



**2020/0340(COD)**

06.7.2021

# **OPINION**

of the Committee on Legal Affairs

for the Committee on Industry, Research and Energy

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

Rapporteur for opinion: Karen Melchior

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## SHORT JUSTIFICATION

Data is the world's largest resource of knowledge and the engine for innovation, growth and economic development. The use and re-use of data is of significant value when it comes to the creation and training of new and flourishing technologies that can provide some of answers to tackle major societal challenges such as climate change, health or mobility and push the European Union towards digital sovereignty. The Data Governance Act ensures that valuable data becomes accessible across Member States, between companies, public authorities and all the way into the science lab.

Therefore, a decisive framework is to be provided to release some of the potential from sharing more data while both securing and respecting fundamental values.

The rapporteur stresses the importance of creating fair principles for re-use of data, a need for a single Union register instead of 27 different registers, and protecting the rights of data subjects and legal entities. Furthermore, the rapporteur finds it necessary to provide a possibility to withdraw permissions from a specific data processing operation notably in case of misuse of data.

## AMENDMENTS

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

### Amendment 1

#### Proposal for a regulation Recital 1 a (new)

*Text proposed by the Commission*

*Amendment*

***(1a) Both Article 6(2) of the Treaty on European Union and Article 51 of the Charter of Fundamental Rights of the European Union ('the Charter') require the Union to respect fundamental rights, observe the principles and promote the application thereof.***

### Amendment 2

#### Proposal for a regulation Recital 2

(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.

(2) Over the last few years, digital technologies have transformed the economy and society, affecting all sectors of activity and daily life, ***with a major impact, including on cross-border activities***. 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>. ***But it could also generate potential risks, without a specific intention***. 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, ***commerce***, financial services, energy, or agriculture or thematic areas, such as the European green deal or European data spaces for public administration or skills.

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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)0640)

<sup>24</sup> COM(2020)0066.

### 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) 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

###### *Amendment*

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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 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.

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 **intermediation** 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 should also apply.

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<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.

<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)

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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,

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)

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<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).

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<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,



#### Amendment 4

##### 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, **especially based on efficiency and firm responsibility**, is necessary in order to address the barriers to a well-functioning data-driven economy and to **increase awareness and trust regarding the sharing of data**. A Union-wide governance framework **should be built in a way as to enable individuals, businesses - especially SMEs and start-ups - as well as civil society actors to thrive, ensuring trust, transparency, interoperability, access, portability, security of data, and a level-playing field for all actors, with a view to enhancing the flow and re-use of non-personal and personal data that is fully compliant with the relevant instruments of Union and national law**. It should allow 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 **intermediation** 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 5

##### Proposal for a regulation

##### Recital 4 a (new)

*Text proposed by the Commission*

*Amendment*

**(4a) The Commission's consultation of 9 October 2019 entitled 'SME panel consultation on B2B Data Sharing Principles and Guidance' found that 40%**

*of SMEs struggle to access the data they need to develop data-driven products and services underscoring the need to lower the barriers to a data-driven economy, in particular for SMEs. The Digital Europe Programme, as well as other Union and national programmes, should support cooperation to achieve a European ecosystem for trusted data sharing. European Digital Innovation Hubs and their network should also be able to help businesses, in particular SMEs and start-ups to reap the benefits from the European data economy.*

## Amendment 6

### Proposal for a regulation Recital 4 b (new)

*Text proposed by the Commission*

*Amendment*

*(4b) Underlines the need to enhance Europe's digital sovereignty in a self-determined manner by building on its strengths and reducing its weaknesses, preserving open markets and global cooperation.*

## Amendment 7

### Proposal for a regulation Recital 4 c (new)

*Text proposed by the Commission*

*Amendment*

*(4c) To foster further trust in the data economy of the Union, it is essential that citizens, businesses, civil society actors and the public sector are provided with safeguards ensuring that control over their strategic and sensitive data is guaranteed and that Union legislation, values and high level standards are upheld in terms of, but not limited to, security, protection of personal data, consumer rights, intellectual property*

*rights and commercial confidentiality, including trade secrets. To that end, public sector bodies, natural or legal persons to which the right to re-use data was granted, providers of data intermediation services and entities entered in the register of recognized data altruism organisations should adhere to the relevant technical standards, codes of conduct and certifications at Union level.*

## Amendment 8

### 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

##### *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, **or limit negative impact on fundamental rights, the principle of non-discrimination and data protection. Such technical and legal procedural** requirements are usually time- and knowledge-intensive to fulfil. This has led to the underutilisation of such data **and**

Union.

***a lack of public trust, transparency, and legal clarity.*** 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 9

### 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

##### *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 ***or other methods that effectively prevent the identification of data subjects.*** Application of these privacy-enhancing technologies, together with comprehensive data protection approaches ***compliant with the rules on data processing can contribute to more safety in the use and*** 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 (OJ L 164, 18.6.2013, p. 16).

(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 (OJ L 164, 18.6.2013, p. 16).

## **Amendment 10**

### **Proposal for a regulation Recital 6 a (new)**

*Text proposed by the Commission*

*Amendment*

***(6a) In order to facilitate the protection of personal data or confidential data and to speed up the process of making such data available for re-use under this Regulation, Member States should encourage public authorities to create and procure data in formats and structures that allow for swift anonymisation, similar to the principle ‘open by design and by default’ as referenced in Recital (16) of Directive (EU) 2019/1024, and as encouraged under the green transition and digital transformation strategy promoting interoperability, energy efficiency, personal data protection and the use of open-source solutions.***

*Justification*

*Cf. Proposal for a Regulation of the European Parliament and of the Council establishing a Recovery and Resilience Facility, Recital 12.COM/2020/408*

## **Amendment 11**

### **Proposal for a regulation Recital 8**

*Text proposed by the Commission*

*Amendment*

(8) The re-use regime provided for in this Regulation should apply to data the supply of which forms part of the public

(8) The re-use regime provided for in this Regulation should apply to data the supply of which forms part of the public

tasks of the public sector bodies concerned, as defined by law or by other binding rules in the Member States. In the absence of such rules the public tasks should be defined in accordance with common administrative practice in the Member States, provided that the scope of the public tasks is transparent and subject to review. The public tasks could be defined generally or on a case-by-case basis for individual public sector bodies. As public undertakings are not covered by the definition of public sector body, the data they hold should not be subject to this Regulation. Data held by cultural and educational establishments, for which intellectual property rights are not incidental, but which are predominantly contained in works and other documents protected by such intellectual property rights, are not covered by this Regulation.

tasks of the public sector bodies concerned, as defined by law or by other binding rules in the Member States. In the absence of such rules the public tasks should be defined in accordance with common administrative practice in the Member States, provided that the scope of the public tasks is transparent and subject to review. The public tasks could be defined generally or on a case-by-case basis for individual public sector bodies. As public undertakings are not covered by the definition of public sector body, the data they hold should not be subject to this Regulation. Data held by cultural and educational establishments *as well as for public media services*, for which intellectual property rights are not incidental, but which are predominantly contained in works and other documents protected by such intellectual property rights, are not covered by this Regulation.

## Amendment 12

### 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

#### *Amendment*

(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 *potential* effect the creation of exclusive rights for the re-use of certain data. Such agreement should be only possible *as exception*, when justified and *proven to be* 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

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** at least two months before coming into effect, regardless of a possible publication of an award of a public procurement contract.

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 **at least two months before coming into effect**, regardless of a possible publication of an award of a public procurement contract.

## Amendment 13

### 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 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

##### *Amendment*

(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 to such data, should be laid down. Those conditions should be **ethical, sustainable lawful, transparent**, non-discriminatory, proportionate and objectively justified, while **fostering** competition, **with a specific focus on promoting access to such data for SMEs, start-ups and civil society actors and promoting innovation and scientific research**. 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 **and should be empowered to request the necessary information from the re-user**. Conditions attached to the re-use of data should **comply with** what is necessary to preserve

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 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.

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 *burden* 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. *Similarly, depending on the case, the public sector bodies should take adequate measures that aim at protecting content protected by intellectual property rights.* 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 *should* 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 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. **Public sector bodies should focus in particular on seeking to ensure that SMEs, start-ups and civil society actors are able to compete fairly.** No contact or **any sufficient** information should be given that allows re-users to **trace back, de-anonymise and** contact data subjects or companies directly.

## Amendment 14

### Proposal for a regulation Recital 11 a (new)

*Text proposed by the Commission*

*Amendment*

**(11a) The de-anonymisation of datasets should be prohibited unless where data subjects have given their consent, or another legal basis permits it. This should be without prejudice to the possibility to conduct research into anonymisation techniques, in particular where finding possible weaknesses in existing anonymisation techniques could lead to the overall strengthening of anonymisation, while duly respecting the fundamental right to the protection of personal data.**

## Amendment 15

### Proposal for a regulation Recital 12

*Text proposed by the Commission*

*Amendment*

(12) The intellectual property rights of third parties **should** not **be** affected by this Regulation. This Regulation **should** neither **affect** the existence or ownership of intellectual property rights of public sector bodies, nor **should** it limit the exercise of these rights in any way beyond the boundaries set by this Regulation. The obligations imposed in accordance with

(12) The intellectual property rights of third parties **are** not affected by this Regulation. This Regulation neither **affects** the existence or ownership of intellectual property rights of public sector bodies, nor **does** it limit the exercise of these rights in any way beyond the boundaries set by this Regulation. The obligations imposed in accordance with this Regulation should

this Regulation should apply only insofar as they are compatible with international agreements on the protection of intellectual property rights, in particular the Berne Convention for the Protection of Literary and Artistic Works (Berne Convention), the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and the WIPO Copyright Treaty (WCT). Public sector bodies should, however, exercise their copyright in a way that facilitates re-use.

apply only insofar as they are compatible with *the Charter, as well as with* international agreements on the protection of intellectual property rights, in particular the Berne Convention for the Protection of Literary and Artistic Works (Berne Convention), the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and the WIPO Copyright Treaty (WCT). Public sector bodies should, however, exercise their copyright in a way that facilitates re-use.

## Amendment 16

### Proposal for a regulation

#### Recital 13

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

(13) Data subject to intellectual property rights as well as trade secrets should only be transmitted to a third party where such transmission is lawful by virtue of Union or national law or with the agreement of the rightholder. Where public sector bodies are holders of the right provided for in Article 7(1) of Directive 96/9/EC of the European Parliament and of the Council <sup>(41)</sup> ) they should not exercise that right in order to prevent the re-use of data or to restrict re-use beyond the limits set by this Regulation.

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<sup>41</sup> Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases (OJ L 77, 27.3.1996, p. 20).

##### *Amendment*

(13) Data subject to intellectual property rights as well as trade secrets should only be transmitted to a third party where such transmission is lawful by virtue of Union or national law or with the agreement of the rightholder. ***This transmission should be previously completely justified.*** Where public sector bodies are holders of the right provided for in Article 7(1) of Directive 96/9/EC of the European Parliament and of the Council <sup>(41)</sup> ) they should not exercise that right in order to prevent the re-use of data or to restrict re-use beyond the limits set by this Regulation.

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<sup>41</sup> Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases (OJ L 77, 27.3.1996, p. 20).

## Amendment 17

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

**Amendment 18**

**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

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

*Amendment*

(15) Furthermore, **in order to preserve fair competition and an open market economy** 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, **while ensuring that unnecessary barriers are removed in order to unlock the potential of the use of data**. 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

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 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.

safeguards for the use of data are provided. Such appropriate safeguards should be considered to exist when in *those third-countries* 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 *power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to draw up and subsequently update a list identifying those third countries that provide* a level of protection that is essentially equivalent to those provided by Union or national law. The assessment of the level of protection afforded in such *third countries* 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 providers *of data intermediation services* 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. *Moreover, should there be any*

*worrying cases concerning the re-use of non-personal data in third countries, the Commission should take those cases into account when adopting delegated acts.*

## Amendment 19

### Proposal for a regulation

#### Recital 16

*Text proposed by the Commission*

(16) In cases where ***there is no implementing act*** adopted by the Commission ***in relation to a third country declaring that it provides*** a level of protection, in particular as regards the protection of commercially sensitive data and the protection of intellectual property rights, which is essentially equivalent to that provided by Union or national law, the public sector body should only transmit protected data to a re-user, if the re-user undertakes obligations in the interest of the protection of the data. The re-user that intends to transfer the data to such third country should commit to comply with the obligations laid out in this Regulation even after the data has been transferred to the third country. To ensure the proper enforcement of such obligations, the re-user should also accept the jurisdiction of the Member State of the public sector body that allowed the re-use for the judicial settlement of disputes.

*Amendment*

(16) In cases where ***a third country is not included in the list*** adopted by the Commission ***by means of delegated acts identifying those third-countries that provide*** a level of protection, in particular as regards the protection of commercially sensitive data and the protection of intellectual property rights, which is essentially equivalent to that provided by Union or national law, the public sector body should only transmit protected data to a re-user, if the re-user undertakes obligations in the interest of the protection of the data. The re-user that intends to transfer the data to such third country should commit to comply with the obligations laid out in this Regulation even after the data has been transferred to the third country. To ensure the proper enforcement of such obligations, the re-user should also accept the jurisdiction of the Member State of the public sector body that allowed the re-use for the judicial settlement of disputes. ***In that regard, the public sector bodies or the competent bodies should, to the extent of their capabilities, provide guidance and legal administrative support to re-users, especially small actors, such as SMEs, start-ups and civil society actors, for the purpose of supporting them in complying with those obligations.***

## Amendment 20

### 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 **intermediation** providers and entities entered in the register of recognised data altruism organisations should take all **appropriate** measures to prevent access to the systems where non-personal data is stored, including encryption of data, **cybersecurity measures** or corporate policies.

## Amendment 21

### 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,

#### *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, 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 **ethical**,

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 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.

***transparent, sustainable***, 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 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 22

### 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-

##### *Amendment*

(20) Public sector bodies should be able to charge fees for the re-use of data but should also be able to decide to ***allow re-use*** at lower or no cost, for example for certain categories of re-uses such as non-commercial re-use, ***re-use for scientific research purposes***, 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.

discriminatory.

## Amendment 23

### Proposal for a regulation

#### Recital 21

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

(21) In order to incentivise the re-use of these categories of data, Member States should establish a single information point to act as the primary interface for re-users that seek to re-use such data held by the public sector bodies. It should have a cross-sector remit, and should complement, if necessary, arrangements at the sectoral level. In addition, Member States should designate, establish or facilitate the establishment of competent bodies to support the activities of public sector bodies allowing re-use of certain categories of protected data. Their tasks may include granting access to data, where mandated in sectoral Union or Member States legislation. Those competent bodies should provide support to public sector bodies with state-of-the-art techniques, including secure data processing environments, which allow data analysis in a manner that preserves the privacy of the information. Such support structure could support the data holders with management of the consent, including consent to certain areas of scientific research when in keeping with recognised ethical standards for scientific research. Data processing should be performed under the responsibility of the public sector body responsible for the register containing the data, who remains a data controller in the sense of Regulation (EU) 2016/679 insofar as personal data are concerned. Member States may have in place one or several competent bodies, which could act in different sectors.

##### *Amendment*

(21) In order to incentivise the re-use of these categories of data, Member States should establish a single information point to act as the primary interface for re-users that seek to re-use such data held by the public sector bodies. It should have a cross-sector remit, and should complement, if necessary, arrangements at the sectoral level. In addition, Member States should designate, establish or facilitate the establishment of competent bodies to support the activities of public sector bodies allowing re-use of certain categories of protected data. Their tasks may include granting access to data, where mandated in sectoral Union or Member States legislation, ***and developing a harmonised approach and processes for public sector bodies to make data available.*** Those competent bodies should provide support to public sector bodies with state-of-the-art techniques, including secure data processing environments, which allow data analysis in a manner that preserves the privacy of the information. Such support structure could support the data holders with management of the consent, including consent to certain areas of scientific research when in keeping with recognised ethical standards for scientific research. Data processing should be performed under the responsibility of the public sector body responsible for the register containing the data, who remains a data controller in the sense of Regulation (EU) 2016/679 insofar as personal data are concerned. Member States may have in place one or several competent bodies, which could act in



different sectors.

## Amendment 24

### Proposal for a regulation

#### Recital 22

*Text proposed by the Commission*

(22) Providers of data **sharing** services (data intermediaries) are expected to play a key role in the data economy, as a tool to facilitate the aggregation and exchange of substantial amounts of relevant data. Data intermediaries offering services that connect the different actors have the potential to contribute to the efficient pooling of data as well as to the facilitation of bilateral data sharing. Specialised data intermediaries that are independent from both data holders and data users can have a facilitating role in the emergence of new data-driven ecosystems independent from any player with a significant degree of market power. This Regulation should only cover providers of data **sharing** services that have as a main objective the establishment of a business, a legal and potentially also technical relation between data holders, including data subjects, on the one hand, and potential users on the other hand, and assist both parties in a transaction of data assets between the two. It should only cover services aiming at intermediating between an indefinite number of data holders and data users, excluding data sharing services that are meant to be used by a closed group of data holders and users. Providers of cloud services should be excluded, as well as service providers that obtain data from data holders, aggregate, enrich or transform the data and licence the use of the resulting data to data users, without establishing a direct relationship between data holders and data users, for example advertisement or data brokers, data consultancies, providers of data products resulting from

*Amendment*

(22) Providers of data **intermediation** services (data intermediaries) are expected to play a key role in the data economy, as a tool to facilitate the aggregation and exchange of substantial amounts of relevant data. Data intermediaries offering services that connect the different actors have the potential to contribute to the efficient pooling of data as well as to the facilitation of bilateral data sharing. Specialised data intermediaries that are independent from both data holders and data users can have a facilitating role in the emergence of new data-driven ecosystems independent from any player with a significant degree of market power. This Regulation should only cover providers of data **intermediation** services that have as a main objective the establishment of a business, a legal and potentially also technical relation between data holders, including data subjects, on the one hand, and potential users on the other hand, and assist both parties in a transaction of data assets between the two. It should only cover services aiming at intermediating between an indefinite number of data holders and data users, excluding data sharing services that are meant to be used by a closed group of data holders and users. Providers of cloud services should be excluded, as well as service providers that obtain data from data holders, aggregate, enrich or transform the data and licence the use of the resulting data to data users, without establishing a direct relationship between data holders and data users, for example advertisement or data brokers, data consultancies, providers of

value added to the data by the service provider. At the same time, data *sharing service providers* should be allowed to make adaptations to the data exchanged, **to the extent that this improves** the usability of the data by the data user, where the data user desires this, such as to convert it into specific formats. In addition, services that focus on the intermediation of content, in particular on copyright-protected content should not be covered by this Regulation. 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 to ensure functionalities of the connected object or device and allow value added services, should not be covered by this Regulation. ‘Consolidated tape providers’ in the sense of Article 4 (1) point 53 of Directive 2014/65/EU of the European Parliament and of the Council<sup>1</sup> as well as ‘account information service providers’ in the sense of Article 4 point 19 of Directive (EU) 2015/2366 of the European Parliament and of the Council<sup>2</sup> should not be considered as *data sharing service* providers for the purposes of this Regulation. Entities which restrict their activities to facilitating use of data made available on the basis of data altruism and that operate on a not-for-profit basis should not be covered by Chapter III of this Regulation, as this activity serves objectives of general interest by increasing the volume of data available for such purposes.

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<sup>1</sup> Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial

data products resulting from value added to the data by the service provider. At the same time, data *intermediation services* should be allowed to make adaptations to the data exchanged, **in order to improve** the usability of the data by the data user, where the data user desires this, **or improve interoperability** such as to convert it into specific formats. In addition, services that focus on the intermediation of content, in particular on copyright-protected content **or other protected subject matter as provided by online content-sharing service provider within the meaning of Article 2(6) of Directive (EU) 2019/790** should not be covered by this Regulation. 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 to ensure functionalities of the connected object or device and allow value added services, should not be covered by this Regulation. ‘Consolidated tape providers’ in the sense of Article 4 (1) point 53 of Directive 2014/65/EU of the European Parliament and of the Council<sup>1</sup> as well as ‘account information service providers’ in the sense of Article 4 point 19 of Directive (EU) 2015/2366 of the European Parliament and of the Council<sup>2</sup> should not be considered as providers of *data intermediation services* for the purposes of this Regulation. Entities which restrict their activities to facilitating use of data made available on the basis of data altruism and that operate on a not-for-profit basis should not be covered by Chapter III of this Regulation, as this activity serves objectives of general interest by increasing the volume of data available for such purposes.

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<sup>1</sup> Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial

instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, OJ L 173/349.

<sup>2</sup> Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC.<sup>2</sup>

instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, OJ L 173/349.

<sup>2</sup> Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC.

## Amendment 25

### 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 **intermediation** 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 **intermediation** 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. ***Additionally, in order to foster trust, the Commission should encourage and facilitate the development of self-regulatory codes of conduct at Union level, involving relevant stakeholders.*** Both in situations where data sharing occurs in a business-to-business context and where it occurs in a business-to-consumer context, data **intermediation** 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 **intermediation** services may also make available specific technical

infrastructure for the interconnection of data holders and data users. *In that regard, it is important to shape that infrastructure in such a way that SMEs and start-ups as well as civil society actors encounter no technical or other barriers to their participation in the data economy.*

## Amendment 26

### 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 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.

*Amendment*

(26) A key element to bring trust and more control for data holder and data users in data *intermediation* services is the neutrality of providers of data *intermediation services* as regards the data exchanged between data holders and data users. It is therefore necessary that providers *of data intermediation services* 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 *intermediation* service and any other services provided, so as to avoid issues of conflict of interest. This means that the data *intermediation* service should be provided through a legal entity that is separate from the other activities of that provider *of data intermediation services*. *Providers of data intermediation services should, however, be able to offer data holders and data users tools for the purpose of facilitating the exchange of data, for example tools for the analysis, conversion, aggregation, curation, anonymisation or pseudonymisation of data.* Providers *of data intermediation services* 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 27

### 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. 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.

##### *Amendment*

(27) In order to ensure the compliance of the providers of data **intermediation** 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 **intermediation** services not established in the Union offers services within the Union, it should designate a representative. Designation of a representative is necessary, given that such providers of data **intermediation** 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 **and in other relevant Union and national law**. In order to determine whether such a provider of data **intermediation** services is offering services within the Union, it should be ascertained whether it is apparent that the provider of data **intermediation** 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 **intermediation** services, or the use of a language generally used in the third country where the provider of data **intermediation** 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

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.

Union, may make it apparent that the provider of data **intermediation** services is planning to offer services within the Union. The representative should act on behalf of the provider of data **intermediation** 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 **intermediation** services to act on the latter's behalf with regard to the latter's obligations under this Regulation.

## Amendment 28

### Proposal for a regulation

#### Recital 28

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

(28) This Regulation should be without 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.

##### *Amendment*

(28) This Regulation should be without prejudice to the obligation of providers of data **intermediation** services to comply with Regulation (EU) 2016/679 and the responsibility of supervisory authorities to ensure compliance with that Regulation. Where the providers **of data intermediation services** 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.

## Amendment 29

### 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

##### *Amendment*

(29) Providers of data **intermediation** 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.

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 30

### Proposal for a regulation

#### Recital 30

*Text proposed by the Commission*

(30) A notification procedure for data **sharing** services should be established in order to ensure a data governance within the Union based on trustworthy exchange of data. The benefits of a trustworthy environment would be best achieved by imposing a number of requirements for the provision of data **sharing** services, but without requiring any explicit decision or administrative act by the competent authority for the provision of such services.

*Amendment*

(30) A notification procedure for data **intermediation** services should be established in order to ensure a data governance within the Union based on trustworthy exchange of data. The benefits of a trustworthy environment would be best achieved by imposing a number of requirements for the provision of data **intermediation** services, but without requiring any explicit decision or administrative act by the competent authority for the provision of such services.

## Amendment 31

### 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

*Amendment*

(31) In order to support effective cross-border provision of services, the data **intermediation** 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

intention to provide such services and should be completed only by the information set out in this Regulation.

mere declaration of the intention to provide such services and should be completed only by the information set out in this Regulation.

## Amendment 32

### 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 a provider of data **intermediation** 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 **intermediation** services in the Union should be determined according to objective criteria and should imply the effective and real exercise of management activities.

## Amendment 33

### Proposal for a regulation

#### Recital 33

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

(33) The competent authorities designated to monitor compliance of data **sharing** services with the requirements in this Regulation should be chosen on the basis of their capacity and expertise regarding horizontal or sectoral data sharing, and they should be independent as well as transparent and impartial in the exercise of their tasks. Member States should notify the Commission of the identity of the designated competent authorities.

##### *Amendment*

(33) The competent authorities designated to monitor compliance of data **intermediation** services with the requirements in this Regulation should be chosen on the basis of their capacity and expertise regarding horizontal or sectoral data sharing, and they should be independent as well as transparent and impartial in the exercise of their tasks **and they should closely liaise with all relevant national authorities, in particular for data protection, competition, cybersecurity, artificial intelligence and any other sectoral authorities, which may have information necessary for the exercise of their task.** Member States should notify the Commission of the identity of the



designated competent authorities.

## Amendment 34

### Proposal for a regulation

#### Recital 35

*Text proposed by the Commission*

(35) There is a strong potential in the use of data made available voluntarily by data subjects based on their consent or, where it concerns non-personal data, made available by legal persons, for purposes of general interest. Such purposes would include healthcare, combating climate change, improving mobility, facilitating the establishment of official statistics or improving the provision of public services. Support to scientific research, including for example technological development and demonstration, fundamental research, applied research and privately funded research, ***should be considered as well*** purposes of general interest. This Regulation aims at contributing to the emergence of pools of data made available on the basis of data altruism that have a sufficient size in order to enable data analytics and machine learning, including across borders in the Union.

*Amendment*

(35) There is a strong potential in the use of data made available voluntarily by data subjects based on their consent or, where it concerns non-personal data, made available by legal persons, for purposes of general interest. Such purposes would include healthcare, combating climate change, improving mobility ***and education, reducing gender and cultural gaps***, facilitating the establishment of official statistics or improving the provision of public services. Support to scientific research, including for example technological development and demonstration, fundamental research, applied research and privately funded research, ***insofar as it contributes to the common benefit of society, can also fulfil*** purposes of general interest. This Regulation aims at contributing to the emergence of pools of data made available on the basis of data altruism that have a sufficient size in order to enable data analytics and machine learning, including across borders in the Union.

## Amendment 35

### 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 altruism at scale and meet certain requirements, should be able to register as

*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.

‘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 *or a legal representative* within the Union, as well as from the requirement that registered entities have a not-for-profit character, from *ethical and* transparency requirements and from specific safeguards in place to protect rights and interests of data subjects and companies. *The protection of the rights and interests of data subjects should notably include representative actions for the protection of the collective interests of consumers referred to as data subjects in accordance with Directive 2020/1828 of the European Parliament and of the Council<sup>1a</sup>*. 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. ***Additionally, in order to foster trust, the Commission should encourage and facilitate the development of self-regulatory codes of conduct at Union level, involving relevant stakeholders.***

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<sup>1a</sup> ***Directive 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 36**

### **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

#### *Amendment*

(39) To ***promote trust and*** bring additional legal certainty ***and user-friendliness*** 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

data altruism consent form.

for sectoral adjustments of the European data altruism consent form.

### Amendment 37

#### 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 and representatives of relevant data spaces and specific sectors (such as health, agriculture, transport and statistics), ***as well as representatives from civil society, academia, research and standard setting organisations, as relevant.*** The European Data Protection Board should be invited to appoint a representative to the European Data Innovation Board.

### Amendment 38

#### Proposal for a regulation Recital 43

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

(43) In order to take account of the specific nature of certain categories of data, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to lay down special conditions applicable for transfers to third-countries of certain non-personal data categories deemed to be highly sensitive in specific Union acts adopted through a legislative procedure. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level,

##### *Amendment*

(43) In order to ***ensure the protection of the rights and interests of data holders and*** take account of the specific nature of certain categories of data, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission ***to draw up a list identifying those third countries that provide a level of protection that is essentially equivalent to those provided by Union or national law and*** to lay down special conditions applicable for transfers to third-countries of certain non-personal data categories

and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making . In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

deemed to be highly sensitive in specific Union acts adopted through a legislative procedure. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making . In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

## **Amendment 39**

### **Proposal for a regulation**

#### **Recital 46**

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

(46) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter, including the right to privacy, the protection of personal data, the freedom to conduct a business, the right to property and the integration of persons with disabilities,

##### *Amendment*

(46) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter, including the right to privacy, the protection of personal data, the freedom to conduct a business, the right to property, ***including intellectual property rights***, and the integration of persons with disabilities,

## **Amendment 40**

### **Proposal for a regulation**

#### **Article 1 – paragraph 2**

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

(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

##### *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.

personal or non-personal data. Where a sector-specific Union legal act requires public sector bodies, providers of data **intermediation** 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 41**

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

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

*Text proposed by the Commission*

*Amendment*

**(2a) ‘purposes of general interest’ means purposes whereby data is used for the common benefit of society within the scope of this Regulation and pertaining to all relevant sectors of public life;**

#### **Amendment 42**

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

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

*Text proposed by the Commission*

*Amendment*

**(2b) ‘data intermediation service’ means the provision of a commercial service for the exchange, pooling or trade of data; the following shall, inter alia, not be considered to be data intermediation services for the purposes of this Regulation:**

**(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) 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 ensuring functionalities of the connected object or device and allow value added services;*

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

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

#### **Amendment 43**

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

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

*Text proposed by the Commission*

*Amendment*

*(2c) ‘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 44**

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

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 45

### 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 46

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

*Text proposed by the Commission*

*Amendment*

**(3b) ‘data subject’ means data subject as defined in point (1) of Article 4 of Regulation (EU) 2016/679;**

## Amendment 47

### Proposal for a regulation Article 2 – paragraph 1 – point 5

*Text proposed by the Commission*

*Amendment*

(5) ‘data holder’ means a legal person **or data subject who**, in accordance with applicable Union or national law, has the right to grant access to or to share certain **personal or** non-personal data under its control;

(5) ‘data holder’ means a **natural or** legal person **that**, in accordance with applicable Union or national law, has the right to grant access to or to share certain non-personal data under its control;

## Amendment 48

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

*Text proposed by the Commission*

*Amendment*

(6) ‘data user’ means a natural or legal

(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;

person who has lawful access to certain personal or non-personal data and *has the right, including under Regulation (EU) 2016/679 in the case of personal data*, to use that data for commercial or non-commercial purposes;

## Amendment 49

### Proposal for a regulation

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

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

(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;

##### *Amendment*

(7) ‘data *exchange*’ means the provision by a data holder *or data intermediary* of data to a data user for the purpose of joint or individual use of the shared data, based on voluntary agreements *or Union law*, directly or through an intermediary, *under open data or commercial licences, free of charge or against remuneration; insofar as personal data are concerned, their processing must always be based on a adapted legal basis under Article 6 of Regulation (EU) 2016/679;*

## Amendment 50

### 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 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 *or receiving* a reward, for purposes of general interest, such as scientific research purposes or improving public services;

## Amendment 51

**Proposal for a regulation**  
**Article 2 – paragraph 1 – point 15**

*Text proposed by the Commission*

(15) ‘representative’ means any natural or legal person established in the Union explicitly designated to act on behalf of a provider of data **sharing** services or an entity that collects data for objectives of general interest made available by natural or legal persons on the basis of data altruism not established in the Union, which may be addressed by a national competent authority instead of the provider of data **sharing** services or entity with regard to the obligations of that provider of data **sharing** services or entity set up by this Regulation.

*Amendment*

(15) ‘representative’ means any natural or legal person established in the Union explicitly designated to act on behalf of a provider of data **intermediation** services or an entity that collects data for objectives of general interest made available by natural or legal persons on the basis of data altruism not established in the Union, which may be addressed by a national competent authority instead of the provider of data **intermediation** services or entity with regard to the obligations of that provider of data **intermediation** services or entity set up by this Regulation.

**Amendment 52**

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

*Text proposed by the Commission*

(a) commercial confidentiality ;

*Amendment*

(a) commercial confidentiality,  
***including trade secrets ;***

**Amendment 53**

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

*Text proposed by the Commission*

(c) data held by cultural establishments and educational establishments;

*Amendment*

(c) data held by cultural establishments and educational establishments ***as well as for public media services for which intellectual property rights are not incidental, but which are predominantly contained in works and other documents protected by such intellectual property rights except where such data are re-used within the framework of authorised uses***

*under Directive (UE) 2019/790;*

## **Amendment 54**

### **Proposal for a regulation**

#### **Article 3 – paragraph 3**

*Text proposed by the Commission*

(3) The provisions of this Chapter do not create any obligation on public sector bodies to allow re-use of data nor do they release public sector bodies from their confidentiality obligations. This Chapter is without prejudice to Union and national law or international agreements to which the Union or Member States are parties on the protection of categories of data provided in paragraph 1. This Chapter is without prejudice to Union and national law on access to documents and to obligations of public sector bodies under Union and national law to allow the re-use of data.

*Amendment*

(3) The provisions of this Chapter do not create any obligation on public sector bodies to allow re-use of data nor do they release public sector bodies from their confidentiality obligations ***under Union or national law***. This Chapter is without prejudice to Union and national law or international agreements to which the Union or Member States are parties on the protection of categories of data provided in paragraph 1. This Chapter is without prejudice to Union and national law on access to documents and to obligations of public sector bodies under Union and national law to allow the re-use of data.

## **Amendment 55**

### **Proposal for a regulation**

#### **Article 3 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. Where anonymisation, aggregation, or other techniques can be applied so that the protections under paragraph 1 no longer apply, public sector bodies shall make available the data for re-use as mandated by Directive (EU) 2019/1024, without prejudice to the provisions of Article 5 of this Directive.***

## Amendment 56

### 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 ***which could potentially have*** the 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 57

### 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 general interest.

*Amendment*

(2) By way of derogation from paragraph 1, an exclusive right to re-use data referred to in that paragraph may be granted ***if this proves to be necessary*** for the provision of a service or a product in the general interest. ***The assessment of criteria for granting such an exclusive right may be subject to a mid-term review within the period of exclusivity if this period exceeds one year.***

## Amendment 58

### 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

*Amendment*

(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.

such a right, shall be transparent and be made publicly available online ***at least two months before coming into effect***, regardless of a possible publication of an award of a public procurement and concessions contract.

## **Amendment 59**

### **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 60**

### **Proposal for a regulation Article 4 – paragraph 7 a (new)**

*Text proposed by the Commission*

*Amendment*

***7a. Any exclusive right on the re-use of data which is granted outside the scope of paragraph 2 or which does not fulfil the conditions set out in paragraphs 3 or 4, is unenforceable.***

## **Amendment 61**

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

*Text proposed by the Commission*

*Amendment*

(2) Conditions for re-use shall be non-

(2) Conditions for re-use shall be

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 used to restrict competition.

***ethical, transparent, sustainable***, 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 used to restrict competition, ***including by being constructed in a way that poses restrictions for SMEs, start-ups and civil society actors to participate in the data economy.***

## Amendment 62

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

#### *Text proposed by the Commission*

(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.

#### *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 ***protect*** commercially confidential information, including trade secrets, ***as well as content protected by intellectual property rights.***

## Amendment 63

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

#### *Text proposed by the Commission*

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

#### *Amendment*

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

## Amendment 64

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

*Text proposed by the Commission*

(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.**

*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 ***in compliance with high level cybersecurity standards. To that extent, the public sector body shall reserve the right*** to verify ***the different steps of the processing of data*** undertaken by the re-user ***until and including the results of such processing*** and reserve the right, ***after giving the re-user the possibility to provide further information,*** to prohibit the use of results that contain information jeopardising the rights and interests of third parties, ***such as intellectual property rights, trade secrets or rights referred to in Regulation (EU) 2016/679.***

## Amendment 65

### Proposal for a regulation Article 5 – paragraph 6

*Text proposed by the Commission*

(6) ***Where the re-use of data cannot be granted in accordance with the obligations laid down in paragraphs 3 to 5 and there is no other legal basis for transmitting the data under Regulation (EU) 2016/679, the public sector body shall support re-users in seeking consent of the data subjects and/or permission from the legal entities whose rights and interests may be affected by such re-use, where it is feasible without disproportionate cost for the public sector. In that task they may be assisted by the competent bodies referred to in Article 7 (1).***

*Amendment*

(6) ***To fulfil their obligations under paragraphs 5 and 6, the public sector bodies shall be equipped with the necessary human and financial resources.***

## Amendment 66

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 67

### 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 **shall be empowered to** adopt **delegated acts in accordance with Article 28 to draw up and update a list of third countries where** the legal, supervisory and enforcement arrangements **in place**:

## Amendment 68

### Proposal for a regulation Article 5 – paragraph 10 – introductory part

*Text proposed by the Commission*

*Amendment*

(10) Public sector bodies shall only transmit confidential data or data protected by intellectual property rights to a re-user which intends to transfer the data to a third country other than a country designated in accordance with paragraph 9 if the re-user **undertakes**:

(10) Public sector bodies shall only transmit confidential data or data protected by intellectual property rights to a re-user which intends to transfer the data to a third country other than a country designated in accordance with paragraph 9 if the re-user **commits**:



## Amendment 69

### Proposal for a regulation Article 5 – paragraph 12

*Text proposed by the Commission*

(12) The natural or legal person to which the right to re-use non-personal data was granted **may** transfer the data **only** to those third-countries for which the requirements in paragraphs 9 to 11 are met.

*Amendment*

(12) The natural or legal person to which the right to re-use non-personal data was granted **shall only be authorized to** transfer the data to those third-countries for which the requirements in paragraphs 9 to 11 are met.

## Amendment 70

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

*Text proposed by the Commission*

(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.

*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 **of the re-user's intention to** transfer the data to that third country **and for what purposes**.

## Amendment 71

### 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 **pursuant to paragraph 1** shall be non-discriminatory, proportionate and objectively justified and shall not restrict competition **or inhibit the re-use of data for purposes in the public interest**.

## Amendment 72

### 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 ***in the public interest or for scientific or historical research*** and by small and medium-sized enterprises in line with State aid rules. ***In such cases, the re-use should be allowed free of charge or at a lower cost, in particular to SMEs and start-ups, civil society actors and educational establishments.***

## Amendment 73

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

*Text proposed by the Commission*

*Amendment*

***(aa) provides assistance and advice to the public sector for staff training activities regarding data security and protection and all ICT technologies involved;***

*Justification*

*public sector without staff with the necessary skills, needs to be helped and supported in their staff training activities*

## Amendment 74

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

*Text proposed by the Commission*

*Amendment*

(b) providing technical support in the

(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;

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, **and protects commercially confidential information, as well as content protected by intellectual property rights**;

## Amendment 75

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

#### *Text proposed by the Commission*

(c) assisting the public sector bodies, where relevant, in obtaining consent or permission by re-users for re-use for altruistic and other purposes in line with specific decisions of data holders, including on the jurisdiction or jurisdictions in which the data processing is intended to take place;

#### *Amendment*

(c) assisting the public sector bodies, where relevant, in obtaining consent or permission by re-users for re-use for altruistic and other purposes in line with specific decisions of data holders, including on the jurisdiction or jurisdictions in which the data processing is intended to take place **and in the preparation of data literacy tools to provide information to data holders in a comprehensive and fully understandable manner allowing them to make informed choices**;

## Amendment 76

### 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 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). **The competent body or bodies should be equipped with the necessary human**

*and financial resources to carry out their duties in an effective and efficient way.*

## **Amendment 77**

### **Proposal for a regulation Article 8 – paragraph 1**

*Text proposed by the Commission*

(1) Member States shall ensure that all relevant information concerning the application of Articles 5 and 6 is available through a single information point.

*Amendment*

(1) Member States shall ensure that all relevant information concerning the application of Articles 5 and 6 is **publicly** available **and easily accessible** through a single information point.

## **Amendment 78**

### **Proposal for a regulation Article 8 – paragraph 4**

*Text proposed by the Commission*

(4) Any natural or legal person affected by a decision of a public sector body or of a competent body, as the case may be, shall have the right to an effective judicial remedy against such decision before the courts of the Member State where the relevant body is located.

*Amendment*

(4) **Without prejudice to any other administrative or non-judicial remedy,** any natural or legal person affected by a decision of a public sector body or of a competent body, as the case may be, shall have the right to an effective judicial remedy against such decision before the courts of the Member State where the relevant body is located.

## **Amendment 79**

### **Proposal for a regulation Chapter III – title**

*Text proposed by the Commission*

Requirements applicable to data **sharing** services

*Amendment*

Requirements applicable to data **intermediation** services

## **Amendment 80**

**Proposal for a regulation**  
**Article 9 – title**

*Text proposed by the Commission*

Providers of data **sharing** services

*Amendment*

Providers of data **intermediation** services

**Amendment 81**

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

*Text proposed by the Commission*

(1) The provision of the following data **sharing** services shall be subject to a notification procedure:

*Amendment*

(1) The provision of the following data **intermediation** services shall be subject to a notification procedure:

**Amendment 82**

**Proposal for a regulation**  
**Article 9 – paragraph 2**

*Text proposed by the Commission*

(2) This Chapter shall be without prejudice to the application of other Union and national law to providers of data **sharing** services, including powers of supervisory authorities to ensure compliance with applicable law, in particular as regard the protection of personal data and competition law.

*Amendment*

(2) This Chapter shall be without prejudice to the application of other Union and national law to providers of data **intermediation** services, including powers of supervisory authorities to ensure compliance with applicable law, in particular as regard the protection of personal data, **intellectual property rights** and competition law.

**Amendment 83**

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

*Text proposed by the Commission*

Notification of data **sharing** service providers

*Amendment*

Notification of data **intermediation** 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*

(1) Any provider of data **intermediation** 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*

(2) For the purposes of this Regulation, a provider of data **intermediation** 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 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.

*Amendment*

(3) A provider of data **intermediation** 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 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.

## Amendment 87

### Proposal for a regulation Article 10 – paragraph 4

*Text proposed by the Commission*

(4) Upon notification, the provider of data **sharing** services may start the activity subject to the conditions laid down in this Chapter.

*Amendment*

(4) Upon notification, the provider of data **intermediation** services may start the activity subject to the conditions laid down in this Chapter.

## Amendment 88

### Proposal for a regulation Article 10 – paragraph 5

*Text proposed by the Commission*

(5) The notification shall entitle the provider to provide data **sharing** services in all Member States.

*Amendment*

(5) The notification shall entitle the provider to provide data **intermediation** services in all Member States.

## Amendment 89

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

*Text proposed by the Commission*

(a) the name of the provider of data **sharing** services;

*Amendment*

(a) the name of the provider of data **intermediation** services;

## Amendment 90

### 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 **and how the provider intends to fulfil the conditions laid down in Article 11**;

## Amendment 91

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

*Text proposed by the Commission*

(g) the *estimated* date for starting the activity;

*Amendment*

(g) the *intended* date for starting the activity, **and, where applicable, the duration foreseen**;

## 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** providers of data *intermediation* services **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 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 *intermediation* services.

## 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 provider of data **intermediation** 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 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

*Amendment*

(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 **intermediation** services

be placed in a separate legal entity;

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

*Amendment*

(2) the metadata collected from the provision of the data **intermediation** service may be used only for the development of that service;

## Amendment 99

### 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 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 **which shall be open, non-proprietary to ensure a high degree of interoperability**;

## Amendment 100

### Proposal for a regulation

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

*Text proposed by the Commission*

*Amendment*

**(4a) data intermediation services may include offering additional specific tools and services to data holders for the purpose of facilitating the exchange of data, such as analysis, temporary storage, aggregation, curation, conversion,**

*anonymisation, pseudonymisation; those tools and services 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 other purposes other than those requested or approved by the data holder;*

## Amendment 101

### Proposal for a regulation

#### Article 11 – paragraph 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 provider shall ensure a reasonable continuity of provision of its services and, in the case of services which ensure storage of data, shall **guarantee** that data holders and data users **reserve the right** to obtain access to **and to retrieve** their data in case of insolvency **of the provider**;

## Amendment 102

### Proposal for a regulation

#### Article 11 – paragraph 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 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 **or national** law;

## Amendment 103

### Proposal for a regulation

#### Article 12 – paragraph 3

*Text proposed by the Commission*

(3) The designated competent authorities, the data protection authorities,

*Amendment*

(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.

the national competition authorities, the authorities in charge of cybersecurity, and other relevant sectorial authorities shall ***ensure adequate coordination measures to*** exchange the information which is necessary for the exercise of their tasks in relation to data sharing providers.

#### **Amendment 104**

##### **Proposal for a regulation Article 13 – paragraph 4 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

***(ba) the non-compliance with condition of Article 11(2) may result in a decision by the national competent authority to require the cessation of the provision of the concerned data sharing service;***

#### **Amendment 105**

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

*Text proposed by the Commission*

*Amendment*

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.***

This Chapter shall not apply to:

#### **Amendment 106**

##### **Proposal for a regulation Article 14 – point a (new)**

*Text proposed by the Commission*

*Amendment*

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

## Amendment 107

### Proposal for a regulation Article 14 – point b (new)

*Text proposed by the Commission*

*Amendment*

**(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 108

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

*Text proposed by the Commission*

*Amendment*

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

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

## Amendment 109

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

*Text proposed by the Commission*

*Amendment*

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

(2) The Commission shall maintain **the public** Union register of recognised data altruism organisations, **which shall be available in all official languages of the Union.**

## Amendment 110

### Proposal for a regulation Article 16 – point c

*Text proposed by the Commission*

(c) perform the activities related to data altruism **take place** through a legally independent structure, separate from other activities it has undertaken.

*Amendment*

(c) perform the activities related to data altruism through a legally independent structure, separate from other activities it has undertaken.

## Amendment 111

### Proposal for a regulation Article 17 – paragraph 2

*Text proposed by the Commission*

(2) For the purposes of this Regulation, an entity engaged in activities based on data altruism with establishments in more than one Member State, shall **register** in the Member State in which it has its main establishment.

*Amendment*

(2) For the purposes of this Regulation, an entity engaged in activities based on data altruism with establishments in more than one Member State, shall **communicate the information referred to in paragraph 4 of this Article to the competent authority designated pursuant to Article 20** in the Member State in which it has its main establishment.

## Amendment 112

### Proposal for a regulation Article 17 – paragraph 4 – point d

*Text proposed by the Commission*

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

*Amendment*

(d) the entity's sources of income;

## Amendment 113

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

*Text proposed by the Commission*

(5) Where the entity has submitted all

*Amendment*

(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.**

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

#### Amendment 114

##### 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 the **public Union** register of recognised data altruism organisations.

#### Amendment 115

##### 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 **public Union** register of recognised data altruism organisations shall keep full and accurate records concerning:

#### Amendment 116

##### Proposal for a regulation Article 18 – paragraph 2 – point c

*Text proposed by the Commission*

(c) a list of all natural and legal persons that were allowed to use data it holds,

*Amendment*

(c) a list of all natural and legal persons that were allowed to **process or otherwise**

including a summary description of the general interest purposes pursued by such data use and the description of the technical means used for it, including a description of the techniques used to preserve privacy and data protection;

use data it holds, including a summary description of the general interest purposes pursued by such data use and the description of the technical means used for it, including a description of the techniques used to preserve privacy and data protection *in accordance with Union and national law*;

#### **Amendment 117**

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

##### **Article 18 – paragraph 2 – point e a (new)**

*Text proposed by the Commission*

*Amendment*

*(ea) in case where a notification pursuant to Article 21(3) has taken place, a description of the measures taken in order to address the finding of non-compliance with one or more of the requirements of this Chapter.*

#### **Amendment 118**

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

##### **Article 19 – title**

*Text proposed by the Commission*

*Amendment*

Specific requirements to safeguard rights and interests of data subjects and *legal entities* as regards their data

Specific requirements to safeguard rights and interests of data subjects and *data holders* as regards their data

#### **Amendment 119**

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

##### **Article 19 – paragraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

(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;

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



## Amendment 120

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

*Text proposed by the Commission*

(b) about any **processing** outside the Union.

*Amendment*

(b) about any **intention of the data user to process data** outside the Union **by specifying the location of such processing**.

## Amendment 121

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

*Text proposed by the Commission*

(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.

*Amendment*

(2) The entity shall also ensure that the data is not used for **any** other purposes than those of general interest for which it permits the processing. **To that extent, the entity shall put in place measures to monitor the processing of data carried out by the data user.**

**The entity shall put in place measures in order to prevent fraudulent or abusive practices in relation to access to data from parties seeking access through their services.**

**The entity shall take measures to ensure a high level of security for the storage and processing of non-personal data.**

**The entity shall ensure that consent from data subjects or permissions to process data made available by legal persons can be easily withdrawn.**

**The entity shall also guarantee that data holders reserve the right to obtain access to and to retrieve their data if they decide to withdraw their permission to process their data for data altruism purposes.**

**Safeguards shall be provided to ensure that misleading marketing practices are**

*not used to solicit the provision of data.*

## Amendment 122

### Proposal for a regulation Article 21 – paragraph 5 a (new)

*Text proposed by the Commission*

*Amendment*

**5a. However, non-compliance with the requirement of Article 19(2) shall result in a decision to remove the entity from the register of recognised data altruism organisations.**

## Amendment 123

### Proposal for a regulation Article 22 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

**4a. Where non-personal data are provided, the European data altruism consent form shall ensure that data holders are able to give permissions to and withdraw permissions from a specific data processing operation notably in case of misuse of data.**

**To that extent, the European data altruism consent form shall allow to specify the purposes for the intended uses.**

## Amendment 124

### 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

(1) Natural and legal persons shall have the right to lodge a complaint, **individually or by the representatives of one or more natural persons**, with the relevant national competent authority against a provider of

recognised data altruism organisations.

data sharing services or an entity entered in the register of recognised data altruism organisations.

*Justification*

*In order to comply with Directive 2020/1828 on representative actions for the protection of the collective interests of consumers.*

**Amendment 125**

**Proposal for a regulation  
Article 25 – paragraph 2**

*Text proposed by the Commission*

(2) Proceedings pursuant to this Article shall be brought before the courts of the Member State in which the authority against which the judicial remedy is sought is located.

*Amendment*

(2) Proceedings pursuant to this Article shall be brought before the courts of the Member State in which the authority against which the judicial remedy is sought is located, ***individually or by the representatives of one or more natural persons.***

*Justification*

*In order to comply with Directive 2020/1828 on representative actions for the protection of the collective interests of consumers.*

**Amendment 126**

**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, consisting of the representatives of competent authorities of all the Member States, the European Data Protection Board, the Commission, relevant data spaces, ***relevant legal experts*** and other representatives of competent authorities in

specific sectors, *as well as the European Parliament as observer.*

#### **Amendment 127**

##### **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 128**

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

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

*Text proposed by the Commission*

*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 sharing* providers;

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

#### **Amendment 129**

##### **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 the use of technologies to*

*effectively prevent the identification of data subjects;*

## Amendment 130

### Proposal for a regulation

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

*Text proposed by the Commission*

*Amendment*

*(bb) to advise and assist the Commission in developing consistent guidelines on how to best protect, in the context of this Regulation, commercially sensitive data of non-personal nature, in particular trade secrets, but also non-personal data representing content protected by intellectual property rights from unlawful access that risks intellectual property theft or industrial espionage;*

## Amendment 131

### Proposal for a regulation

#### Article 27 – paragraph 1 – point b d (new)

*Text proposed by the Commission*

*Amendment*

*(bd) to advise and assist the Commission in developing consistent guidelines for cybersecurity requirements for the exchange and storage of data, in compliance with high level cybersecurity standards;*

## Amendment 132

### 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

(d) to **advise and** assist the Commission in enhancing the interoperability of data as well as data

different sectors and domains, building on existing European, international or national standards;

*intermediation* services between different sectors and domains, building on existing European, international or national standards;

### Amendment 133

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

*Text proposed by the Commission*

(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 data altruism organisations.

*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 providers **of data intermediation services** and the registration and monitoring of recognised data altruism organisations **and to ensure adequate cooperation between national competent authorities and any other relevant authorities at Union and national level where necessary for the exercise of their task of monitoring the compliance with the requirements in this Regulation.**

### Amendment 134

#### Proposal for a regulation Article 28 – paragraph 3

*Text proposed by the Commission*

(3) The delegation of power referred to in Article 5 (11) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of

*Amendment*

(3) The delegation of power referred to in Article 5**(9) and** (11) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of

any delegated acts already in force.

any delegated acts already in force.

## Amendment 135

### 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 136

### Proposal for a regulation

#### Article 30 – paragraph 2

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

(2) Any judgment of a court or tribunal and any decision of an administrative authority of a third country requiring 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 to transfer from or give access to non-personal data subject to this Regulation in the Union may only be recognised or enforceable in any manner if based on an international agreement, such as a mutual legal assistance treaty, in force between the requesting third country and the Union or any such agreement between the requesting

##### *Amendment*

(2) Any judgment of a court or tribunal and any decision of an administrative authority of a third country requiring a public sector body, a natural or legal person to which the right to re-use data was granted under Chapter 2, a provider ***of data intermediation services*** or entity entered in the register of recognised data altruism organisations to transfer from or give access to non-personal data subject to this Regulation in the Union may only be recognised or enforceable in any manner if based on an international agreement, such as a mutual legal assistance treaty, in force between the requesting third country and the Union or any such agreement between

third country and a Member State concluded before [the entry into force of this Regulation].

the requesting third country and a Member State concluded before [the entry into force of this Regulation].

## Amendment 137

### Proposal for a regulation

#### Article 30 – paragraph 3 – 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 international agreement as referred to in paragraph 2,*** where a public sector body, a natural or legal person to which the right to re-use data was granted under Chapter 2, a ***provider of data intermediation services*** 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 138

### Proposal for a regulation

#### Article 30 – paragraph 4

*Text proposed by the Commission*

(4) If the conditions in paragraph 2, or 3 are met, 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, provide the minimum amount of data permissible in response to a request, based on a reasonable interpretation of the

*Amendment*

(4) If the conditions in paragraph 2, or 3 are met, the public sector body, the natural or legal person to which the right to re-use data was granted under Chapter 2, the provider **of data intermediation services** or the entity entered in the register of recognised data altruism organisations, as the case may be, shall, provide the minimum amount of data permissible in response to a request, based on a



request.

reasonable interpretation of the request.

## Amendment 139

### 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 **provider of data intermediation services** 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 with 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.

## 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> Date announced in plenary	ITRE 14.12.2020
<b>Opinion by</b> Date announced in plenary	JURI 14.12.2020
<b>Rapporteur for the opinion</b> Date appointed	Karen Melchior 10.5.2021
<b>Discussed in committee</b>	27.5.2021
<b>Date adopted</b>	1.7.2021
<b>Result of final vote</b>	+: 24 –: 0 0: 1
<b>Members present for the final vote</b>	Pascal Arimont, Manon Aubry, Gunnar Beck, Geoffroy Didier, Pascal Durand, Angel Dzhambazki, Ibán García Del Blanco, Jean-Paul Garraud, Esteban González Pons, Mislav Kolakušić, Sergey Lagodinsky, Gilles Lebreton, Karen Melchior, Jiří Pospíšil, Franco Roberti, Marcos Ros Sempere, Stéphane Séjourné, Raffaele Stancanelli, Marie Toussaint, Axel Voss, Marion Walsmann, Tiemo Wölken, Lara Wolters, Javier Zarzalejos
<b>Substitutes present for the final vote</b>	Magdalena Adamowicz, Caterina Chinnici, Heidi Hautala, Emmanuel Maurel, Emil Radev, Yana Toom

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

24	+
PPE	Pascal Arimont, Geoffroy Didier, Esteban González Pons, Jiří Pospíšil, Axel Voss, Marion Walsmann, Javier Zarzalejos
S&D	Ibán García Del Blanco, Franco Roberti, Marcos Ros Sempere, Tiemo Wölken, Lara Wolters
Renew	Pascal Durand, Karen Melchior, Stéphane Séjourné, Yana Toom
ID	Jean-Paul Garraud, Gilles Lebreton
Verts/ALE	Heidi Hautala, Marie Toussaint
ECR	Angel Dzhambazki, Raffaele Stancanelli
The Left	Emmanuel Maurel
NI	Mislav Kolakušić

0	-

1	0
ID	Gunnar Beck

Key to symbols:

+ : in favour

- : against

0 : abstention