article 7 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) providing technical support in the application of tested techniques ensuring data processing in a manner that preserves

*Amendment*

(b) providing technical support in the application of tested techniques ensuring data processing in a manner that preserves

privacy of the information contained in the data for which re-use is allowed, including techniques for pseudonymisation, anonymisation, generalisation, suppression and randomisation of personal data;

privacy of the information contained in the data for which re-use is allowed, including techniques for pseudonymisation, anonymisation, generalisation, suppression and randomisation of personal data, **and the deletion of commercially confidential information, including trade secrets or content protected by intellectual property rights;**

#### **Amendment 74**

##### **Proposal for a regulation Article 7 – paragraph 2 – point d**

*Text proposed by the Commission*

(d) providing public sector bodies with assistance on the adequacy of undertakings made by a re-user, pursuant to Article 5 (10).

*Amendment*

(d) providing public sector bodies with assistance on the adequacy **and compliance** of undertakings made by a re-user, pursuant to Article 5 (10).

#### **Amendment 75**

##### **Proposal for a regulation Article 7 – paragraph 4**

*Text proposed by the Commission*

(4) The competent body or bodies shall have adequate legal and technical capacities and expertise to be able to comply with relevant Union or national law concerning the access regimes for the categories of data referred to in Article 3 (1).

*Amendment*

(4) The competent body or bodies shall have adequate **financial and human resources**, legal and technical capacities and expertise **to carry out their duties in effective and efficient way and** to be able to comply with relevant Union or national law concerning the access regimes for the categories of data referred to in Article 3 (1), **in order to fully respect the principles of data protection, privacy and confidentiality.**

#### **Amendment 76**

##### **Proposal for a regulation Article 7 – paragraph 5**

*Text proposed by the Commission*

(5) The Member States shall communicate to the Commission the identity of the competent bodies designated pursuant to paragraph 1 by [date of application of this Regulation]. They shall also communicate to the Commission any subsequent modification of the identity of those bodies.

*Amendment*

(5) The Member States shall communicate to the Commission the identity of the competent bodies designated pursuant to paragraph 1 by [date of application of this Regulation]. They shall also communicate to the Commission any subsequent modification of the identity of those bodies ***within three days after the modification.***

**Amendment 77**

**Proposal for a regulation  
Article 8 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***(2a) The single information point shall offer an electronic, public register of single information points of all other Member States and shall be linked to the Single Digital Gateway as established by Regulation (EU) 2018/1724 of the European Parliament and of the Council<sup>1a</sup>. The single information point shall furthermore offer a searchable electronic register of data available in national single information points as well as information on how to request data via those. The single information point may also develop additional services regarding data re-use, including information on data re-use requests under Directive (EU) 2019/1024.***

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***<sup>1a</sup> Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 (OJ L 295, 21.11.2018, p. 1)***

## Amendment 78

### Proposal for a regulation Article 8 – paragraph 3

*Text proposed by the Commission*

(3) Requests for the re-use of the categories of data referred to in Article 3 (1) shall be granted or refused by the competent public sector bodies or the competent bodies referred to in Article 7 (1) ***within a reasonable time***, and in any case within two months from the date of the request.

*Amendment*

(3) Requests for the re-use of the categories of data referred to in Article 3 (1) shall be granted or refused by the competent public sector bodies or the competent bodies referred to in Article 7 (1) ***without undue delay***, and in any case within two months from the date of the request.

## Amendment 79

### Proposal for a regulation Article 9 – title

*Text proposed by the Commission*

***Providers of data sharing*** services

*Amendment*

***Data intermediation*** services

## Amendment 80

### Proposal for a regulation Article 9 – paragraph 1 – point a

*Text proposed by the Commission*

(a) intermediation services between data holders which are legal persons and potential data users, including making available the technical or other means to enable such services; those services may include bilateral or multilateral exchanges of data or the creation of platforms or databases enabling the exchange or joint ***exploitation*** of data, as well as the establishment of a specific infrastructure for the interconnection of data holders and data users;

*Amendment*

(a) intermediation services between data holders which are legal persons and potential data users, including making available the technical or other means to enable such services; those services may include bilateral or multilateral exchanges of data or the creation of platforms or databases enabling the exchange or joint ***use*** of data, as well as the establishment of a specific infrastructure for the interconnection of data holders and data users;

## Amendment 81

### Proposal for a regulation Article 9 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***(2a) If the competent authority referred to in Article 12 has confirmed that a data intermediary complies with the requirements laid down in Articles 10 and 11, that data intermediary may refer to itself as a ‘data intermediary recognised in the Union’ in its written and spoken communications.***

## Amendment 82

### Proposal for a regulation Article 9 – paragraph 2 b (new)

*Text proposed by the Commission*

*Amendment*

***(2b) In order to increase trust in data intermediaries recognised in the Union and their activities, they shall use a dedicated Union logo or QR code that provides a link to the register referred to in Article 10(9). The logo shall have the objective of providing a coherent visual identity to data intermediaries of the Union and contribute to increase trust for data holders and data users. The logo shall be created and displayed with rules established in a separate implementing act. That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 29.***

## Amendment 83

### Proposal for a regulation Article 10 – title

*Text proposed by the Commission*

Notification of data *sharing service providers*

#### **Amendment 84**

##### **Proposal for a regulation Article 10 – paragraph 1**

*Text proposed by the Commission*

(1) Any *provider of data sharing services* who intends to provide the services referred to in Article 9 (1) shall submit a notification to the competent authority referred to in Article 12.

#### **Amendment 85**

##### **Proposal for a regulation Article 10 – paragraph 2**

*Text proposed by the Commission*

(2) For the purposes of this Regulation, a *provider of data sharing services* with establishments in more than one Member State, shall be deemed to be under the jurisdiction of the Member State in which it has its main establishment.

#### **Amendment 86**

##### **Proposal for a regulation Article 10 – paragraph 3**

*Text proposed by the Commission*

(3) A *provider of data sharing services* that is not established in the Union, but offers the services referred to in Article 9 (1) within the Union, shall appoint a legal

*Amendment*

Notification of data *intermediaries*

*Amendment*

(1) Any *data intermediary* who intends to provide the services referred to in Article 9 (1) shall submit a notification to the competent authority *for data intermediaries*, referred to in Article 12 *at least ten days prior to starting its activity*.

*Amendment*

(2) For the purposes of this Regulation, a *data intermediary* with establishments in more than one Member State, shall be deemed to be under the jurisdiction of the Member State in which it has its main establishment.

*Amendment*

(3) A *data intermediary* that is not established in the Union, but offers the services referred to in Article 9 (1) within the Union, shall appoint a legal

representative in one of the Member States in which those services are offered. The provider shall be deemed to be under the jurisdiction of the Member State in which the legal representative is established.

representative in one of the Member States in which those services are offered. The provider shall be deemed to be under the jurisdiction of the Member State in which the legal representative is established. ***The data intermediary shall provide the legal representative with the necessary resources to ensure efficient collaboration with relevant national authorities. For the purposes of ensuring compliance with this Regulation, the legal representative shall be empowered by the data intermediary to act on its behalf or together with it, in particular when addressed by competent authorities or data subjects and data holders, on all issues related to the service or services provided. The designation of a legal representative by the data intermediary shall be without prejudice to legal actions, which could be initiated against the data intermediaries themselves.***

#### Amendment 87

##### Proposal for a regulation Article 10 – paragraph 6 – point d

*Text proposed by the Commission*

(d) a website where information on the provider and ***the*** activities can be found, where applicable;

*Amendment*

(d) a ***public*** website where ***clear, complete and up-to-date*** information on the provider and ***a full list of its*** activities can be found, where applicable;

#### Amendment 88

##### Proposal for a regulation Article 10 – paragraph 6 – point f

*Text proposed by the Commission*

(f) a description of the service the provider intends to provide;

*Amendment*

(f) a description of the service the provider intends to provide, ***including by specifying which types of services referred in Article 9(1) of this Regulation are***

*provided, as well as how the conditions set out in Article 11 are fulfilled;*

#### **Amendment 89**

##### **Proposal for a regulation Article 10 – paragraph 6 – point h**

*Text proposed by the Commission*

*Amendment*

(h) *the Member States where the provider intends to provide services.*

*deleted*

#### **Amendment 90**

##### **Proposal for a regulation Article 10 – paragraph 7**

*Text proposed by the Commission*

*Amendment*

(7) At the request of the provider, the competent authority shall, within one week, issue a standardised declaration, confirming that the provider has submitted the notification referred to in paragraph 4.

(7) At the request of the provider, the competent authority shall, within *a maximum of* one week, issue a standardised declaration, confirming that the provider has submitted the notification referred to in paragraph 4.

#### **Amendment 91**

##### **Proposal for a regulation Article 10 – paragraph 8**

*Text proposed by the Commission*

*Amendment*

(8) The competent authority shall forward each notification to the national competent authorities of the Member States by electronic means, without delay.

(8) The competent authority *for data intermediaries* shall forward each notification to the national competent authorities of the Member States by electronic means, without delay.

#### **Amendment 92**

##### **Proposal for a regulation Article 10 – paragraph 9**

*Text proposed by the Commission*

(9) The competent authority shall notify the Commission of each new notification. The Commission shall keep a register of ***providers of data sharing services***.

*Amendment*

(9) The competent authority shall notify the Commission of each new notification. The Commission shall keep a ***public*** register of ***all data intermediaries in the Union***.

**Amendment 93**

**Proposal for a regulation  
Article 10 – paragraph 10**

*Text proposed by the Commission*

(10) The competent authority may charge fees. Such fees shall be proportionate and objective and be based on the administrative costs related to the monitoring of compliance and other market control activities of the competent authorities in relation to notifications of data sharing services.

*Amendment*

(10) The competent authority ***for data intermediaries*** may charge fees. Such fees shall be ***transparent***, proportionate and objective and be based on the administrative costs related to the monitoring of compliance and other market control activities of the competent authorities in relation to notifications of data sharing services. ***The competent authority for data intermediaries may decide to apply reduced or no fees to microenterprises, SMEs and start-ups.***

**Amendment 94**

**Proposal for a regulation  
Article 10 – paragraph 11**

*Text proposed by the Commission*

(11) Where a ***provider of data sharing services*** ceases its activities, it shall notify the relevant competent authority determined pursuant to paragraphs 1, 2 and 3 within 15 days. The competent authority shall forward without delay each such notification to the national competent authorities in the Member States and to the Commission by electronic means.

*Amendment*

(11) Where a ***data intermediary*** ceases its activities, it shall notify the relevant competent authority ***for data intermediaries*** determined pursuant to paragraphs 1, 2 and 3 within 15 days. The competent authority shall forward without delay each such notification to the national competent authorities in the Member States and to the Commission by electronic means.

## Amendment 95

### Proposal for a regulation Article 11 – title

*Text proposed by the Commission*

Conditions for providing data **sharing** services

*Amendment*

Conditions for providing data **intermediation** services

## Amendment 96

### Proposal for a regulation Article 11 – paragraph 1 – introductory part

*Text proposed by the Commission*

The provision of data **sharing** services referred in Article 9 (1) shall be subject to the following conditions:

*Amendment*

The provision of data **intermediation** services referred in Article 9 (1) shall be subject to the following conditions:

## Amendment 97

### Proposal for a regulation Article 11 – paragraph 1 – point 1

*Text proposed by the Commission*

(1) the **provider may not** use the data for which it provides services **for other purposes than to put them at the disposal of data users and data sharing** services shall be placed in a separate legal entity;

*Amendment*

(1) the **data intermediary shall** use the data for which it provides services **only in the context of the provision of services referred to in Article 9(1); these data intermediation** services shall be placed in a separate legal entity;

## Amendment 98

### Proposal for a regulation Article 11 – paragraph 1 – point 2

*Text proposed by the Commission*

(2) the metadata collected from the

*Amendment*

(2) the metadata collected from the

provision of the data **sharing** service may be used only for the development of that service;

provision of the data **intermediation** service may be used only for the development of that service **and shall, where possible, be made available to the data holders upon request;**

## Amendment 99

### Proposal for a regulation

#### Article 11 – paragraph 1 – point 3

*Text proposed by the Commission*

(3) the **provider** shall ensure that the procedure for access to its service is fair, transparent and non-discriminatory for **both** data holders and data users, including as regards prices;

*Amendment*

(3) the **data intermediary** shall ensure that the procedure for access to its service is fair, transparent and non-discriminatory for data holders and data users, including as regards prices **and the terms and conditions of the provision of service;**

## Amendment 100

### Proposal for a regulation

#### Article 11 – paragraph 1 – point 4

*Text proposed by the Commission*

(4) the **provider** shall facilitate the exchange of the data in the format in which it receives it from the data holder and shall convert the data into specific formats only to enhance interoperability within and across sectors or if requested by the data user or where mandated by Union law or to ensure harmonisation with international or European data standards;

*Amendment*

(4) the **data intermediary** shall facilitate the exchange of the data in the format in which it receives it from the data holder and shall convert the data into specific formats only to enhance interoperability within and across sectors or if requested by the data user or where mandated by Union law or to ensure harmonisation with international or European data standards;

## Amendment 101

### Proposal for a regulation

#### Article 11 – paragraph 1 – point 4 a (new)

*Text proposed by the Commission*

*Amendment*

***(4a) the data intermediary may offer additional specific services facilitating the exchange of the data and tools capable of analysis, aggregation, improving the quality or conversion of data to data holders or data users. Those tools shall be used only at the explicit request or approval of the data holder and third-party tools offered in that context shall not use data for purposes other than those requested or approved by the data holder;***

## **Amendment 102**

### **Proposal for a regulation**

#### **Article 11 – paragraph 1 – point 4 b (new)**

*Text proposed by the Commission*

*Amendment*

***(4b) the data intermediary shall take reasonable measures to ensure interoperability with other data intermediaries by means of commonly used, formal or informal, open standards in the sector in which the data intermediary operate as well as take reasonable measures to guarantee interoperability within and across sectors to facilitate data sharing;***

## **Amendment 103**

### **Proposal for a regulation**

#### **Article 11 – paragraph 1 – point 5**

*Text proposed by the Commission*

*Amendment*

(5) the ***provider*** shall have procedures in place to prevent fraudulent or abusive practices in relation to access to data from parties seeking access through their services;

(5) the ***data intermediary*** shall have procedures in place to ***detect, mitigate and*** prevent fraudulent or abusive practices in relation to access to data from parties seeking access through their services;

## Amendment 104

### Proposal for a regulation

#### Article 11 – paragraph 1 – point 6

*Text proposed by the Commission*

(6) the **provider** shall ensure a reasonable continuity of provision of its services and, in the case of services which ensure storage of data, shall have sufficient guarantees in place that allow data holders and data users to obtain access to their data in case of insolvency;

*Amendment*

(6) the **data intermediary** shall ensure a reasonable continuity of provision of its services and, in the case of services which ensure storage of data, shall have sufficient **and effective** guarantees in place that allow data holders and data users to obtain access to, **delete or retrieve** their data in case of insolvency **of the provider**;

## Amendment 105

### Proposal for a regulation

#### Article 11 – paragraph 1 – point 7

*Text proposed by the Commission*

(7) the **provider** shall put in place adequate technical, legal and organisational measures in order to prevent transfer or access to non-personal data that is unlawful under Union law;

*Amendment*

(7) the **data intermediary** shall put in place adequate technical, legal and organisational measures in order to prevent transfer or access to non-personal data that is unlawful under Union law;

## Amendment 106

### Proposal for a regulation

#### Article 11 – paragraph 1 – point 8

*Text proposed by the Commission*

(8) the **provider** shall take measures to ensure a high level of security for the storage and transmission of non-personal data;

*Amendment*

(8) the **data intermediary** shall take measures to ensure a high level of security, **including state-of-the-art cybersecurity standards** for the storage and transmission of non-personal data;

## Amendment 107

**Proposal for a regulation**  
**Article 11 – paragraph 1 – point 9**

*Text proposed by the Commission*

(9) the **provider** shall have procedures in place to ensure compliance with the Union and national rules on competition;

*Amendment*

(9) the **data intermediary** shall have procedures in place to ensure compliance with the Union and national **law, including** rules on **data protection and** competition **and consumer protection**;

**Amendment 108**

**Proposal for a regulation**  
**Article 11 – paragraph 1 – point 10**

*Text proposed by the Commission*

(10) the **provider** offering services to data subjects shall act in the data subjects' best interest when facilitating the exercise of their rights, in particular by advising data subjects on potential data uses and standard terms and conditions attached to such uses;

*Amendment*

(10) the **data intermediary** offering services to data subjects shall act in the data subjects' best interest when facilitating the exercise of their rights, in particular by advising, **in a clear and comprehensible manner**, data subjects on potential data uses and standard terms and conditions attached to such uses **and how consent and permissions can be withdrawn**;

**Amendment 109**

**Proposal for a regulation**  
**Article 11 – paragraph 1 – point 11**

*Text proposed by the Commission*

(11) where a **provider** provides tools for obtaining consent from data subjects or permissions to process data made available by **legal persons**, it shall specify the jurisdiction or jurisdictions in which the data use is intended to take place.

*Amendment*

(11) where a **data intermediary** provides tools for obtaining consent from data subjects or permissions to process data made available by **data holders**, it shall specify the jurisdiction or jurisdictions **outside the Union** in which the data use is intended to take place **and provide data subjects with tools to withdraw consent and data holders with tools to withdraw permissions to process data at any point in**

*time.*

## **Amendment 110**

### **Proposal for a regulation**

#### **Article 12 – title**

*Text proposed by the Commission*

Competent authorities

*Amendment*

Competent authorities *for data intermediaries*

## **Amendment 111**

### **Proposal for a regulation**

#### **Article 12 – paragraph 1**

*Text proposed by the Commission*

(1) Each Member State shall designate in its territory one or more authorities competent to carry out the tasks related to the notification framework and shall communicate to the Commission the identity of those designated authorities by [date of application of this Regulation]. It shall also communicate to the Commission any subsequent modification.

*Amendment*

(1) Each Member State shall designate in its territory one or more authorities competent to carry out the tasks related to the notification framework *for data intermediaries* and shall communicate to the Commission the identity of those designated authorities by [date of application of this Regulation]. It shall also communicate to the Commission any subsequent modification.

## **Amendment 112**

### **Proposal for a regulation**

#### **Article 12 – paragraph 2**

*Text proposed by the Commission*

(2) The designated competent authorities shall comply with Article 23.

*Amendment*

(2) The designated competent authorities *for data intermediaries* shall comply with Article 23.

## **Amendment 113**

**Proposal for a regulation**  
**Article 12 – paragraph 3**

*Text proposed by the Commission*

(3) The designated competent authorities, the data protection authorities, the national competition authorities, the authorities in charge of cybersecurity, and other relevant sectorial authorities shall exchange the information which is necessary for the exercise of their tasks ***in relation*** to data ***sharing providers***.

*Amendment*

(3) ***The powers of*** the designated competent authorities ***are without prejudice to Regulation (EU) 2016/679 and the powers of*** the data protection authorities, the national competition authorities, the authorities in charge of cybersecurity, and other relevant sectorial authorities. ***Those authorities*** shall exchange the information which is necessary for the exercise of their tasks ***and cooperate in view of the enforcement of the rules in this Regulation with regard*** to data ***intermediaries***.

**Amendment 114**

**Proposal for a regulation**  
**Article 13 – paragraph 1**

*Text proposed by the Commission*

(1) The competent authority shall monitor and supervise compliance with this Chapter.

*Amendment*

(1) The competent authority ***for data intermediaries*** shall monitor and supervise compliance with this Chapter.

**Amendment 115**

**Proposal for a regulation**  
**Article 13 – paragraph 2**

*Text proposed by the Commission*

(2) The competent authority shall have the power to request from ***providers of data sharing services*** all the information that is necessary to verify compliance with the requirements laid down in ***Articles 10 and 11***. Any request for information shall be proportionate to the performance of the task and shall be reasoned.

*Amendment*

(2) The competent authority ***for data intermediaries*** shall have the power to request from ***data intermediaries or their legal representatives*** all the information that is necessary to verify compliance with the requirements laid down in ***this Chapter***. Any request for information shall be proportionate to the performance of the task and shall be reasoned.

## Amendment 116

### Proposal for a regulation Article 13 – paragraph 3

*Text proposed by the Commission*

(3) Where the competent authority finds that a **provider of data sharing services** does not comply with one or more of the requirements laid down in Article 10 or 11, it shall notify that provider of those findings and give it the opportunity to state its views, within **a reasonable time limit**.

*Amendment*

(3) Where the competent authority **for data intermediaries** finds that a **data intermediary** does not comply with one or more of the requirements laid down in Article 10 or 11, it shall notify that provider of those findings and give it the opportunity to state its views **without undue delay and** within **no more than ten days**.

## Amendment 117

### Proposal for a regulation Article 13 – paragraph 4 – introductory part

*Text proposed by the Commission*

(4) The competent authority shall have the power to require the cessation of the breach referred to in paragraph 3 either immediately or within **a reasonable time limit** and shall take appropriate **and** proportionate measures aimed at ensuring compliance. In this regard, the competent authorities shall be able, where appropriate:

*Amendment*

(4) The competent authority **for data intermediaries** shall have the power to require the cessation of the breach referred to in paragraph 3 either immediately or within **ten days** and shall take appropriate, proportionate **and effective** measures aimed at ensuring compliance. In this regard, the competent authorities shall be able, where appropriate:

## Amendment 118

### Proposal for a regulation Article 13 – paragraph 4 – point a

*Text proposed by the Commission*

(a) to impose dissuasive financial penalties which may include periodic penalties with retroactive effect;

*Amendment*

(a) to impose dissuasive financial penalties which may include periodic penalties **and penalties** with retroactive

effect;

## Amendment 119

### Proposal for a regulation Article 13 – paragraph 4 – point b

*Text proposed by the Commission*

(b) to require cessation or postponement of the provision of the data *sharing* service.

*Amendment*

(b) to require cessation or postponement of the provision of the data ***intermediation service and request the Commission to remove the data intermediary from the register of data intermediaries once it has ordered the cessation of the*** service.

## Amendment 120

### Proposal for a regulation Article 13 – paragraph 5

*Text proposed by the Commission*

(5) The competent authorities shall communicate the measures imposed pursuant to paragraph 4 and the reasons on which they are based to the entity concerned without delay and shall stipulate a reasonable period for the entity to comply with the measures.

*Amendment*

(5) The competent authorities ***for data intermediaries*** shall communicate the measures imposed pursuant to paragraph 4 and the reasons on which they are based to the entity concerned without delay and shall stipulate a reasonable period, ***and in any event no longer than 30 days*** for the entity to comply with the measures.

## Amendment 121

### Proposal for a regulation Article 13 – paragraph 6

*Text proposed by the Commission*

(6) If a ***provider of data sharing services*** has its main establishment or legal representative in a Member State, but provides services in other Member States, the competent authority of the Member

*Amendment*

(6) If a ***data intermediary*** has its main establishment or legal representative in a Member State, but provides services in other Member States, the competent authority of the Member State of the main

State of the main establishment or where the legal representative is located and the competent authorities of those other Member States shall cooperate and assist each other. Such assistance and cooperation *may* cover information exchanges between the competent authorities concerned and requests to take the measures referred to in this Article.

establishment or where the legal representative is located and the competent authorities of those other Member States shall cooperate and assist each other. Such assistance and cooperation *shall cover but shall not be limited to* information exchanges between the competent authorities concerned and *reasoned* requests to take the measures referred to in this Article.

## Amendment 122

### Proposal for a regulation Article 14 – paragraph 1

*Text proposed by the Commission*

This Chapter shall not apply to not-for-profit entities whose activities consist only in seeking to collect data for objectives of general interest, made available by natural or legal persons on the basis of data altruism.

*Amendment*

This Chapter shall not apply to:

(a) *public sector bodies that offer data sharing facilities on a non-commercial basis;*

(b) not-for-profit entities whose activities consist only in seeking to collect data for objectives of general interest, made available by natural or legal persons on the basis of data altruism.

## Amendment 123

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

*Text proposed by the Commission*

(1) Each competent authority designated pursuant to Article 20 shall keep a register of recognised data altruism organisations.

*Amendment*

(1) Each competent authority *for the registration of data altruism organisations* designated pursuant to Article 20 shall keep a *public* register of recognised data altruism organisations.

## Amendment 124

### Proposal for a regulation Article 15 – paragraph 2

*Text proposed by the Commission*

(2) The Commission shall maintain a Union register of recognised data altruism organisations.

*Amendment*

(2) The Commission shall maintain a **public** Union register of recognised data altruism organisations.

## Amendment 125

### Proposal for a regulation Article 15 – paragraph 3

*Text proposed by the Commission*

(3) An entity registered in the register in accordance with Article 16 may refer to itself as a ‘data altruism organisation recognised in the Union’ in its written and spoken communication.

*Amendment*

(3) An entity registered in the register in accordance with Article 16 may refer to itself as a ‘data altruism organisation recognised in the Union’ in its written and spoken communication. ***The entity shall use a dedicated Union logo or QR code linking to the European register of recognised data altruism organisations, both online and offline. The logo shall have the objective of providing a coherent visual identity to data altruism organisations of the Union and shall contribute to increase trust for data subjects and legal entities. The logo shall be created and displayed with rules established in a separate implementing act. That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 29(2).***

## Amendment 126

### Proposal for a regulation Article 15 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

**(3a) Member States may establish national policies for data altruism and shall put in place organisational or technical arrangements to facilitate data altruism. Those national policies may in particular support data subjects in making personal data related to them held by public sector bodies available voluntarily for data altruism.**

#### **Amendment 127**

##### **Proposal for a regulation Article 15 – paragraph 3 b (new)**

*Text proposed by the Commission*

*Amendment*

**(3b) The European Data Innovation Board shall advise and assist in developing a consistent practice throughout the Union.**

#### **Amendment 128**

##### **Proposal for a regulation Article 16 – paragraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

(a) be a legal entity constituted to meet objectives of general interest;

(a) be a legal entity constituted to meet objectives of general interest, **in accordance with Union and national law;**

#### **Amendment 129**

##### **Proposal for a regulation Article 16 – paragraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

(b) operate on a not-for-profit basis and be independent from any entity that

(b) operate on a not-for-profit basis and be **fully** independent, **both with regard to**

operates on a for-profit basis;

*the organisation itself and with regard to its personnel*, from any *relevant* entity *involved in the collection, processing or storage of data* that operates on a for-profit basis;

### Amendment 130

#### Proposal for a regulation

#### Article 16 – paragraph 1 – point c a (new)

*Text proposed by the Commission*

*Amendment*

*(ca) demonstrate professional expertise in data processing activities in compliance with relevant Union and national law as well as fulfil technical, operational and organisational requirements for the application of data protection standards and the exercise of data subjects' rights, including the right to transfer data;*

### Amendment 131

#### Proposal for a regulation

#### Article 17 – title

*Text proposed by the Commission*

*Amendment*

Registration

Registration *of recognised data altruism organisations*

### Amendment 132

#### Proposal for a regulation

#### Article 17 – paragraph 4 – point d

*Text proposed by the Commission*

*Amendment*

(d) the entity's *main* sources of income;

(d) the entity's sources of income;

### Amendment 133

**Proposal for a regulation**  
**Article 17 – paragraph 4 – point h**

*Text proposed by the Commission*

(h) the purposes of general interest it intends to promote **when collecting data**;

*Amendment*

(h) the purposes of general interest it intends to promote;

**Amendment 134**

**Proposal for a regulation**  
**Article 17 – paragraph 5**

*Text proposed by the Commission*

(5) Where the entity has submitted all necessary information pursuant to paragraph 4 and the competent authority considers that the entity complies with the requirements of Article 16, it shall register the entity in the register of recognised data altruism organisations within twelve weeks from the date of application. The registration shall be valid in all Member States. Any registration shall be communicated to the Commission, for inclusion in the Union register of recognised data altruism organisations.

*Amendment*

(5) Where the entity has submitted all necessary information pursuant to paragraph 4 and the competent authority **for the registration of data altruism organisations** considers that the entity complies with the requirements of Article 16, it shall register the entity in the register of recognised data altruism organisations within twelve weeks from the date of application. The registration shall be valid in all Member States. Any registration shall be communicated to the Commission, for inclusion in the Union register of recognised data altruism organisations.

**Amendment 135**

**Proposal for a regulation**  
**Article 17 – paragraph 6**

*Text proposed by the Commission*

(6) The information referred to in paragraph 4, points (a), (b), (f), (g), and (h) shall be published in the national **register** of recognised data altruism organisations.

*Amendment*

(6) The information referred to in paragraph 4, points (a), (b), (f), (g), and (h) shall be published in **both** the national **and Union public registers** of recognised data altruism organisations.

**Amendment 136**

**Proposal for a regulation**  
**Article 17 – paragraph 7**

*Text proposed by the Commission*

(7) Any entity entered in the register of recognised data altruism organisations shall **submit** any changes of the information provided pursuant to paragraph 4 **to the competent authority** within 14 calendar days from the day on which the change takes place.

*Amendment*

(7) Any entity entered in the **public** register of recognised data altruism organisations shall **notify the competent authority for the registration of data altruism organisations of** any changes of the information provided pursuant to paragraph 4 within 14 calendar days from the day on which the change takes place. **The competent authority shall inform the Commission, by electronic means and without undue delay, of any modifications made.**

**Amendment 137**

**Proposal for a regulation**  
**Article 18 – paragraph 1 – introductory part**

*Text proposed by the Commission*

(1) Any entity entered in the national register of recognised data altruism organisations shall keep full and accurate records concerning:

*Amendment*

(1) Any entity entered in the national register of recognised data altruism organisations shall keep full, **comprehensible** and accurate records concerning:

**Amendment 138**

**Proposal for a regulation**  
**Article 18 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) all natural or legal persons that were given the possibility to process data held by that entity;

*Amendment*

(a) all natural or legal persons that were given the possibility to process data held by that entity, **and their contact details**;

**Amendment 139**

**Proposal for a regulation**  
**Article 18 – paragraph 2 – introductory part**

*Text proposed by the Commission*

(2) Any entity entered in the register of recognised data altruism organisations shall draw up and transmit to the competent national authority an annual activity report which shall contain at least the following:

*Amendment*

(2) Any entity entered in the register of recognised data altruism organisations shall draw up and transmit to the competent national authority ***for the registration of data altruism organisations*** an annual activity report which shall contain at least the following:

**Amendment 140**

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

*Text proposed by the Commission*

(1) Any entity entered in the register of recognised data altruism organisations shall inform data holders:

*Amendment*

(1) Any entity entered in the register of recognised data altruism organisations shall inform data holders, ***including data subjects in a clear and comprehensible manner and prior to any processing of their data:***

**Amendment 141**

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

*Text proposed by the Commission*

(a) about the purposes of general interest for which ***it*** permits the processing of their data by a data user in an easy-to-understand manner;

*Amendment*

(a) about the purposes of general interest for which ***the data subject provides consent and for which the organisation*** permits the processing of their data by a data user in an easy-to-understand manner;

**Amendment 142**

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

*Text proposed by the Commission*

*Amendment*

**(aa) about the rights that the data subject can apply with regard to the processing of their personal data;**

#### **Amendment 143**

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

*Text proposed by the Commission*

*Amendment*

(b) about any processing outside the Union.

(b) about any processing outside the Union, **including the entity by which the processing is made, any associated risks as well as the location of the data processing.**

#### **Amendment 144**

##### **Proposal for a regulation Article 19 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

(2) The entity shall also ensure that the data is not **be** used for other purposes than those of general interest for which it permits the processing.

(2) The entity shall also ensure that the data is not used for other purposes than those of general interest for which it permits the processing **and shall ensure that no misleading marketing practices are used to solicit donations of data.**

#### **Amendment 145**

##### **Proposal for a regulation Article 20 – title**

*Text proposed by the Commission*

*Amendment*

Competent authorities for registration

Competent authorities for **the** registration **of data altruism organisations**

## Amendment 146

### Proposal for a regulation Article 20 – paragraph 1

*Text proposed by the Commission*

(1) Each Member State shall designate one or more competent authorities responsible for the register of recognised data altruism organisations and for the monitoring of compliance with the requirements of this Chapter. The designated competent authorities shall meet the requirements of Article 23.

*Amendment*

(1) Each Member State shall designate one or more competent authorities responsible for the register of recognised data altruism organisations and for the monitoring of compliance with the requirements of this Chapter. The designated competent authorities ***for the registration of data altruism organisations*** shall meet the requirements of Article 23.

## Amendment 147

### Proposal for a regulation Article 20 – paragraph 3

*Text proposed by the Commission*

(3) The competent authority shall undertake its tasks in cooperation with the data protection authority, where such tasks are related to processing of personal data, and with relevant sectoral bodies of the same Member State. For any question requiring an assessment of compliance with Regulation (EU) 2016/679, the competent authority shall first seek an opinion or decision by the competent supervisory authority established pursuant to that Regulation and comply with that opinion or decision.

*Amendment*

(3) The competent authority ***for the registration of data altruism organisations*** shall undertake its tasks in cooperation with the data protection authority, where such tasks are related to processing of personal data, and with relevant sectoral bodies of the same Member State. For any question requiring an assessment of compliance with Regulation (EU) 2016/679, the competent authority shall first seek an opinion or decision by the competent supervisory authority established pursuant to that Regulation and comply with that opinion or decision.

## Amendment 148

### Proposal for a regulation Article 21 – paragraph 1

*Text proposed by the Commission*

(1) The competent authority shall monitor and supervise compliance of entities entered in the register of recognised data altruism organisations with the conditions laid down in this Chapter.

**Amendment 149**

**Proposal for a regulation  
Article 21 – paragraph 3**

*Text proposed by the Commission*

(3) Where the competent authority finds that an entity does not comply with one or more of the requirements of this Chapter it shall notify the entity of those findings and give it the opportunity to state its views, within *a reasonable time limit*.

**Amendment 150**

**Proposal for a regulation  
Article 21 – paragraph 4**

*Text proposed by the Commission*

(4) The competent authority shall have the power to require the cessation of the breach referred to in paragraph 3 either immediately or within a reasonable time limit and shall take appropriate *and* proportionate measures aimed at ensuring compliance.

**Amendment 151**

**Proposal for a regulation  
Article 21 – paragraph 5 – point b**

*Amendment*

(1) The competent authority shall monitor and supervise compliance of entities entered in the *public* register of recognised data altruism organisations with the conditions laid down in this Chapter.

*Amendment*

(3) Where the competent authority finds that an entity does not comply with one or more of the requirements of this Chapter it shall notify the entity of those findings *without undue delay* and give it the opportunity to state its views, within *20 days*.

*Amendment*

(4) The competent authority shall have the power to require the cessation of the breach referred to in paragraph 3 either immediately or within a reasonable time limit and shall take appropriate, proportionate, *and effective* measures aimed at ensuring compliance.

*Text proposed by the Commission*

(b) be removed from the **register** of recognised data altruism organisations.

*Amendment*

(b) be removed from the **national and Union public registers** of recognised data altruism organisations.

## **Amendment 152**

### **Proposal for a regulation Article 21 – paragraph 6**

*Text proposed by the Commission*

(6) If an entity included in the register of recognised data altruism organisations has its main establishment or legal representative in a Member State but is active in other Member States, the competent authority of the Member State of the main establishment or where the legal representative is located and the competent authorities of those other Member States shall cooperate and assist each other as necessary. Such assistance and cooperation **may** cover information exchanges between the competent authorities concerned and requests to take the supervisory measures referred to in this Article.

*Amendment*

(6) If an entity included in the register of recognised data altruism organisations has its main establishment or legal representative in a Member State but is active in other Member States, the competent authority of the Member State of the main establishment or where the legal representative is located and the competent authorities of those other Member States shall cooperate and assist each other as necessary. Such assistance and cooperation **shall cover but shall not be limited to** information exchanges between the competent authorities concerned and **reasoned** requests to take the supervisory measures referred to in this Article.

## **Amendment 153**

### **Proposal for a regulation Article 22 – title**

*Text proposed by the Commission*

European data altruism consent **form**

*Amendment*

European data altruism consent **interface**

## **Amendment 154**

### **Proposal for a regulation Article 22 – paragraph 1**

*Text proposed by the Commission*

(1) In order to facilitate the collection of data based on data altruism, the Commission may adopt implementing acts developing a European data altruism consent **form**. **The form** shall allow the collection **of** consent across Member States in a uniform format. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 29 (2).

*Amendment*

(1) In order to facilitate the collection of data based on data altruism, the Commission may adopt implementing acts developing a European data altruism consent **interface following a consultation of the European Data Protection Board**. **The interface** shall allow the collection **and revocation of free and informed** consent across Member States in a uniform format. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 29 (2).

**Amendment 155**

**Proposal for a regulation**  
**Article 22 – paragraph 2**

*Text proposed by the Commission*

(2) The European data altruism consent **form** shall use a modular approach allowing customisation for specific sectors and for different purposes.

*Amendment*

(2) The European data altruism consent **interface** shall use a modular approach allowing customisation for specific sectors and for different purposes.

**Amendment 156**

**Proposal for a regulation**  
**Article 22 – paragraph 3**

*Text proposed by the Commission*

(3) Where personal data are provided, the European data altruism consent **form** shall ensure that data subjects are able to give consent to and withdraw consent from a specific data processing operation in compliance with the requirements of Regulation (EU) 2016/679.

*Amendment*

(3) Where personal data are provided, the European data altruism consent **interface** shall ensure that data subjects are able to give consent to and withdraw consent from a specific data processing operation in compliance with the requirements of Regulation (EU) 2016/679. **The interface shall provide up-to-date information concerning what types of data have been used, with what frequency and for what purposes by users of the data**

*altruism organisation.*

## Amendment 157

### Proposal for a regulation Article 22 – paragraph 4

*Text proposed by the Commission*

(4) The **form** shall be available in a manner that can be printed on paper and read by humans as well as in an electronic, machine-readable form.

*Amendment*

(4) The **interface shall include a consent form, which** shall be available **in all the official languages of the Union institutions** in a manner that can be printed on paper and read by humans as well as in an electronic, machine-readable form.

## Amendment 158

### Proposal for a regulation Article 23 – paragraph 1

*Text proposed by the Commission*

(1) The competent authorities designated pursuant to Article 12 and Article 20 shall be legally distinct from, and functionally independent of any **provider of data sharing services** or entity included in the register of recognised data altruism organisations.

*Amendment*

(1) The competent authorities designated pursuant to Article 12 and Article 20 shall be legally distinct from, and functionally independent of any **data intermediary** or entity included in the register of recognised data altruism organisations. **The functions of the competent authorities designated pursuant to Articles 12 and 20 may be performed by the same entity. Member States shall be allowed either to establish one or more new entities or to rely on existing ones.**

## Amendment 159

### Proposal for a regulation Article 23 – paragraph 3

*Text proposed by the Commission*

(3) The top-management and the

*Amendment*

(3) The top-management and the

personnel responsible for carrying out the relevant tasks of the competent authority provided for in this Regulation **cannot** be the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of the services which they evaluate, **nor** the authorised representative of any of those parties **or** represent them. This shall not preclude the use of evaluated services that are necessary for the operations of the competent authority or the use of such services for personal purposes.

personnel responsible for carrying out the relevant tasks of the competent authority provided for in this Regulation **shall not** be the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of the services which they evaluate, **shall not be** the authorised representative of any of those parties, **and shall not** represent them **or have represented them during the previous two years**. This shall not preclude the use of evaluated services that are necessary for the operations of the competent authority or the use of such services for personal purposes.

## Amendment 160

### Proposal for a regulation Article 23 – paragraph 5

*Text proposed by the Commission*

(5) The competent authorities shall have at their disposal the adequate financial and human resources to carry out the tasks assigned to them, including the necessary technical knowledge and resources.

*Amendment*

(5) The competent authorities shall have at their disposal the adequate financial and human resources, **and technical and legal expertise** to carry out the tasks assigned to them, including the necessary technical knowledge and resources.

## Amendment 161

### Proposal for a regulation Article 23 – paragraph 6

*Text proposed by the Commission*

(6) The competent authorities of a Member State shall provide the Commission and competent authorities from other Member States, on reasoned request, with the information necessary to carry out their tasks under this Regulation. Where a national competent authority considers the information requested to be

*Amendment*

(6) The competent authorities of a Member State shall provide the Commission and competent authorities from other Member States, on reasoned request **and without undue delay**, with the information necessary to carry out their tasks under this Regulation. Where a national competent authority considers the

confidential in accordance with Union and national rules on commercial and professional confidentiality, the Commission and any other competent authorities concerned shall ensure such confidentiality.

information requested to be confidential in accordance with Union and national rules on commercial and professional confidentiality, the Commission and any other competent authorities concerned shall ensure such confidentiality.

## **Amendment 162**

### **Proposal for a regulation**

#### **Article 23 – paragraph 6 a (new)**

*Text proposed by the Commission*

*Amendment*

***(6a) Member States shall regularly report to the Commission and the European Data Innovation Board on the activities, which competent authorities carry out pursuant to this Regulation. In particular, the Commission and the Board shall be informed about the financial and human resources allocated to the activities pursuant to this Regulation.***

## **Amendment 163**

### **Proposal for a regulation**

#### **Article 24 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

(1) Natural and legal persons shall have the right to lodge a complaint with the relevant national competent authority against a ***provider of data sharing services*** or an entity entered in the register of recognised data altruism organisations.

(1) Natural and legal persons shall have the right to lodge a complaint with the relevant national competent authority against a ***data intermediary*** or an entity entered in the register of recognised data altruism organisations ***concerning any matter pertaining to this Regulation.***

## **Amendment 164**

### **Proposal for a regulation**

#### **Article 24 – paragraph 2**

*Text proposed by the Commission*

(2) The authority with which the complaint has been lodged shall inform the complainant of the progress of the proceedings and of the decision taken, **and shall inform the complainant of** the right to an effective judicial remedy provided for in Article 25.

*Amendment*

(2) The authority with which the complaint has been lodged shall inform **timely and in a clear manner** the complainant of the progress of the proceedings and of the decision taken, **as well as with regard to** the right to an effective judicial remedy **within a maximum of 30 days and as** provided for in Article 25.

**Amendment 165**

**Proposal for a regulation  
Article 25 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) decisions of the competent authorities referred to in Articles 13, 17 and 21 taken in the management, control and enforcement of the notification regime for **providers of data sharing services** and the monitoring of entities entered into the register of recognised data altruism organisations.

*Amendment*

(b) decisions of the competent authorities referred to in Articles 13, 17 and 21 taken in the management, control and enforcement of the notification regime for **data intermediaries** and the monitoring of entities entered into the register of recognised data altruism organisations.

**Amendment 166**

**Proposal for a regulation  
Article 25 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**(2a) The rights provided for in Directive (EU) 2020/1828 shall apply for infringements of this Regulation.**

**Amendment 167**

**Proposal for a regulation  
Article 26 – paragraph 1**

*Text proposed by the Commission*

(1) The Commission shall establish a European Data Innovation Board (“the Board”) in the form of an Expert Group, **consisting of the** representatives **of** competent authorities of all the Member States, the European Data Protection Board, the Commission, relevant data spaces **and** other representatives of competent authorities in specific sectors.

*Amendment*

(1) The Commission shall establish a European Data Innovation Board (“the Board”) in the form of an Expert Group **and composed of** representatives **of the following groups:**

- (a) competent authorities of all the Member States;
- (b) the European Data Protection Board;
- (c) the Commission;
- (d) relevant data spaces;
- (e) **the EU SME Envoy or a representative appointed by the network of SME envoys;**
- (f) **standardisation organisations;**
- (g) **European Union Agency for Cybersecurity;**
- (h) other representatives of **relevant agencies and** competent authorities in specific sectors.

**Amendment 168**

**Proposal for a regulation**  
**Article 26 – paragraph 2**

*Text proposed by the Commission*

(2) Stakeholders and relevant third parties may be invited to attend meetings of the Board and to participate in its work.

*Amendment*

(2) Stakeholders and relevant third parties may be invited to attend meetings of the Board and to participate in its work, **including:**

- (i) **experts representing relevant private stakeholders and business sectors representing relevant industries, including representatives of national, trans-national or common European data**

*spaces, SMEs, research organisations, NGOs, European social partners, and consumers' and civil society organisations;*

*(ii) experts appointed in their personal capacity, who have proven knowledge and experience in the areas covered by this Regulation.*

## **Amendment 169**

### **Proposal for a regulation Article 26 – paragraph 3**

*Text proposed by the Commission*

(3) The Commission shall chair the meetings of the Board.

*Amendment*

(3) The Commission shall chair the meetings of the Board, ***which may be conducted in different configurations, depending on the subjects to be discussed.***

## **Amendment 170**

### **Proposal for a regulation Article 26 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***(4a) The Board shall carry out its tasks in accordance with the principle of transparency. Consequently, the Board's deliberations and documents shall be made public, and shall include, where relevant, a summary of input from stakeholders.***

## **Amendment 171**

### **Proposal for a regulation Article 27 – title**

*Text proposed by the Commission*

*Amendment*

Tasks of the Board

Tasks of the ***European Data Innovation***

### Amendment 172

#### Proposal for a regulation

#### Article 27 – paragraph 1 – introductory part

*Text proposed by the Commission*

*The* Board shall have the following tasks:

*Amendment*

**1. *The European Data Innovation***  
Board shall have the following tasks:

### Amendment 173

#### Proposal for a regulation

#### Article 27 – paragraph 1 – point a a (new)

*Text proposed by the Commission*

*Amendment*

**(aa) *to advise the Member States and the Commission on the need to set harmonised conditions allowing for re-use of data referred to in Article 3(1) held by public sector bodies across the internal market as well as to support the competent authorities and ensure coordination and exchange of best practices;***

### Amendment 174

#### Proposal for a regulation

#### Article 27 – paragraph 1 – point b

*Text proposed by the Commission*

(b) to advise and assist the Commission in developing a consistent practice of the competent authorities in the application of requirements applicable to data ***sharing providers;***

*Amendment*

(b) to advise and assist the Commission in developing a consistent practice of the competent authorities in the application of requirements applicable to data ***intermediaries and data altruism organisations;***

### Amendment 175

**Proposal for a regulation**  
**Article 27 – paragraph 1 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

**(ba) to advise and assist the Commission in developing consistent guidelines for cybersecurity requirements for the exchange and storage of data; in this regard to aim to consistently keep the latest technical standards in cybersecurity;**

**Amendment 176**

**Proposal for a regulation**  
**Article 27 – paragraph 1 – point d**

*Text proposed by the Commission*

*Amendment*

(d) to assist the Commission in enhancing **the** interoperability of data **as well as data sharing services between different sectors and domains**, building on existing European, international or national standards;

(d) to **advise and** assist the Commission in **addressing harmful fragmentation of the internal market and the data economy by** enhancing **cross-border and cross-sector** interoperability of data, building on existing European, international or national standards, **and with the aim of encouraging the creation of common European data spaces;**

**Amendment 177**

**Proposal for a regulation**  
**Article 27 – paragraph 1 – point e**

*Text proposed by the Commission*

*Amendment*

(e) to facilitate the cooperation between national competent authorities under this Regulation through capacity-building and the exchange of information, in particular by establishing methods for the efficient exchange of information relating to the notification procedure for data **sharing service providers** and the registration and monitoring of recognised

(e) to facilitate the cooperation between national competent authorities under this Regulation through capacity-building and the exchange of information, in particular by establishing methods for the efficient exchange of information relating to the notification procedure for data **intermediaries** and the registration and monitoring of recognised data altruism

data altruism organisations.

organisations.

#### **Amendment 178**

##### **Proposal for a regulation**

##### **Article 27 – paragraph 1 – point e a (new)**

*Text proposed by the Commission*

*Amendment*

***(ea) to facilitate cooperation between Member States in relation to the rules on penalties laid down by the Member States pursuant to Article 31 and to issue guidelines with regard to best practices concerning the implementation of those rules and the enforcement of penalties across the Union, and to advise the Commission on the need to amend this Regulation with the view to the harmonisation of the rules on penalties referred to in Article 31;***

#### **Amendment 179**

##### **Proposal for a regulation**

##### **Article 27 – paragraph 1 – point e b (new)**

*Text proposed by the Commission*

*Amendment*

***(eb) to advise the Commission in the decision of adopting implementing acts referred to in Article 5(9) and to facilitate the cooperation between national competent authorities on the application of Article 30;***

#### **Amendment 180**

##### **Proposal for a regulation**

##### **Article 27 – paragraph 1 – point e c (new)**

*Text proposed by the Commission*

*Amendment*

***(ec) to advise and assist the Commission in the discussions conducted***

*at bilateral, plurilateral or multilateral level with third countries in order to minimise harmful fragmentation of the global digital markets by pushing for joint standards and fostering data exchange between trusted countries at a global level and aiming to improve the regulatory environment for non-personal data;*

## **Amendment 181**

### **Proposal for a regulation**

#### **Article 27 – paragraph 1 – point e d (new)**

*Text proposed by the Commission*

*Amendment*

*(ed) to provide expertise, recommendations and advise to the Commission on the possible need to amend this Regulation or related Union legislative acts, such as Directive (EU) 2019/1024;*

## **Amendment 182**

### **Proposal for a regulation**

#### **Article 27 – paragraph 1 – point e e (new)**

*Text proposed by the Commission*

*Amendment*

*(ee) to report annually on the percentage of data shared in accordance with this Regulation that is processed in and outside the Union.*

## **Amendment 183**

### **Proposal for a regulation**

#### **Article 27 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*(1a) The Board shall develop recommendations to ensure the consistency between the practices of the*

*competent authorities and shall draft opinions on the status of the application of the Regulation in Member States. If inconsistent practices that could lead to fragmentation of the internal market have been identified, the Board shall draft decisions to be submitted to the Commission. Such decisions may recommend for Member States to take all necessary measures to ensure consistency of practices and prevent market fragmentation.*

## **Amendment 184**

### **Proposal for a regulation Article 27 – paragraph 1 c (new)**

*Text proposed by the Commission*

*Amendment*

*(1c) The Board shall function for the application of the purposes as laid down in Regulation ...[laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) (2021/0106(COD))], and shall provide advice and assistance to the Commission in order to:*

*(a) contribute to the effective cooperation of the national supervisory authorities and the Commission with regard to matters covered by Regulation ...[the Artificial Intelligence Act];*

*(b) coordinate and contribute to guidance and analysis by the Commission and the national supervisory authorities and other competent authorities on emerging issues across the internal market with regard to matters covered by Regulation ...[the Artificial Intelligence Act];*

*(c) assist the national supervisory authorities and the Commission in ensuring the consistent application of Regulation [Artificial Intelligence Act].*

## Amendment 185

### Proposal for a regulation Article 30 – paragraph 1

*Text proposed by the Commission*

(1) The public sector body, the natural or legal person to which the right to re-use data was granted under Chapter 2, the data **sharing provider** or the entity entered in the register of recognised data altruism organisations, as the case may be, shall take all reasonable technical, legal and organisational measures in order to prevent transfer or access to non-personal data held in the Union where such transfer or access would create a conflict with Union law or the law of the relevant Member State, **unless the transfer or access are in line with** paragraph 2 or 3.

*Amendment*

(1) The public sector body, the natural or legal person to which the right to re-use data was granted under Chapter 2, the data **intermediary** or the entity entered in the register of recognised data altruism organisations, as the case may be, shall take all reasonable technical, legal and organisational measures in order to prevent transfer or access to non-personal data held in the Union where such transfer or access would create a conflict with Union law or the law of the relevant Member State, **without prejudice to** paragraph 2 or 3.

## Amendment 186

### Proposal for a regulation Article 30 – paragraph 3 – subparagraph 1 – introductory part

*Text proposed by the Commission*

(3) Where a public sector body, a natural or legal person to which the right to re-use data was granted under Chapter 2, a data **sharing provider** or entity entered in the register of recognised data altruism organisations is the addressee of a decision of a court or of an administrative authority of a third country to transfer from or give access to non-personal data held in the Union and compliance with such a decision would risk putting the addressee in conflict with Union law or with the law of the relevant Member State, transfer to or access to such data by that third-country authority shall take place only:

*Amendment*

(3) **In the absence of such an international agreement**, where a public sector body, a natural or legal person to which the right to re-use data was granted under Chapter 2, a data **intermediary** or entity entered in the register of recognised data altruism organisations is the addressee of a decision of a court or of an administrative authority of a third country to transfer from or give access to non-personal data held in the Union and compliance with such a decision would risk putting the addressee in conflict with Union law or with the law of the relevant Member State, transfer to or access to such data by that third-country authority shall take place only:

## Amendment 187

### Proposal for a regulation Article 30 – paragraph 3 – subparagraph 2

*Text proposed by the Commission*

The addressee of the decision **shall** ask the opinion of the relevant competent bodies or authorities, pursuant to this Regulation, in order to determine if these conditions are met.

*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 if these conditions are met. ***The relevant competent bodies shall exchange information on international access requests in the framework of the European Data Innovation Board.***

## Amendment 188

### Proposal for a regulation Article 30 – paragraph 5

*Text proposed by the Commission*

(5) The public sector body, the natural or legal person to which the right to re-use data was granted under Chapter 2, the data **sharing provider** and the entity providing data altruism shall inform the data holder about the existence of a request of an administrative authority in a third-country to access its data, except in cases where the request serves law enforcement purposes and for as long as this is necessary to preserve the effectiveness of the law enforcement activity.

*Amendment*

(5) The public sector body, the natural or legal person to which the right to re-use data was granted under Chapter 2, the data **intermediary** and the entity providing data altruism shall inform the data holder about the existence of a request of an administrative authority in a third-country to access its data **before complying to the request**, except in cases where the request serves law enforcement purposes and for as long as this is necessary to preserve the effectiveness of the law enforcement activity.

## Amendment 189

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

*Text proposed by the Commission*

By [**four** years after the **data** of application of this Regulation], the Commission shall

*Amendment*

By ... [**two** years after the **date** of application of this Regulation], the

carry out an evaluation of this Regulation, **and** submit a report on its main findings to the European Parliament and to the Council as well as to the European Economic and Social Committee. Member States shall provide the Commission with the information necessary for the preparation of that report.

Commission shall carry out an evaluation of this Regulation, **assessing, inter alia:**

**(a) the conditions for the re-use of data under Chapter II with a view to their further harmonisation and the potential need for definition of highly sensitive data;**

**(b) the level of compliance with the requirements set out in this Regulation, as well as the quality and security of services provided by data intermediaries under Chapter III;**

**(c) the type of altruistic organisations registered under Chapter IV and overview of the objectives of general interests for which data are shared in view of establishing clear criteria in this respect;**

**(d) the functioning of the Data Innovation Board, including summarising its most important actions, provided added value, issued recommendations and overall contributions to the development of the European data economy;**

**(e) the conditions for international access under Article 30.**

**The Commission shall** submit a report on its main findings to the European Parliament and to the Council as well as to the European Economic and Social Committee. Member States shall provide the Commission with the information necessary for the preparation of that report.

## PROCEDURE – COMMITTEE ASKED FOR OPINION

|   |  |
|---|--|
| <b>Title</b>  | European data governance (Data Governance Act)   |
| <b>References</b>   | COM(2020)0767 – C9-0377/2020 – 2020/0340(COD)  |
| <b>Committee responsible</b><br>Date announced in plenary | ITRE<br>14.12.2020   |
| <b>Opinion by</b><br>Date announced in plenary            | IMCO<br>14.12.2020   |
| <b>Rapporteur for the opinion</b><br>Date appointed       | Sandro Gozi<br>9.2.2021  |
| <b>Discussed in committee</b>                             | 26.5.2021  |
| <b>Date adopted</b>                                       | 21.6.2021  |
| <b>Result of final vote</b>                               | +: 37<br>–: 5<br>0: 2  |
| <b>Members present for the final vote</b>                 | Andrus Ansip, Pablo Arias Echeverría, Alessandra Basso, Brando Benifei, Hynek Blaško, Biljana Borzan, Vlad-Marius Botoș, Markus Buchheit, Andrea Caroppo, Anna Cavazzini, Dita Charanzová, Deirdre Clune, David Cormand, Carlo Fidanza, Evelyne Gebhardt, Sandro Gozi, Maria Grapini, Svenja Hahn, Virginie Joron, Eugen Jurzyca, Marcel Kolaja, Andrey Kovatchev, Jean-Lin Lacapelle, Maria-Manuel Leitão-Marques, Morten Løkkegaard, Antonius Manders, Beata Mazurek, Leszek Miller, Anne-Sophie Pelletier, Miroslav Radačovský, Christel Schaldemose, Andreas Schwab, Ivan Štefanec, Róza Thun und Hohenstein, Tom Vandenkendelaere, Marion Walsmann, Marco Zullo |
| <b>Substitutes present for the final vote</b>             | Clara Aguilera, Rasmus Andresen, Geert Bourgeois, Maria da Graça Carvalho, Salvatore De Meo, Claude Gruffat, Tsvetelina Penkova  |

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

| 37        | +  |
|-----------|--|
| ECR       | Geert Bourgeois, Carlo Fidanza, Beata Mazurek  |
| NI        | Miroslav Radačovský  |
| PPE       | Pablo Arias Echeverría, Andrea Caroppo, Maria da Graça Carvalho, Deirdre Clune, Salvatore De Meo, Andrey Kovatchev, Antonius Manders, Andreas Schwab, Ivan Štefanec, Róza Thun und Hohenstein, Tom Vandenkendelaere, Marion Walsmann |
| Renew     | Andrus Ansip, Vlad-Marius Botoș, Dita Charanzová, Sandro Gozi, Svenja Hahn, Morten Løkkegaard, Marco Zullo   |
| S&D       | Clara Aguilera, Brando Benifei, Biljana Borzan, Evelyne Gebhardt, Maria Grapini, Maria-Manuel Leitão-Marques, Leszek Miller, Tsvetelina Penkova, Christel Schaldemose  |
| Verts/ALE | Rasmus Andresen, Anna Cavazzini, David Cormand, Claude Gruffat, Marcel Kolaja  |

| 5   | -   |
|-----|---|
| ECR | Eugen Jurzyca   |
| ID  | Hynek Blaško, Markus Buchheit, Virginie Joron, Jean-Lin Lacapelle |

| 2        | 0                     |
|----------|-----------------------|
| ID       | Alessandra Basso      |
| The Left | Anne-Sophie Pelletier |

Key to symbols:

+ : in favour

- : against

0 : abstention