



Plenary sitting

A9-0248/2021

22.7.2021

*****I**

REPORT

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

Committee on Industry, Research and Energy

Rapporteur: Angelika Niebler

Rapporteur for the opinion (*):
Sergey Lagodinsky, Committee on Civil Liberties, Justice and Home Affairs

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

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ***■*** symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

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

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2020)0767),
 - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0377/2020),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 27 April 2021¹,
 - after consulting the Committee of the Regions,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the opinions of the Committee on the Internal Market and Consumer Protection, Committee on Legal Affairs and the Committee on Civil Liberties, Justice and Home Affairs,
 - having regard to the report of the Committee on Industry, Research and Energy (A9-0248/2021),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ Not yet published in the Official Journal.

Amendment 1

Proposal for a regulation

Recital 1

Text proposed by the Commission

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

Amendment

(1) The Treaty on the Functioning of the European Union ('TFEU') provides for the establishment of an internal market and the institution of a system ensuring that competition in the internal market is not distorted. The establishment of common rules and practices in the Member States relating to the development of a framework for data governance should contribute to the achievement of those objectives, ***while fully respecting fundamental rights. It should also guarantee the strengthening of the open strategic autonomy of the Union while ensuring free flow of data.***

Amendment 2

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) Over the last ***few years***, digital technologies have transformed the economy and society, affecting all sectors of activity and daily life. Data is at the centre of this transformation: data-driven innovation will bring enormous benefits for citizens, for example through improved personalised medicine, new mobility, and its contribution to the European Green Deal²³. In its ***Data Strategy***²⁴, 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

Amendment

(2) Over the last ***decade***, 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 ***both*** for citizens ***and the economy***, for example through improved personalised medicine, new mobility, and its contribution to the ***communication of the Commission of 11 December 2019 on the European Green Deal. The data economy has to be built in a way to enable businesses, in particular micro, small and medium sized enterprises (SMEs) as defined in the annex to Commission Recommendation 2003/361/EC***^{23a} ***and start-ups to thrive, ensuring data access neutrality, portability and interoperability,***

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.

and avoiding lock-in effects. In its *communication of 19 February 2020 on a European Strategy for data*, 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, *which inter alia can be pivotal for the rapid development of artificial intelligence technologies.* It also called for the free and safe flow of data with third countries, subject to exceptions and restrictions *on the basis of fundamental rights*, public security, public order and other legitimate public policy objectives of the 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. *In accordance with the FAIR data principles, common European data spaces should make data findable, accessible, interoperable and reusable, while ensuring a high level of cybersecurity. When there is a level playing field in the data economy, businesses compete on quality of services, and not on the amount of data they control. For the purposes of the design, creation and maintenance of the level playing field in the data economy, a sound governance is needed, in which relevant stakeholders of a common European data space need to be represented and engaged.*

²³ *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)

²⁴ COM (2020) 66 final.

^{23a} Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

Amendment 3

Proposal for a regulation Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) The Union's growth potential depends on the skills of its population and workforce. Bearing in mind that 42% of Union citizens lack basic digital skills^{1a}, promoting digital literacy will be a key element in increasing citizens' trust in intensifying data sharing. Improving data literacy should be part of the strategic actions to reduce social inequalities and to promote a just digital environment.

^{1a} Analyse one indicator and compare breakdowns — Digital Scoreboard - Data & Indicators (digital-agenda-data.eu)

Amendment 4

Proposal for a regulation Recital 2 b (new)

Text proposed by the Commission

Amendment

(2b) Action at Union and national level is necessary to address the fact that women are under-represented at all levels in the digital sector in the Union.

Amendment 5

Proposal for a regulation Recital 2 c (new)

Text proposed by the Commission

Amendment

(2c) It is important for the Union to focus on the need to develop the data economy, in particular by building common European data spaces, paying particular attention to software engineering and attracting talent to the information and communication technology (ICT) sector in order to build European know-how that focuses on next-generation and cutting-edge technologies.

Amendment 6

Proposal for a regulation Recital 3

Text proposed by the Commission

Amendment

(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 space²⁵ 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 data²⁶. This Regulation is therefore without prejudice to ***Regulation (EU) 2016/679 of the European Parliament and of the Council²⁷, 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***

(3) It is necessary to improve the conditions for data sharing in the internal market, by creating a harmonised framework for data exchanges, ***paying specific attention to facilitating cooperation. This Regulation should aim to develop further a borderless digital internal market and a human-centric, trustworthy and secure data society and economy.*** 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 space²⁵ 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 data²⁶. This Regulation is therefore without prejudice to Directive (EU) 2016/943 of the European Parliament and of the Council²⁹, Regulation (EU)

European Parliament and of the Council²⁸, Directive (EU) 2016/943 of the European Parliament and of the Council (²⁹), Regulation (EU) 2018/1807 of the European Parliament and of the Council (³⁰), Regulation (EC) No 223/2009 of the European Parliament and of the Council (³¹), Directive 2000/31/EC of the European Parliament and of the Council (³²), Directive 2001/29/EC of the European Parliament and of the Council (³³), Directive (EU) 2019/790 of the European Parliament and of the Council (³⁴), Directive 2004/48/EC of the European Parliament and of the Council (³⁵), Directive (EU) 2019/1024 of the European Parliament and of the Council (³⁶), as well as Regulation 2018/858/EU of the European Parliament and of the Council (³⁷), Directive 2010/40/EU of the European Parliament and of the Council (³⁸) 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

2018/1807 of the European Parliament and of the Council³⁰, Regulation (EC) No 223/2009 of the European Parliament and of the Council³¹, Directive 2000/31/EC of the European Parliament and of the Council³², Directive 2001/29/EC of the European Parliament and of the Council³³, Directive (EU) 2019/790 of the European Parliament and of the Council³⁴, Directive 2004/48/EC of the European Parliament and of the Council³⁵, Directive (EU) 2019/1024 of the European Parliament and of the Council³⁶, as well as Regulation 2018/858/EU of the European Parliament and of the Council³⁷, Directive 2010/40/EU of the European Parliament and of the Council³⁸ 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 **Union or Member State law on 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, as well as international cooperation in that context. This Regulation should be without prejudice to the competences of the Member States regarding activities concerning public security, defence and national security.** A horizontal regime for the re-use of certain categories of protected data held by public sector bodies, the provision of data **intermediation** 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

legal act should also apply.

²⁵ 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*).

²⁶ 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.

²⁷ ***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)***

²⁸ ***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)***

²⁹ 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)

authorisation or certification regime, those provisions of that sector-specific Union legal act should also apply.

²⁵ 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)0690).

²⁶ 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.

²⁹ 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).

³⁰ 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)

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

³² 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)

³³ 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)

³⁴ 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)

³⁵ 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).

³⁶ Directive (EU) 2019/1024 of the European Parliament and of the Council of

³⁰ 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).

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

³² 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).

³³ 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).

³⁴ 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).

³⁵ 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).

³⁶ 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).

³⁷ 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).

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

20 June 2019 on open data and the re-use of public sector information (OJ L 172, 26.6.2019, p. 56).

³⁷ 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).

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

Amendment 7

Proposal for a regulation Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) This Regulation is without prejudice to Regulation (EU) 2016/679 of the European Parliament and of the Council^{1a} and to Directives 2002/58/EC^{1b} and (EU) 2016/680^{1c} of the European Parliament and of the Council, and the corresponding provisions of national law. This Regulation should in particular not be read as creating a new legal basis for the processing of personal data for any of the regulated activities. In the event of conflict between the provisions of this Regulation and Union law on the protection of personal data, the latter should prevail. It should be possible to consider data protection authorities competent authorities for the purposes of this Regulation. Where other entities act as competent authorities under this

Regulation, it should be without prejudice to the supervisory powers of data protection authorities under Regulation (EU) 2016/679.

^{1a} 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).

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

^{1c} 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).

Amendment 8

Proposal for a regulation Recital 3 b (new)

Text proposed by the Commission

Amendment

(3b) In the case of a data set composed of both personal and non-personal data, where those data are inextricably linked, that data set should be considered

personal data.

Amendment 9

Proposal for a regulation

Recital 4

Text proposed by the Commission

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

Amendment

(4) Action at Union level is necessary in order to address the barriers to a well-functioning **and competitive** data-driven economy. A Union-wide governance framework **should have the objective of building trust among individuals and businesses** for data access, **control, sharing, use and re-use**, in particular **by establishing proper mechanisms for data subjects to know and meaningfully exercise their rights, as well as** regarding the re-use of certain types of data held by the public sector, the provision of services by providers **of data intermediation services** 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. **In particular, more transparency regarding the purpose of data use and conditions under which data is stored by businesses can help increase trust. That action is without prejudice to obligations and commitments in trade agreements concluded by the Union.**

Amendment 10

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 the benefit of SMEs. The Digital Europe Programme established by Regulation (EU) 2021/694 of the European Parliament and of the Council^{1a}, 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 benefit from the European data economy.

^{1a} Regulation (EU) 2021/694 of the European Parliament and of the Council of 29 April 2021 establishing the Digital Europe Programme and repealing Decision (EU) 2015/2240 (OJ L 166, 11.5.2021, p. 1).

Amendment 11

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***

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 in public databases is often not made available, ***despite this being possible in***

Regulation (EU) 2016/679 and Directive (EU) 2016/680 in public databases is often not made available, not even for research or innovative activities. Due to the sensitivity of *this* data, certain technical and legal procedural requirements must be met before they are made available, in order to ensure the respect of rights others have over such data. Such requirements are usually time- and knowledge-intensive to fulfil. This has led to the underutilisation of such data. While some Member States are setting up structures, processes and sometimes legislate to facilitate this type of re-use, this is not the case across the Union.

accordance with the applicable Union law, in particular Regulation (EU) 2016/679 and Directives 2002/58/EC and (EU) 2016/680, not even for research or innovative activities *in the public interest*. Due to the sensitivity of *those* data, certain technical and legal procedural requirements must be met before they are made available, *not least* 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 requirements are usually time- and knowledge-intensive to fulfil. This has led to the underutilisation of such data. While some Member States are setting up structures, processes and sometimes legislate to facilitate this type of re-use, this is not the case across the Union. *In order to facilitate the use of data for European research and innovation by private and public entities, clear conditions for access to and use of such data are needed across the Union.*

Amendment 12

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

Amendment

(6) There are techniques enabling analyses on databases that contain personal data, such as anonymisation, pseudonymisation, differential privacy, generalisation, or suppression, and randomisation ***and other state-of-the-art privacy preserving methods that could contribute to a more privacy-friendly processing of data. Member States should provide support to public sector bodies to make optimal use of such techniques, thus making as much data as possible available for sharing.*** The application of these ***techniques***, together with comprehensive data protection ***impact***

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) 557/2013³⁹). 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.

assessments and other safeguards can contribute to more safety in the use and re-use of personal data and should ensure the safe re-use of 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) 557/2013³⁹. 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 **Articles 6 and 9** of Regulation (EU) 2016/679.

³⁹ 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).

³⁹ 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).

Amendment 13

Proposal for a regulation Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) In accordance with Regulation (EU) 2016/679 the principles of data protection should not apply to anonymous information, namely information which does not relate to an identified or identifiable natural person or to personal data rendered anonymous in such a manner that the data subject is not or no longer identifiable. The European Data Protection Board defines anonymisation

in its guidelines as “the use of a set of techniques in order to remove the ability to link the data with an identified or identifiable natural person against any ‘reasonable’ effort”^{1a}.

^{1a} European Data Protection Board (2020), Guidelines 04/2020 on the use of location data and contact tracing tools in the context of the COVID-19 outbreak, 21.4.2020 p. 5.

Amendment 14

Proposal for a regulation Recital 6 b (new)

Text proposed by the Commission

Amendment

(6b) In order to facilitate the protection of personal data and 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 apply the principle of ‘open by design and by default’ as referred to in Recital (16) of Directive (EU) 2019/1024 and promote the creation and the procurement of data in formats and structures that allow for swift anonymisation in that regard.

Amendment 15

Proposal for a regulation Recital 7

Text proposed by the Commission

Amendment

(7) The categories of data held by public sector bodies which should be subject to re-use under this Regulation fall outside the scope of Directive (EU) 2019/1024 that excludes data which is not accessible due to commercial and statistical

(7) The categories of data held by public sector bodies which should be subject to re-use under this Regulation fall outside the scope of Directive (EU) 2019/1024 that excludes data which is not accessible due to commercial and statistical

confidentiality and data for which third parties have intellectual property rights. Personal data fall outside the scope of Directive (EU) 2019/1024 insofar as the access regime excludes or restricts access to such data for reasons of data protection, privacy and the integrity of the individual, in particular in accordance with data protection rules. The re-use of data, which may contain trade secrets, should take place without prejudice to Directive (EU) 2016/943⁴⁰, which sets the framework for the lawful acquisition, use or disclosure of trade secrets. This Regulation is without prejudice and complementary to more specific obligations on public sector bodies to allow re-use of data laid down in sector-specific Union or national law.

⁴⁰ OJ L 157, 15.6.2016, p. 1–18

confidentiality and data for which third parties have intellectual property rights. ***This Regulation should apply to personal data that fall outside the scope of Directive (EU) 2019/1024 insofar as the access regime excludes or restricts access to such data for reasons of data protection, privacy and the integrity of the individual, in particular in accordance with data protection rules. The re-use of data, which may contain trade secrets, should take place without prejudice to Directive (EU) 2016/943 of the European Parliament and of the Council⁴⁰, which sets the framework for the lawful acquisition, use or disclosure of trade secrets. This Regulation is without prejudice and complementary to more specific obligations on public sector bodies to allow re-use of data laid down in sector-specific Union or national law. This Regulation should not create an obligation to allow re-use of personal data held by public sector bodies.***

⁴⁰ ***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).***

Amendment 16

Proposal for a regulation Recital 8

Text proposed by the Commission

(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

Amendment

(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.

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 ***be excluded from the scope of*** this Regulation. Data held by cultural 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, ***and data held by educational establishments***, are not covered by this Regulation.

Amendment 17

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) Public sector bodies should comply with competition law when establishing the principles for re-use of data they hold, avoiding ***as far as possible*** the conclusion of agreements, which might have as their objective or effect the creation of exclusive rights for the re-use of certain data. Such agreement should be only possible when justified and necessary for the provision of a service of general interest. This may be the case when exclusive use of the data is the only way to maximise the societal benefits of the data in question, for example where there is only one entity (which has specialised in the processing of a specific dataset) capable of delivering the service or the product which allows the public sector body to provide ***an advanced digital*** service in the general interest. Such arrangements should, however, be concluded in compliance with public procurement rules and be subject to regular

Amendment

(9) Public sector bodies should comply with competition law when establishing the principles for re-use of data they hold, avoiding the conclusion of agreements, which might have as their objective or effect the creation of exclusive rights for the re-use of certain data. Such agreement should be only possible when justified and necessary for the provision of a service of general interest. This may be the case when exclusive use of the data is the only way to maximise the societal benefits of the data in question, for example where there is only one entity (which has specialised in the processing of a specific dataset) capable of delivering the service or the product which allows the public sector body to provide service in the general interest. Such arrangements should, however, be concluded in compliance with public procurement ***and concession award*** rules and be subject to regular review

review based on a market analysis in order to ascertain whether such exclusivity continues to be necessary. In addition, such arrangements should comply with the relevant State aid rules, as appropriate, and should be concluded for a limited period, which should not exceed **three years**. In order to ensure transparency, such exclusive agreements should be published online, regardless of a possible publication of an award of a public procurement contract.

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 **12 months**. In order to ensure transparency, such exclusive agreements should be published online, regardless of a possible publication of an award of a public procurement contract.

Amendment 18

Proposal for a regulation Recital 10

Text proposed by the Commission

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

Amendment

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

Amendment 19

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

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

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, **transparent**, proportionate and objectively justified, while **enhancing** competition, **with a specific focus on promoting access to such data by SMEs and start-ups and promoting 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 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 **burden on** the public sector. **Conditions should be designed to ensure effective safeguards with regard to the protection of personal data**. Before its transmission, personal data should be anonymised, so as to 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, **and where any requirements of completing a data protection impact assessment and consulting the supervisory authority pursuant to Articles 35 and 36 of Regulation (EU) 2016/679 have been fulfilled and the risks for the rights and interests of data subjects are minimal**, 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

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.

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.

When transmitting the request for consent, the public sector body should inform the data subjects or legal persons of their rights, in particular of the right to refuse such a request and not give their consent. The re-users should have responsibility for demonstrating that consent has been obtained. Public sector bodies should focus in particular on seeking to ensure that SMEs and start-ups are able to compete fairly with other re-users. No contact information should be given that allows re-users to contact data subjects or companies directly. In the event of any re-identification of individuals concerned, the re-users should report the incident to the supervisory authority competent under Regulation (EU) 2016/679 and inform the public sector body.

Amendment 20

Proposal for a regulation
Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) The de-anonymisation of datasets should be prohibited unless 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 21

Proposal for a regulation
Recital 14

Text proposed by the Commission

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 ***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.

(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 ***ensure that*** the rights and interests of natural and legal persons ***are fully protected*** (in particular ***with regard to*** personal data, commercially sensitive data and intellectual property rights) in ***all cases including when*** such data is transferred to third countries.

Amendment 22

Proposal for a regulation
Recital 15

Text proposed by the Commission

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

Amendment

(15) Furthermore, **in order to preserve fair competition and an open market economy** it is **of the utmost importance** to protect 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 may lead to IP theft or industrial espionage. In order to ensure the protection of rights or interests of data holders, non-personal data which is to be protected from unlawful or unauthorised access under Union or national law, and which is held by public sector bodies, should be transferred only to third-countries where appropriate safeguards for the use of data are provided. Such appropriate safeguards should be considered to exist when in that third-country there are equivalent measures in place which ensure that non-personal data benefits from a level of protection similar to that applicable by means of Union or national law in particular as regards the protection of trade secrets and the protection of intellectual property rights. To that end, the **power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of declaring** 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

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.

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.

Amendment 23

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-

Amendment

(16) In cases where there is no **delegated** 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 **non-personal** 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.

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 should, where relevant and to the extent of their capabilities, provide guidance and legal and administrative support to re-users, in particular small actors, such as SMEs and start-ups, for the purpose of supporting them in complying with those obligations. The Commission should issue guidelines on the obligations as regards the transfer by re-users of non-personal data to a third country. In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to establish standard contractual clauses for the transfer by re-users of non-personal data to a third country.***

Amendment 24

Proposal for a regulation Recital 17

Text proposed by the Commission

(17) Some third countries adopt laws, regulations and other legal acts which aim at directly transferring or providing access to non-personal data in the Union under the control of natural and legal persons under the jurisdiction of the Member States. Judgments of courts or tribunals or decisions of administrative authorities in third countries requiring such transfer or access to non-personal data should be enforceable when based on an international agreement, such as a mutual legal assistance treaty, in force between the requesting third country and the Union or a Member State. In some cases, situations may arise where the obligation to transfer or provide access to non-personal data arising from a third country law conflicts with a competing obligation to protect such

Amendment

(17) Some third countries adopt laws, regulations and other legal acts which aim at directly transferring or providing access to non-personal data in the Union under the control of natural and legal persons under the jurisdiction of the Member States. Judgments of courts or tribunals or decisions of administrative authorities in third countries requiring such transfer or access to non-personal data should be enforceable when based on an international agreement, such as a mutual legal assistance treaty, in force between the requesting third country and the Union or a Member State. In some cases, situations may arise where the obligation to transfer or provide access to non-personal data arising from a third country law conflicts with a competing obligation to protect such

data under Union or national law, in particular as regards the protection of commercially sensitive data and the protection of intellectual property rights, and including its contractual undertakings regarding confidentiality in accordance with such law. In the absence of international agreements regulating such matters, transfer or access should only be allowed ***under certain conditions, in particular that*** the third-country system requires the reasons and proportionality of the decision to be set out, that the court order or the decision is specific in character, and the reasoned objection of the addressee is subject to a review by a competent court in the third country, which is empowered to take duly into account the relevant legal interests of the provider of such data.

data under Union or national law, in particular as regards the protection of commercially sensitive data and the protection of intellectual property rights, and including its contractual undertakings regarding confidentiality in accordance with such law. In the absence of international agreements regulating such matters, transfer or access should only be allowed ***if*** the third-country system requires the reasons and proportionality of the decision to be set out, that the court order or the decision is specific in character, and the reasoned objection of the addressee is subject to a review by a competent court in the third country, which is empowered to take duly into account the relevant legal interests of the provider of such data.

Amendment 25

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, providers ***of data intermediation services*** 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, ***cybersecurity measures*** or corporate policies.

Amendment 26

Proposal for a regulation Recital 19

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

(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 *by a specific Union act*, 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. *Insurance companies or any other service provider entitled to access information stored in e-health applications should not be allowed to use those data for the purpose of discriminating in the setting of prices, as this would run counter to the fundamental right of access to health.* The conditions attached to the transfer of such data to third countries should be laid down in delegated acts. Conditions should be proportionate *and* non-discriminatory, *should not restrict competition and should be* 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 27

Proposal for a regulation

Recital 20

Text proposed by the Commission

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

Amendment

(20) Public sector bodies should be able to charge fees for the re-use of data ***to cover the costs of providing for such data re-use***, 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 ***SMEs and start-ups, civil society and educational establishments***, 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 ***proportionate to the costs incurred***, transparent, published online, non-discriminatory ***and should not restrict competition. A list of categories of re-users to which a discounted fee or no charge applies, together with the criteria used to establish that list, should be made public.***

Amendment 28

Proposal for a regulation

Recital 21

(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.

(21) In order to incentivise **and promote** the re-use of **specific** 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, where applicable, for public sector bodies to make scientific data available for purposes of research**. 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 **or data subjects** with management of the consent **and permission**, including consent to certain areas of scientific research when in keeping with recognised ethical standards for scientific research. **Without prejudice to the supervisory powers of data protection authorities**, 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, **while fully respecting the powers of supervisory authorities under**

Amendment 29

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**

Amendment

(22) Data **intermediation** services 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. **Providers of data intermediation services, which can also include public sector bodies**, 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 **intermediation services** 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, **while allowing non-discriminatory access to the data economy for actors of all sizes, in particular SMEs and start-ups with limited financial, legal or administrative means**. This Regulation should cover **data intermediation services with the objective of establishing relationships through legal, technical or other means** between an **undetermined** number of data holders **or data subjects** and data users to enable **or facilitate the sharing, exchange or pooling of data, under open data or commercial licenses for non-personal data, for a fee or free of cost.**

resulting from 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 Council⁴² 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 Council⁴³ 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.

⁴² 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.

⁴³ 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 30

**Proposal for a regulation
Recital 22 a (new)**

Text proposed by the Commission

Amendment

(22a) Where businesses and other actors offer multiple data-related services, including cloud storage, analytics or other value-adding data services, only the activities which directly concern the provision of data intermediation services are covered by this Regulation. Data intermediation services that are exclusively used by one data holder in order to enable the use of data they hold, or for the purpose of exchanging data by multiple legal entities in a closed group, including contractually-defined collaborations or supplier or customer relationships, in particular those that have as a main objective the ensuring of functionalities of objects and devices connected to the internet-of-things are excluded from the scope of this Regulation. Value-added data services, which aggregate, transform or combine data with other data, or analyse it for the purpose of adding substantial value to it and make available the use of the resulting data to data users, as well as auxiliary technical, legal, financial or administrative support services, are also excluded from the scope of this Regulation. At the same time, providers of 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 so desires, or improve interoperability such as to convert it into specific formats. In addition, services that focus on the intermediation of copyright-protected content, are excluded from the scope of this Regulation. ‘Consolidated tape providers’ as defined in Article 4 (1), point 53, of Directive 2014/65/EU of the European Parliament and of the Council^{1a} as well as ‘account information service providers’ as defined in Article 4, point 19, of Directive (EU) 2015/2366 of the European Parliament and of the Council^{1b} should not be considered to be 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.

^{1a} 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, 12.6.2014, p. 349).

^{1b} 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 (OJ L 337, 23.12.2015, p. 35).

Amendment 31

Proposal for a regulation Recital 23

(23) A specific category of ***data intermediaries*** includes providers of data ***sharing*** services that offer their services to data subjects in the sense of Regulation (EU) 2016/679. Such providers ***focus exclusively on personal data and*** seek to enhance individual agency and the individuals' control over the data ***pertaining*** to them. They would assist individuals in exercising their rights under Regulation (EU) 2016/679, in particular ***managing*** their consent to data processing, the right of access to their own data, the right to the rectification of inaccurate personal data, the right of erasure or right 'to be forgotten', the right to restrict processing and the data portability right, which allows data subjects to move their personal data from one controller to the other. In this context, it is important that their business model ensures that there are no misaligned incentives that encourage individuals to make more data available for processing than what is in the individuals' own interest. This could include advising individuals on uses of their data they could allow and making due diligence checks on data users before allowing them to contact data subjects, in order to avoid fraudulent practices. In certain situations, it could be desirable to collate actual data within a personal data storage space, or 'personal data space' so that processing can happen within that space without personal data being transmitted to third parties in order to maximise the protection of personal data and privacy.

(23) A specific category of ***providers of data intermediation services*** includes providers of data ***intermediation*** services that offer their services to data subjects in the sense of Regulation (EU) 2016/679. Such providers seek to enhance individual agency and ***in particular*** the individuals' control over the data ***relating*** to them. They would assist individuals in exercising their rights under Regulation (EU) 2016/679, in particular ***giving and withdrawing*** their consent to data processing, the right of access to their own data, the right to the rectification of inaccurate personal data, the right of erasure or right 'to be forgotten', the right to restrict processing and the data portability right, which allows data subjects to move their personal data from one controller to the other. In this context, it is important that their business model ensures that there are no misaligned incentives that encourage individuals to make more data available for processing than what is in the individuals' own interest. This could include advising individuals on uses of their data they could allow and making due diligence checks on data users before allowing them to contact data subjects, in order to avoid fraudulent practices. In certain situations, it could be desirable to collate actual data within a personal data storage space, or 'personal data space' so that processing can happen within that space without personal data being transmitted to third parties in order to maximise the protection of personal data and privacy.

Amendment 32

Proposal for a regulation Recital 24

Text proposed by the Commission

(24) Data cooperatives seek to strengthen the position of individuals in making informed choices before consenting to data use, influencing the terms and conditions of data user organisations attached to data use or potentially ***solving disputes between*** members of a group on how data can be used when such data ***pertain*** to several data subjects within that group. In this context it is important to acknowledge that the rights under Regulation (EU) 2016/679 can only be exercised by each individual and cannot be conferred or delegated to a data cooperative. Data cooperatives could also provide a useful means for one-person companies, ***micro, small and medium-sized enterprises*** that in terms of knowledge of data sharing, are often comparable to individuals.

Amendment

(24) Data cooperatives seek ***to achieve a number of objectives, in particular*** to strengthen the position of individuals in making informed choices before consenting to data use, influencing the terms and conditions of data user organisations attached to data use ***in a manner that gives better choices to the individual members of the group*** or potentially ***finding solutions to conflicting positions of individual*** members of a group on how data can be used when such data ***relates*** to several data subjects within that group. In this context it is important to acknowledge that the rights under Regulation (EU) 2016/679 can only be exercised by each individual and cannot be conferred or delegated to a data cooperative. Data cooperatives could also provide a useful means for one-person companies ***and SMEs*** that in terms of knowledge of data sharing, are often comparable to individuals.

Amendment 33

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

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 ***or data subjects***, 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, ***data subjects*** and data users have better control over the access to and use of their data, in accordance with Union law. Both

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.

in situations where data sharing occurs in a business-to-business context and where it occurs in a business-to-consumer context, providers **of data intermediation services** should offer a novel, ‘European’ way of data governance, by providing a separation in the data economy between data provision, intermediation and use, **which is at the core of increasing such trust among data holders, be they individuals or businesses**. 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 of particular importance to shape that infrastructure in such a way that SMEs and start-ups encounter no technical or other barriers to their participation in the data economy.**

Amendment 34

Proposal for a regulation Recital 25 a (new)

Text proposed by the Commission

Amendment

(25a) Providers of data intermediation services which meet the requirements laid down in this Regulation should be able to use the title ‘providers of data intermediation services recognised in the Union’. In order to assist data subjects and legal entities to easily identify, and thereby increase their trust in, providers of data intermediation services recognised in the Union, a common logo that is recognisable throughout the Union should be established. In order to ensure uniform conditions for the application of that logo, implementing powers should be conferred on the Commission to establish a design for that common logo.

Amendment 35

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) ***It is important to enable a competitive environment for data sharing.*** A key element to bring trust and more control for data **holders, data subjects** and data users in data **intermediation** services is the neutrality of providers **of data intermediation services** as regards the data exchanged between data holders **or data subjects** 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. ***The pricing and terms of data intermediation services should not be made dependent on whether or to what extent a potential data holder or data user is using other services, including storage, analytics, artificial intelligence or other data-based applications, provided by the same provider or a related entity.*** 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 put at the disposal of data holders, data subjects or data users their own or third-party tools for the purpose of facilitating the exchange of data, for example tools for the analysis, conversion or aggregation of data only at the explicit request or approval of the data subject or data holder. The third-party tools offered in that context shall not use data for purposes other than those related to data intermediation services.*** Providers **of data intermediation services** that intermediate

the exchange of data between individuals as data **subjects** and legal persons **as data users** should, in addition, bear fiduciary duty towards the individuals, to ensure that they act in the best interest of the data **subjects**.

Amendment 36

Proposal for a regulation Recital 26 a (new)

Text proposed by the Commission

Amendment

(26a) Providers of data intermediation services should take reasonable measures to ensure interoperability with other data intermediation services to ensure the proper functioning of the market. Reasonable measures could include employing commonly used standards. The European Data Innovation Board should facilitate the emergence of additional standards, where necessary.

Amendment 37

Proposal for a regulation Recital 27

Text proposed by the Commission

Amendment

(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

(27) In order to ensure the compliance of **data intermediation** services with the conditions set out in this Regulation, providers **of such services** should have a place of establishment in the Union. Where a provider of data **intermediation** services not established in the Union offers services within the Union, it should designate a **legal** representative. Designation of a **legal** representative **in such cases** is necessary, given that such providers of data **intermediation** services handle personal data as well as commercially confidential data, which necessitates the close

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

monitoring of the compliance of providers *of data intermediation services* with the conditions laid out in this Regulation. 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 Union, may make it apparent that the provider of data *intermediation* services is planning to offer services within the Union. The **designated legal** representative should act on behalf of the provider of data *intermediation* services and it should be possible for competent authorities to contact the **legal** representative, **including in the case of an infringement, to initiate enforcement proceeding against a non-compliant provider of data intermediation services not established in the Union. The legal** 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. **The designation of such a legal representative does not affect the responsibility or liability of the provider of data intermediation services under this Regulation. The legal representative should perform its tasks in accordance with the mandate received from the provider of data intermediation services,**

including cooperating with and comprehensively demonstrating to the competent authorities, upon request, the actions taken and provisions put in place by the provider to ensure compliance with this Regulation. Where a provider of data intermediation services that is not established in the Union fails to designate a legal representative, or such legal representative fails to comply with its obligations under this Regulation, the competent authority should have the power to impose the immediate cessation of the provision of the data intermediation service. In the case of processing of personal data, the providers of data intermediation services not established in the Union should be subject to Regulation (EU) 2016/679.

Amendment 38

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. **When providers of data intermediation services process personal data, this Regulation should not affect the protection of personal data. 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 39

Proposal for a regulation
Recital 28 a (new)

Text proposed by the Commission

Amendment

(28a) Providers of data intermediation services should have in place procedures and measures to sanction fraudulent or abusive practices in relation to access to data from parties seeking access through their services, including through measures such as the exclusion of data users that breach the terms of service or infringe existing legislation.

Amendment 40

Proposal for a regulation
Recital 29

Text proposed by the Commission

Amendment

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

(29) Providers of data **intermediation** services should also take **effective** measures to ensure compliance with competition law. 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 41

Proposal for a regulation
Recital 29 a (new)

(29a) Member States should lay down rules on penalties for the infringements of this Regulation, and should ensure that those rules are implemented. Those penalties should be effective, proportionate and dissuasive. Large discrepancies between rules on penalties among Member States should be avoided in order not to distort competition in the Digital Single Market. To facilitate a more consistent application of penalties, non-exhaustive and indicative criteria for the application of penalties should be included in this Regulation.

Amendment 42

Proposal for a regulation Recital 31

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

(31) In order to support effective cross-border provision of services, the provider ***of data intermediation services*** should be requested to send a notification only to the designated competent authority from the Member State where its main establishment is located or where its legal representative is located. Such a notification should not entail more than a mere declaration of the intention to provide such services and should be completed only by ***providing*** the information set out in this Regulation. ***After the relevant notification the provider of data intermediation services should be able to start operating in other Member States without further notification obligations.***

Amendment 43

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 **in accordance with** objective criteria and should imply the effective and real exercise of management activities.

Amendment 44

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 **providers 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. Member States should notify the Commission of the identity of the designated competent authorities.

Amendment 45

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,

Amendment

(35) There is a strong potential in the use of data made available voluntarily by data subjects based on their **informed**

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.

consent or, where it concerns non-personal data, made available by legal persons, for purposes of general interest, ***in particular scientific research***, healthcare, combating climate change, improving mobility, facilitating the establishment of official statistics or improving the provision of public services. ***Such purposes may also be established by national law***. 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 46

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 ‘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***.

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, 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. Legal persons could give permission to the processing of their non-personal data for a range of purposes not defined at the moment of giving the permission. The voluntary ***registration as ‘data altruism organisation recognised in the Union’***

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.

and the 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, **including representatives from civil society**, to ensure that the data controller maintains high standards of scientific ethics **and protection of fundamental rights**, effective **and clearly communicated** 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.

Amendment 47

Proposal for a regulation

Recital 37

Text proposed by the Commission

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

Amendment

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

Organisations recognised in the Union’.

order to assist data subjects and legal entities to easily identify, and thereby to increase their trust in, data altruism organisations recognised in the Union, a common logo that is recognisable throughout the Union should be established. In order to ensure uniform conditions for the application of that logo, implementing powers should be conferred on the Commission to establish a design for that common logo. The common logo should be accompanied by a QR code with a link to the Union register of data altruism organisations recognised in the Union.

Amendment 48

Proposal for a regulation Recital 37 a (new)

Text proposed by the Commission

Amendment

(37a) This Regulation is without prejudice to the establishment, organisation and functioning of entities other than public sector bodies that engage in the sharing of data and content on the basis of open licenses, thereby contributing to the creation of commons resources available to all. This includes open collaborative knowledge sharing platforms, open access scientific and academic repositories, open source software development platforms and Open Access content aggregation platforms. Organisations building such open Access commons knowledge repositories play an important role in the online infrastructure. Nothing in this Regulation should therefore be interpreted so as to limit the ability of not-for profit organisations to make data and content available to the public under open licenses.

Amendment 49

Proposal for a regulation Recital 38

Text proposed by the Commission

(38) Data Altruism Organisations recognised in the Union should be able to collect relevant data directly from natural and legal persons or to process data collected by others. Typically, data altruism would rely on consent of data subjects in the sense of Article 6(1)(a) and 9(2)(a) and in compliance with requirements for lawful consent in accordance with **Article 7** of Regulation (EU) 2016/679. In accordance with Regulation (EU) 2016/679, scientific research purposes can be supported by consent to certain areas of scientific research when in keeping with recognised ethical standards for scientific research or only to certain areas of research or parts of research projects. Article 5(1)(b) of Regulation (EU) 2016/679 specifies that further processing for scientific or historical research purposes or statistical purposes should, in accordance with Article 89(1) of Regulation (EU) 2016/679, not be considered to be incompatible with the initial purposes.

Amendment

(38) Data altruism organisations recognised in the Union should be able to collect relevant data directly from natural and legal persons or to process data collected by others. ***Where they are data controllers or processors within the meaning of Regulation (EU) 2016/679, they are bound by that Regulation.*** Typically, data altruism would rely on consent of data subjects in the sense of Article 6(1), ***point*** (a) and 9(2), ***point*** (a) and in compliance with requirements for lawful consent in accordance with **Articles 7 and 8** of Regulation (EU) 2016/679. In accordance with Regulation (EU) 2016/679, scientific research purposes can be supported by consent to certain areas of scientific research when in keeping with recognised ethical standards for scientific research or only to certain areas of research or parts of research projects. Article 5(1), ***point*** (b), of Regulation (EU) 2016/679 specifies that further processing for scientific or historical research purposes or statistical purposes should, in accordance with Article 89(1) of Regulation (EU) 2016/679, not be considered to be incompatible with the initial purposes.

Amendment 50

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

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 altruism consent form should be developed and used in the context of altruistic data sharing. Such a form should contribute to additional transparency for data subjects that their data will be accessed and used in accordance with their consent and also in full compliance with the data protection rules. It ***could also*** be used to streamline data altruism performed by companies and provide a mechanism allowing such companies to withdraw their permission to use the data. In order to take into account the specificities of individual sectors, including from a data protection perspective, there should be a possibility for sectoral adjustments of the European data altruism consent form.

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 ***should also facilitate the granting and withdrawing of consent and*** be used to streamline data altruism performed by companies and provide a mechanism allowing such companies to withdraw their permission to use the data. In order to take into account the specificities of individual sectors, including from a data protection perspective, there should be a possibility for sectoral adjustments of the European data altruism consent form.

Amendment 51

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 (***the 'Board'***) should be established, in the form of an expert group. The Board should ***be gender balanced and*** consist of representatives of the ***competent authorities of all the*** Member States, ***the European Union Agency for Cybersecurity (ENISA), the Commission, the EU SME Envoy or a representative appointed by the network of SME envoys and other*** representatives of ***competent authorities in*** specific sectors, such as health, ***energy, industrial manufacturing, environment, media, cultural and creative sectors,*** transport and statistics, ***ensuring geographical balance.*** The European Data Protection Board ***and the European Data Protection Supervisor,***

as well as the Data Innovation Advisory Council, should be invited to appoint a representative to the Board.

Amendment 52

Proposal for a regulation Recital 40 a (new)

Text proposed by the Commission

Amendment

(40a) A data innovation advisory council ('the Advisory Council') should be established as a sub-group of the Board consisting of relevant representatives from industry, research, academia, civil society, standardisation organisations, relevant common European data spaces, and other relevant stakeholders, including social partners, where appropriate depending on the subject matter discussed. The Advisory Council should support the work of the Board by providing advice relating to the tasks of the Board, such as relating to the exchange of data, and in particular on how to best protect commercially sensitive non-personal data, in particular 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. The Advisory Council should nominate a representative to attend meetings of the Board and to participate in its work.

Amendment 53

Proposal for a regulation Recital 41

Text proposed by the Commission

Amendment

(41) The Board should support the Commission in coordinating national

(41) The Board should support the Commission in coordinating national

practices and policies on the topics covered by this Regulation, and in supporting cross-sector data use by adhering to the European Interoperability Framework (EIF) principles and through the utilisation of standards and specifications (*such as* the Core Vocabularies⁴⁴ and the CEF Building Blocks⁴⁵), ***without prejudice to*** standardisation work taking place in specific sectors or domains. Work on technical standardisation may include the identification of priorities for the development of standards and establishing and maintaining a set of technical and legal standards for transmitting data between two processing environments that allows data spaces to be organised ***without making recourse to an intermediary***. The Board should cooperate with sectoral bodies, networks or expert groups, or other cross-sectoral organisations dealing with re-use of data. Regarding data altruism, the Board should assist the Commission in the development of the data altruism consent form, in consultation with the European Data Protection Board.

44

<https://joinup.ec.europa.eu/collection/semantic-interoperability-community-semantic/core-vocabularies>

45

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

practices and policies on the topics covered by this Regulation, and in supporting cross-sector data use by adhering to the European Interoperability Framework (EIF) principles and through the utilisation of ***European and international*** standards and specifications (***including through the EU Multi-Stakeholder Platform for ICT Standardisation***, the Core Vocabularies⁴⁴ and the CEF Building Blocks⁴⁵), ***and should take into account*** standardisation work taking place in specific sectors or domains. Work on technical standardisation may include the identification of priorities for the development of standards and establishing and maintaining a set of technical and legal standards for transmitting data between two processing environments that allows data spaces to be organised, ***in particular in clarifying and distinguishing which standards and practices are cross-sectoral and which are sectoral***. The Board should cooperate with ***the Advisory Council***, sectoral bodies, networks or expert groups, or other cross-sectoral organisations dealing with re-use of data. Regarding data altruism, the Board should assist the Commission in the development of the data altruism consent form, in consultation with the European Data Protection Board. ***By proposing guidelines on common European data spaces, the Board should support the development of a functioning European data economy based on those data spaces, as set out in the European data strategy.***

44

<https://joinup.ec.europa.eu/collection/semantic-interoperability-community-semantic/core-vocabularies>

45

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

Amendment 54

Proposal for a regulation Recital 41 a (new)

Text proposed by the Commission

Amendment

(41a) The Commission should ensure systematic cooperation between the Board and other equivalent Union-level bodies established under Union legislation on data related issues, in particular legislative acts on data and artificial intelligence.

Amendment 55

Proposal for a regulation Recital 44

Text proposed by the Commission

Amendment

(44) This Regulation should not affect the application of the rules on competition, and in particular Articles 101 and 102 ***of the Treaty on the Functioning of the European Union***. The measures provided for in this Regulation should not be used to restrict competition in a manner contrary to the ***Treaty on the Functioning of the European Union***. This concerns in particular the rules on the exchange of competitively sensitive information between actual or potential competitors through data ***sharing*** services.

(44) This Regulation should not affect the application of the rules on competition, and in particular Articles 101 and 102 ***TFEU***. The measures provided for in this Regulation should not be used to restrict competition in a manner contrary to the ***TFEU***. This concerns in particular the rules on the exchange of competitively sensitive information between actual or potential competitors through data ***intermediation*** services.

Amendment 56

Proposal for a regulation Recital 45

Text proposed by the Commission

Amendment

(45) The European Data Protection Supervisor and the European Data Protection Board were consulted in

(45) The European Data Protection Supervisor and the European Data Protection Board were consulted in

accordance with Article 42 of Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽⁴⁷⁾) and delivered an opinion on [...].

accordance with Article 42 of Regulation (EU) 2018/1725 of the European Parliament and of the Council⁴⁷ and delivered an opinion on **10 March 2021**.

⁴⁷ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

⁴⁷ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

Amendment 57

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 **uses as its guiding principles the respect of** the fundamental rights and **observing** 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 58

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

Text proposed by the Commission

Amendment

(ca) a framework for the establishment of a European data innovation board.

Amendment 59

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 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.

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 **data, including employees' personal data in the employment context,** 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 60

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

Text proposed by the Commission

Amendment

(2a) Union and Member State law on the protection of personal data apply to any personal data processed in connection with this Regulation. In particular, this Regulation is without prejudice to Regulations (EU) 2016/679 and (EU) 2018/1725 and Directive 2002/58/EC, and the corresponding provisions of national law, including the competences and powers of supervisory authorities. In the event of conflict between the provisions of this Regulation and Union law on the protection of personal data, the latter prevails. This Regulation does not create a legal basis for the processing of

personal data.

Amendment 61

Proposal for a regulation

Article 1 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

(2b) *Where data can be reasonably assumed to lead to the identification or identifiability of natural persons when combined with other datasets, or where personal and non-personal data in a data set are inextricably linked in mixed data sets, the data shall be treated as personal data.*

Amendment 62

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(2a) *'personal data' means personal data as defined in Article 4, point (1), of Regulation (EU) 2016/679;*

Amendment 63

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(2b) *'data subject' means data subject as defined in Article 4, point (1), of Regulation (EU) 2016/679;*

Amendment 64

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Text proposed by the Commission

Amendment

(4) **‘metadata’ means data collected on any activity of a natural or legal person for the purposes of the provision of a data sharing service, including the date , time and geolocation data, duration of activity, connections to other natural or legal persons established by the person who uses the service;**

deleted

Amendment 65

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, data subject, **public body or international organisation**, who, in accordance with applicable Union or national law, has the right to grant access to or to share certain personal **data, subject to consent of the data subject**, or non-personal data under its control;

Amendment 66

Proposal for a regulation

Article 2 – paragraph 1 – point 6

Text proposed by the Commission

Amendment

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

(6) ‘data user’ means a natural or legal person who has lawful access to certain personal or non-personal data and **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 67

Proposal for a regulation
Article 2 – paragraph 1 – point 6 a (new)

Text proposed by the Commission

Amendment

(6a) ‘consent’ means consent as defined in Article 4, point (11), of Regulation (EU) 2016/679 and subject to the conditions set out in Articles 7 and 8 of that Regulation;

Amendment 68

Proposal for a regulation
Article 2 – paragraph 1 – point 6 b (new)

Text proposed by the Commission

Amendment

(6b) ‘processing’ means processing as defined in Article 4, point (2), of Regulation (EU) 2016/679;

Amendment 69

Proposal for a regulation
Article 2 – paragraph 1 – point 7

Text proposed by the Commission

Amendment

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

deleted

Amendment 70

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

Text proposed by the Commission

Amendment

(10) ‘data altruism’ means *the* consent by data subjects to process personal data

(10) ‘data altruism’ means *voluntary sharing of data based on* consent by 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**;

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 **healthcare, combating climate change, improving mobility, facilitating the establishment of official statistics, improving public services or** scientific research purposes **in the general interest**.

Amendment 71

Proposal for a regulation

Article 2 – paragraph 1 – point 14

Text proposed by the Commission

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

Amendment

(14) ‘secure processing environment’ means the physical or virtual environment and organisational means to re-use data in **accordance with applicable law, in particular the preservation of data subject rights under Regulation (EU) 2016/679, and to uphold data confidentiality, integrity and accessibility, and** that allows for the operator of the secure processing environment to determine and supervise all data processing actions, including to display, storage, download, export of the data and calculation of derivative data through computational algorithms.

Amendment 72

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

Amendment

(15) ‘**legal** representative’ means **a** natural or legal person established in the Union explicitly designated to act on behalf of a provider of data **intermediation service** or an entity that collects data for objectives of general interest made

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.

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 service*** or entity with regard to the obligations of that provider of data ***intermediation service*** or entity set up ***under*** this Regulation, ***including to initiate enforcement proceeding against a non-compliant provider of data intermediation services or a data altruism organisation not established in the Union.***

Amendment 73

Proposal for a regulation

Article 2 – paragraph 1 – point 15 a (new)

Text proposed by the Commission

Amendment

(15a) ‘data intermediation service’ means a service, which establishes relationships through technical, legal or other means between an undetermined number of data holders or data subjects and data users to enable or facilitate the sharing, exchange or pooling of data, under open data or commercial licenses for non-personal data, for a fee or free of cost, not including:

(a) value-added data services, which aggregate data, transform or combine data with other data, or analyse it for the purpose of adding substantial value to it and make available the use of the resulting data to data users, unless they have a direct relationship with data holders for the purpose of data intermediation services;

(b) services, exclusively used by one data holder in order to enable the use of data they hold, or used by multiple legal entities in a closed group, including contractually-defined collaborations or supplier or customer relationships, in particular those that have as a main

objective the ensuring of functionalities of objects and devices connected to the internet-of-things;

(c) services that focus on the intermediation of copyright-protected content;

(d) services of consolidated tape providers as defined in Article 4(1), point (53), of Directive 2014/65/EU and account information service providers as defined in Article 4, point 19, of Directive(EU) 2015/2366;

Amendment 74

Proposal for a regulation

Article 2 – paragraph 1 – point 15 b (new)

Text proposed by the Commission

Amendment

(15b) ‘services of data cooperative’ means services that support data subjects, one-person companies or SMEs, who are members of the cooperative or who confer power on the cooperative to negotiate terms and conditions for data processing before they consent, in making informed choices before consenting to data processing, and allowing for mechanisms to exchange views on data processing purposes and conditions that would best represent the interests of data subjects or legal persons.

Amendment 75

Proposal for a regulation

Article 3 – paragraph 2 – point c

Text proposed by the Commission

Amendment

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

(c) data held by cultural establishments and *protected by intellectual property rights*;

Amendment 76

Proposal for a regulation

Article 3 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) data held by educational establishments;

Amendment 77

Proposal for a regulation

Article 3 – paragraph 3

Text proposed by the Commission

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. 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.

(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 78

Proposal for a regulation

Article 4 – paragraph 1

Text proposed by the Commission

Amendment

(1) Agreements or other practices pertaining to the re-use of data held by public sector bodies containing categories of data referred to in Article 3(1) which grant exclusive rights or which have as their object or effect to grant such

(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.

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. ***Such agreements or practices and the exclusive rights granted pursuant to them shall be void.***

Amendment 79

Proposal for a regulation Article 4 – paragraph 5

Text proposed by the Commission

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

Amendment

(5) The period of exclusivity of the right to re-use data shall not exceed ***12 months***. Where a contract is concluded, the duration of the contract awarded shall be as aligned with the period of exclusivity.

Amendment 80

Proposal for a regulation Article 4 – paragraph 6

Text proposed by the Commission

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

Amendment

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

Amendment 81

Proposal for a regulation Article 4 – paragraph 7

Text proposed by the Commission

(7) Agreements or other practices

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 **three years** after the date of entry into force of this Regulation.

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 **one year** after the date of entry into force of this Regulation.

Amendment 82

Proposal for a regulation Article 5 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 83

Proposal for a regulation Article 5 – paragraph 2

Text proposed by the Commission

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

Amendment

(2) Conditions for re-use shall be non-discriminatory, ***transparent***, 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. ***Those*** conditions shall not be used to restrict competition, ***including by being constructed in a way to pose restrictions to participate for SMEs, start-***

ups or civil society actors.

Amendment 84

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 *shall ensure that the protected nature of data is preserved, which may include providing for the following requirements:*

(a) *to only grant access* to re-use data where *the public sector body or the competent body has ensured that data has been anonymised or pseudonymised in the case of* personal data, *and that data has been modified, aggregated or treated by any other method of disclosure control in the case of* commercially confidential information, including trade secrets *or content protected by intellectual property rights; where data for re-use has been pseudonymised it may only be accessed within a secure processing environment;*

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

(c) *to access and re-use the data within the physical premises in which the secure processing environment is located in accordance with high security standards, if remote access cannot be allowed without jeopardising the rights and interests of third parties.*

Amendment 85

Proposal for a regulation Article 5 – paragraph 4

Text proposed by the Commission

Amendment

(4) Public sector bodies may impose obligations

deleted

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

(b) to access and re-use the data within the physical premises in which the secure processing environment is located, if remote access cannot be allowed without jeopardising the rights and interests of third parties.

Amendment 86

Proposal for a regulation Article 5 – paragraph 5

Text proposed by the Commission

Amendment

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

(5) The public sector bodies shall impose conditions that preserve the integrity of the functioning of the technical systems of the secure processing environment used, **including a high level cybersecurity standards**. The public sector body shall **reserve the right** to verify **the process, the means and** any results of processing of data undertaken by the re-user 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 the rights referred to in Regulation (EU) 2016/679. Re-use of data shall be conditional on the adherence by the re-user to a confidentiality agreement.**

Amendment 87

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) 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 ***valid*** consent of the data subjects ***insofar as a legal basis exists for the public sector body to collect their consent,*** 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, ***and where there is no reason to believe that the combination of non-personal data sets would lead to the identification of data subjects.*** In that task they may be assisted by the competent bodies referred to in Article 7(1).

Amendment 88

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

Text proposed by the Commission

Amendment

(6a) Where public sector bodies make available personal data for re-use pursuant to this Article, the public sector bodies shall support data subjects in exercising their rights, including in relation to any re-users. When performing that task, the public sector bodies may be assisted by the competent bodies referred to in Article 7(1).

Amendment 89

Proposal for a regulation
Article 5 – paragraph 8

Text proposed by the Commission

(8) When data requested is considered confidential, in accordance with Union or national law ***on commercial confidentiality***, the public sector bodies shall ensure that the confidential information is not disclosed as a result of the re-use.

Amendment

(8) When data requested is considered confidential, in accordance with Union or national law, the public sector bodies shall ensure that the confidential information is not disclosed as a result of the re-use.

Amendment 90

Proposal for a regulation

Article 5 – paragraph 9 – subparagraph 1 – introductory part

Text proposed by the Commission

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

Amendment

(9) ***In consultation with the European Data Innovation Board and where justified by the volume of requests for re-use of non-personal data from specific third countries, the Commission is empowered to adopt delegated acts in accordance with Article 28, supplementing this Regulation by*** declaring that the legal, supervisory and enforcement arrangements of ***that specific*** third country:

Amendment 91

Proposal for a regulation

Article 5 – paragraph 9 – subparagraph 2

Text proposed by the Commission

Those ***implementing*** acts shall be ***adopted in accordance with the advisory procedure referred to*** in Article 29 (2).

Amendment

Those ***delegated*** acts shall be ***without prejudice to the adequacy decisions set out*** in Article 45 of Regulation (EU) 2016/679, ***including in cases where personal and non-personal data are inextricably linked.***

Amendment 92

Proposal for a regulation

Article 5 – paragraph 10 – subparagraph 1 – introductory part

Text proposed by the Commission

(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:

Amendment

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

Amendment 93

Proposal for a regulation

Article 5 – paragraph 10 – subparagraph 1 – point a

Text proposed by the Commission

(a) **to** comply with the obligations imposed in accordance with paragraphs 7 **to** 8 even after the data is transferred to the third country; and

Amendment

(a) comply with the obligations imposed in accordance with paragraphs 7 **and** 8 even after the data is transferred to the third country; and

Amendment 94

Proposal for a regulation

Article 5 – paragraph 10 – subparagraph 1 – point b

Text proposed by the Commission

(b) **to** accept the jurisdiction of the courts of the Member State of the public sector body as regards any dispute related to **the** compliance with **the obligation in point a)**.

Amendment

(b) accept the jurisdiction of the courts of the Member State of the **transmitting** public sector body as regards any dispute related to compliance with **paragraphs 7 and 8**.

Amendment 95

Proposal for a regulation

Article 5 – paragraph 10 – subparagraph 1 a to 1 d (new)

Public sector bodies shall, where relevant and to the extent of their capabilities, provide guidance and support to re-users for the purpose of supporting them in complying with the obligations referred to in the first subparagraph.

The Commission shall issue guidelines on the obligations referred to in the first subparagraph, in particular to support re-users.

The Commission shall also, by means of implementing acts, establish standard contractual clauses for the transfer by re-users of non-personal data to a third country as referred to in the first subparagraph.

The implementing acts referred to in the fourth subparagraph of this paragraph shall be adopted in accordance with the advisory procedure referred to in Article 29(2).

Amendment 96

Proposal for a regulation

Article 5 – paragraph 11

Text proposed by the Commission

(11) ***Where*** specific Union acts adopted in accordance with a legislative procedure establish that certain non-personal data categories held by public sector bodies shall be deemed to be highly sensitive for the purposes of this Article, the Commission shall be empowered to adopt delegated acts in accordance with Article 28 supplementing this Regulation by laying down special conditions applicable for transfers to third-countries. The conditions for the transfer to third-countries shall be based on the nature of data categories identified in the Union act and on the

Amendment

(11) Specific Union acts adopted in accordance with a legislative procedure ***may*** establish that certain non-personal data categories held by public sector bodies shall be deemed to be highly sensitive for the purposes of this Article, ***where their transfer to third countries may put at risk Union policy objectives, such as safety and public health, or may lead to the risk of re-identification of anonymised data.*** The Commission shall be empowered to adopt delegated acts in accordance with Article 28 supplementing this Regulation by laying down special conditions

grounds for deeming them highly sensitive, non-discriminatory and limited to what is necessary to achieve the public policy objectives identified in the Union law act, such as safety and public health, as well as risks of re-identification of anonymized data for data subjects, in accordance with the Union's international obligations. They may include terms applicable for the transfer or technical arrangements in this regard, 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, in exceptional cases, restrictions as regards transfers to third-countries.

applicable for transfers to third-countries, ***based on the recommendations from the European Data Innovation Board***. The conditions for the transfer to third-countries shall be based on the nature of data categories identified in the Union act and on the grounds for deeming them highly sensitive, non-discriminatory and limited to what is necessary to achieve the public policy objectives identified in the Union law act, such as safety and public health, as well as risks of re-identification of anonymized data for data subjects, in accordance with the Union's international obligations. They may include terms applicable for the transfer or technical arrangements in this regard, 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, in exceptional cases, restrictions as regards transfers to third-countries.

Amendment 97

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 about the ***intention to*** transfer data to that third country ***and the purpose of such a transfer***.

Amendment 98

Proposal for a regulation Article 6 – paragraph 2

Text proposed by the Commission

(2) Any fees shall be non-discriminatory, proportionate and

Amendment

(2) Any fees ***charged pursuant to paragraph 1*** shall be ***transparent***, non-

objectively justified and shall not restrict competition.

discriminatory, proportionate ***with the cost of making available data for re-use***, and objectively justified and shall not restrict competition.

Amendment 99

Proposal for a regulation Article 6 – paragraph 3

Text proposed by the Commission

(3) Public sector bodies shall ensure that any fees can be paid online through widely available cross-border payment services, without discrimination based on the place of establishment of the payment service provider, the place of issue of the payment instrument or the location of the payment account ***within the Union***.

Amendment

(3) Public sector bodies shall ensure that any fees can ***also*** be paid online through widely available cross-border payment services, without discrimination based on the place of establishment of the payment service provider, the place of issue of the payment instrument or the location of the payment account.

Amendment 100

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 and by ***SMEs and start-ups*** in line with State aid rules. ***In that regard, public sector bodies may also make the data available at a discounted fee or free of charge, in particular to SMEs and start-ups, civil society and educational establishments.***

To that end, public sector bodies may establish a list of categories of re-users to which data is made available at a discounted fee or free of charge. That list, together with the criteria used to establish it, shall be made public.

Amendment 101

Proposal for a regulation

Article 7 – paragraph 1

Text proposed by the Commission

(1) Member States shall designate one or more competent bodies, which may be sectoral, to support the public sector bodies which grant access to the re-use of the categories of data referred to in Article 3(1) in the exercise of that task.

Amendment

(1) Member States shall designate one or more competent bodies, which may be sectoral, to support the public sector bodies which grant access to the re-use of the categories of data referred to in Article 3(1) in the exercise of that task. ***In order to fulfil the requirements set out in this Regulation, Member States may delegate the tasks to an existing competent body or bodies, as long as requirements laid down in paragraph 4 of this Article are met.***

Amendment 102

Proposal for a regulation

Article 7 – paragraph 2 – point a a (new)

Text proposed by the Commission

Amendment

(aa) providing guidance and technical support on how to best structure and store data to make data easily accessible, in particular through application programming interfaces, interoperable, transferable and searchable, taking into account best practices for data processing, as well as any existing regulatory and technical standards;

Amendment 103

Proposal for a regulation

Article 7 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) providing technical support ***in the application of tested techniques*** ensuring

(b) providing technical support ***for pseudonymisation and*** ensuring data

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;

processing in a manner that **effectively** preserves **the** privacy, **integrity and accessibility** of the information contained in the data for which re-use is allowed, including techniques for **the** anonymisation, generalisation, suppression, randomisation of personal data **or other state-of-the-art privacy preserving methods, and the deletion of commercially confidential information, including trade secrets or content protected by intellectual property rights**;

Amendment 104

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 assisting the public sector bodies in establishing technical mechanisms that allow the transmission of requests for consent from re-users, where practically feasible**;

Amendment 105

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

Text proposed by the Commission

Amendment

(ca) developing a harmonised approach and processes, where applicable, for public sector bodies to make scientific data available for purposes of research;

Amendment 106

Proposal for a regulation

Article 7 – paragraph 2 – point d

Text proposed by the Commission

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

Amendment

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

Amendment 107

Proposal for a regulation

Article 7 – paragraph 3

Text proposed by the Commission

(3) The competent bodies may also be entrusted, pursuant Union or national law which provides for such access to be given, to grant access for the re-use of the categories of data referred to in Article 3(1). While performing their function to grant or refuse access for re-use, Articles 4, 5, 6 **and 8 (3)** shall apply in regard to such competent bodies.

Amendment

(3) The competent bodies may also be entrusted, pursuant Union or national law which provides for such access to be given, to grant access for the re-use of the categories of data referred to in Article 3(1). While performing their function to grant or refuse access for re-use, Articles 4, 5 **and 6** shall apply in regard to such competent bodies.

Amendment 108

Proposal for a regulation

Article 7 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(3a) Requests for the re-use of the categories of data referred to in Article 3(1) shall be granted or refused by competent public sector bodies or the competent bodies referred to in paragraph 1 of this Article without delay and in any event within two months of the date of the request. In order to contribute to a consistent application of this Regulation, competent public sector bodies shall

cooperate with each other, and where relevant with the Commission, when refusing requests for the re-use of the categories of data referred to in Article 3(1).

Amendment 109

Proposal for a regulation Article 7 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

(3b) 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 a decision before the courts of the Member State where the relevant body is located.

Amendment 110

Proposal for a regulation Article 7 – paragraph 4

Text proposed by the Commission

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).

(4) The competent body or bodies shall have adequate legal, ***financial*** and technical capacities and expertise ***and shall be sufficiently staffed with skilled personnel*** 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 111

Proposal for a regulation Article 7 – paragraph 5

Text proposed by the Commission

Amendment

(5) The Member States shall

(5) The Member States shall ***make***

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

public and communicate to the Commission the identity of the competent bodies designated pursuant to paragraph 1 by ... [date of application of this Regulation]. They shall also ***make public and*** communicate to the Commission any subsequent modification of the identity of those bodies.

Amendment 112

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 available ***and easily accessible*** through a single information point.

Amendment 113

Proposal for a regulation Article 8 – paragraph 2

Text proposed by the Commission

(2) The single information point shall receive requests for the re-use of the categories of data referred to in Article 3(1) and shall transmit them to the competent public sector bodies, or the competent bodies referred to in Article 7(1), where relevant. The single information point shall make available by electronic means a register of available data resources containing relevant information describing the nature of available data.

Amendment

(2) The single information point shall receive requests for the re-use of the categories of data referred to in Article 3(1) and shall transmit them, ***where possible and appropriate by automated means***, to the competent public sector bodies, or the competent bodies referred to in Article 7(1), where relevant. The single information point shall make available by electronic means a ***searchable*** register of available data resources containing relevant information describing the nature of available data, ***including at least the data format and size and the conditions for its re-use***.

Amendment 114

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

Text proposed by the Commission

Amendment

(2a) The single information point shall offer an electronic, public register of single information points of all other Member States and shall be linked to the single digital gateway established by Regulation (EU) 2018/1724 of the European Parliament and of the Council^{1a}

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

Amendment 115

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

Text proposed by the Commission

Amendment

(2b) The single information point may establish a separate, simplified and well-documented information channel for SMEs and start-ups, addressing their needs and capabilities in requesting the re-use of the categories of data referred to in Article 3(1).

Amendment 116

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

Text proposed by the Commission

Amendment

(2c) The Commission shall establish a European single information point offering a searchable electronic register of data available in the national single information points and further information on how to request data via those single information points.

Amendment 117

Proposal for a regulation Article 8 – paragraph 3

Text proposed by the Commission

Amendment

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

deleted

Amendment 118

Proposal for a regulation Article 8 – paragraph 4

Text proposed by the Commission

Amendment

(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.

deleted

Amendment 119

Proposal for a regulation
Article 9 – title

Text proposed by the Commission

Amendment

Providers of data *sharing* services

Data ***intermediation*** services

Amendment 120

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

Text proposed by the Commission

Amendment

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

(1) ***This Chapter applies to*** the provision of ***data intermediation*** services. ***Those services include***:

Amendment 121

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

Text proposed by the Commission

Amendment

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

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

Amendment 122

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

Text proposed by the Commission

(b) intermediation services between data subjects that seek to make their personal data available and potential data users, including making available the technical or other means to enable such services, **in** the exercise of the rights provided in Regulation (EU) 2016/679;

Amendment

(b) intermediation services between data subjects that seek to make their personal data available and potential data users, including making available the technical or other means to enable such services, **and in particular enabling** the exercise of the **data subjects'** rights provided in Regulation (EU) 2016/679;

Amendment 123

Proposal for a regulation

Article 9 – paragraph 1 – point c

Text proposed by the Commission

(c) services of data cooperatives, **that is to say services supporting data subjects or one-person companies or micro, small and medium-sized enterprises, who are members of the cooperative or who confer the power to the cooperative to negotiate terms and conditions for data processing before they consent, in making informed choices before consenting to data processing, and allowing for mechanisms to exchange views on data processing purposes and conditions that would best represent the interests of data subjects or legal persons.**

Amendment

(c) services of data cooperatives.

Amendment 124

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

Amendment

(2) This Chapter shall be without prejudice to the application of other Union and national law to **data intermediation** services, including powers of supervisory authorities to ensure compliance with

compliance with applicable law, in particular as regard the protection of personal data and competition law.

applicable law, in particular as regard the protection of personal data and competition law.

Amendment 125

Proposal for a regulation

Article 9 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(2a) The provision of data intermediation services shall be subject to Articles 10 and 11.

Amendment 126

Proposal for a regulation

Article 9 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

(2b) The competent authority referred to in Article 12 shall confirm, upon the request of a provider of data intermediation services, that the provider complies with Articles 10 and 11. Upon receipt of such a confirmation, that provider may use the title ‘provider of data intermediation services recognised in the Union’ in its written and spoken communication, as well as a common logo.

In order to ensure that providers of data intermediation services recognised in the Union are easily identifiable throughout the Union, the Commission shall, by means of implementing acts, establish a design for the common logo. Providers of data intermediation services recognised in the Union shall display the common logo clearly on every online and offline publication that relates to their data intermediation activities.

Those implementing acts shall be adopted

in accordance with the advisory procedure referred to in Article 29(2).

Amendment 127

Proposal for a regulation Article 10 – title

Text proposed by the Commission

Notification of data **sharing service providers**

Amendment

Notification of data **intermediation services**

Amendment 128

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) **Providers** of data **intermediation** services **providing** the services referred to in Article 9(1) shall submit a notification to the competent authority referred to in Article 12.

Amendment 129

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, **without prejudice to Union law regulating cross-border actions for damages and related proceedings.**

Amendment 130

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 **designate** a legal representative in one of the Member States in which those services are offered. ***For the purposes of ensuring compliance with this Regulation, the legal representative shall be empowered by the provider of data intermediation services to act on its behalf or together with it, in particular when addressed by competent authorities or data subjects and data holders, with regard to all issues related to the data intermediation services provided. The legal representative shall perform its tasks in accordance with the mandate received from the provider of data intermediation services, including cooperating with and comprehensively demonstrating to the competent authorities, upon request, the actions taken and provisions put in place by the provider to ensure compliance with this Regulation. The provider of data intermediation services shall be deemed to be under the jurisdiction of the Member State in which the legal representative is established.***

Amendment 131

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 132

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 ***of data intermediation services*** to provide data ***intermediation*** services in all Member States.

Amendment 133

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 134

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

Text proposed by the Commission

(b) the ***provider***'s legal status, form and registration number, where the provider is registered in trade or in another similar public register;

Amendment

(b) the ***provider of data intermediation services***' legal status, form, ***ownership structure, relevant subsidiaries*** and registration number, where the provider is registered in trade or in another similar public register;

Amendment 135

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

Text proposed by the Commission

(c) the address of the **provider's** main establishment in the Union, if any, and, where applicable, any secondary branch in another Member State or that of the legal representative designated pursuant to paragraph 3;

Amendment

(c) the address of the **provider of data intermediation services'** main establishment in the Union, if any, and, where applicable, any secondary branch in another Member State or that of the legal representative designated pursuant to paragraph 3;

Amendment 136

Proposal for a regulation

Article 10 – paragraph 6 – point d

Text proposed by the Commission

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

Amendment

(d) a website where **complete and up-to-date** information on the provider **of data intermediation services** and the activities can be found, where applicable;

Amendment 137

Proposal for a regulation

Article 10 – paragraph 6 – point e

Text proposed by the Commission

(e) the **provider's** contact persons and contact details;

Amendment

(e) the **provider of data intermediation services'** contact persons and contact details;

Amendment 138

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 **of data intermediation services** intends to provide;

Amendment 139

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 estimated date for starting the activity ***or the date on which the activity started;***

Amendment 140

Proposal for a regulation

Article 10 – paragraph 6 – point h

Text proposed by the Commission

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

Amendment

deleted

Amendment 141

Proposal for a regulation

Article 10 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

(6a) The competent authority shall ensure that the notification procedure does not impose undue obstacles for SMEs, start-ups and civil society organisations and ensures non-discrimination and competition.

Amendment 142

Proposal for a regulation

Article 10 – paragraph 7

Text proposed by the Commission

(7) At the request of the provider, the competent authority shall, within one week, issue a standardised declaration,

Amendment

(7) At the request of the provider ***of data intermediation services***, the competent authority shall, within one

confirming that the provider has submitted the notification referred to in paragraph 4.

week, issue a standardised declaration, confirming that the provider *of data intermediation services* has submitted the notification referred to in paragraph 4 *and that the notification contains the information referred to in paragraph 6.*

Amendment 143

Proposal for a regulation Article 10 – paragraph 8

Text proposed by the Commission

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

Amendment

deleted

Amendment 144

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 *competent authorities referred to in Article 12 and the* Commission of each new notification *without delay by electronic means*. The Commission shall keep *and regularly update a public* register of *the* providers of data *intermediation services in the Union*.

Amendment 145

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

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 sharing* services.

on the administrative costs related to the monitoring of compliance and other market control activities of the competent authorities in relation to notifications of *providers of data intermediation* services. *The competent authority may also charge discounted fees or allow free of charge notification for SMEs and start-ups.*

Amendment 146

Proposal for a regulation

Article 10 – paragraph 10 a (new)

Text proposed by the Commission

Amendment

(10a) Providers of data intermediation services shall submit any changes of the information provided pursuant to paragraph 6 to the competent authority within 14 calendar days from the day on which the change takes place.

Amendment 147

Proposal for a regulation

Article 10 – paragraph 11

Text proposed by the Commission

Amendment

(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.

(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. **The Commission shall update the public register of the providers of data intermediation services in the Union accordingly.**

Amendment 148

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 149

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 150

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

Text proposed by the Commission

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

Amendment

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

Amendment 151

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

Text proposed by the Commission

Amendment

(1a) the commercial terms, including pricing, for the provision of data intermediation services to a data holder or data user may not be made dependent

upon whether or to what degree the data holder or data user uses other services provided by the same provider or a related entity;

Amendment 152

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 *data* collected *with respect to any activity of a natural or legal person for the purposes of* the provision of the data *intermediation* service, *including the date, time and geolocation data, duration of activity and connections to other natural or legal persons established by the person who uses the service,* shall be used only for the development of that service, *which may entail the use of data for the detection of fraud or cybersecurity, and shall be made available to the data holders upon request;*

Amendment 153

Proposal for a regulation

Article 11 – paragraph 1 – point 3

Text proposed by the Commission

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

Amendment

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

Amendment 154

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 ***of data intermediation service*** shall facilitate the exchange of the data in the format in which it receives it from the data holder ***or data subject*** 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 155

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 or data subjects 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 or data subject and third-party tools offered in that context shall not use data for other purposes;

Amendment 156

Proposal for a regulation

Article 11 – paragraph 1 – point 5

Text proposed by the Commission

Amendment

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

(5) the provider ***of data intermediation service*** shall have procedures ***and measures*** in place to prevent ***and monitor potential*** fraudulent or abusive practices in

services;

relation to access to data from parties seeking access through their services;

Amendment 157

Proposal for a regulation

Article 11 – paragraph 1 – point 6

Text proposed by the Commission

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

Amendment

(6) the provider ***of data intermediation service*** 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, ***to transfer or to retrieve*** their data ***or, in the case of providing intermediation services between data subjects and data users, allow data subjects to exercise their rights,*** in the case of insolvency ***of the provider***;

Amendment 158

Proposal for a regulation

Article 11 – paragraph 1 – point 6 a (new)

Text proposed by the Commission

Amendment

(6a) the provider of data intermediation services shall avoid lock-in effects and shall ensure interoperability with other data intermediation services to the extent appropriate, in particular as regards data formats and other data standards and by means of commonly used, formal or informal, open standards in the sector in which the data intermediation services operate. To that effect, by ... [12 months after the date of entry into force of this Regulation], the Commission shall, in consultation with the Data Innovation Board, develop guidance on interoperability standards;

Amendment 159

Proposal for a regulation

Article 11 – paragraph 1 – point 7

Text proposed by the Commission

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

Amendment

(7) the provider ***of data intermediation service*** 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 160

Proposal for a regulation

Article 11 – paragraph 1 – point 8

Text proposed by the Commission

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

Amendment

(8) the provider ***of data intermediation services*** shall take measures to ensure a high level of security, ***including state-of-the-art cybersecurity standards***, for the storage, ***processing*** and transmission of non-personal data, ***and the provider shall further ensure the highest level of security, including state-of-the-art cybersecurity, for the storage and transmission of competitively sensitive information and shall inform the competent authority without delay of any security breach that jeopardises the security of such data.***

Amendment 161

Proposal for a regulation

Article 11 – paragraph 1 – point 9

Text proposed by the Commission

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

Amendment

(9) the provider ***of data intermediation service*** shall ensure compliance with Union and national ***law, in particular*** rules on

competition *and data protection*; where such rules impose stricter or more detailed obligations, they shall prevail;

Amendment 162

Proposal for a regulation

Article 11 – paragraph 1 – point 10

Text proposed by the Commission

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

Amendment

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

Amendment 163

Proposal for a regulation

Article 11 – paragraph 1 – point 11

Text proposed by the Commission

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

Amendment

(11) where a provider *of data intermediation services* provides tools for obtaining consent from data subjects or permissions to process data made available by legal persons, it shall specify the jurisdiction or jurisdictions in which the data use is intended to take place *and provide to the data subject tools for tracking the use of that data and consent withdrawal and data holders with tools for permission withdrawal.*

Amendment 164

Proposal for a regulation

Article 12 – paragraph 3

Text proposed by the Commission

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

Amendment

(3) ***The powers of*** the designated competent authorities ***are without prejudice to the powers of*** the data protection authorities, the national competition authorities, the authorities in charge of cybersecurity, and other relevant sectorial authorities. ***In accordance with their respective competences under Union and national law, those authorities*** shall ***build up a strong cooperation and*** exchange the information which is necessary for the exercise of their tasks in relation to providers ***of data intermediation services, and ensure the consistency of the decisions taken in applying this Regulation. On any question regarding compliance with Regulation (EU) 2016/679, the competent supervisory authorities established pursuant to that Regulation are fully competent.***

Amendment 165

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

Text proposed by the Commission

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

Amendment

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

Amendment 166

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

Text proposed by the Commission

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

Amendment

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

Amendment 167

Proposal for a regulation

Article 13 – paragraph 4 – introductory part

Text proposed by the Commission

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

Amendment

(4) The competent authority shall have the power to require the cessation of the ***infringement*** referred to in paragraph 3 within a reasonable time limit ***or immediately in the case of a serious infringement*** and shall take appropriate and proportionate measures ***aiming to ensure*** compliance. In ***that*** regard, the competent authorities shall ***have the power***, where appropriate:

Amendment 168

Proposal for a regulation

Article 13 – paragraph 4 – point b

Text proposed by the Commission

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

Amendment

(b) to require ***a temporary*** cessation of the provision of the data ***intermediation*** service, ***or in the case of a serious infringement that has not been remedied, despite being previously identified and communicated, a permanent cessation***.

Amendment 169

Proposal for a regulation
Article 13 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

(4a) Where a provider of data intermediation services that is not established in the Union fails to designate a legal representative or the legal representative fails, upon request of the competent authority, to provide the necessary information that comprehensively demonstrates compliance with this Regulation, the competent authority shall have the power to impose the immediate cessation of the provision of the data intermediation service.

The designation of a legal representative by a provider of data intermediation services shall be without prejudice to legal actions that could be initiated against the provider itself.

Amendment 170

Proposal for a regulation
Article 13 – paragraph 5

Text proposed by the Commission

Amendment

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

(5) The competent authorities shall communicate the measures imposed pursuant to paragraph 4, the reasons on which they are based **as well as the necessary steps to be taken to rectify the relevant shortcomings** to the **provider of data intermediation services** concerned without delay and shall stipulate a reasonable period for the **provider** to comply with the measures.

Amendment 171

Proposal for a regulation
Article 13 – paragraph 6

Text proposed by the Commission

(6) If a provider of data **sharing** services has its main establishment or legal representative in a Member State, but provides services in other Member States, the competent authority of the Member State of the main establishment or where the legal representative is located and the competent authorities of those other Member States shall cooperate and assist each other. Such assistance and cooperation may cover information exchanges between the competent authorities concerned and requests to take the measures referred to in this Article.

Amendment

(6) If a provider of data **intermediation** services has its main establishment or legal representative in a Member State, but provides services in other Member States, the competent authority of the Member State of the main establishment or where the legal representative is located and the competent authorities of those other Member States shall cooperate and assist each other. Such assistance and cooperation may cover information exchanges between the competent authorities concerned and requests to take the measures referred to in this Article.

Amendment 172

Proposal for a regulation
Article 14 – paragraph 1

Text proposed by the Commission

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

Amendment

This Chapter shall not apply to **recognised data altruism organisations** 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 173

Proposal for a regulation
Article 15 – title

Text proposed by the Commission

Register of recognised data altruism organisations

Amendment

Public registers of recognised data altruism organisations

Amendment 174

Proposal for a regulation
Article 15 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 175

Proposal for a regulation
Article 15 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 176

Proposal for a regulation
Article 15 – paragraph 3

Text proposed by the Commission

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

Amendment

(3) ***Only*** an entity registered in the ***public national*** register ***of recognised data altruism organisations*** in accordance with Article 16 may ***use the title*** ‘data altruism organisation recognised in the Union’ in its written and spoken communication, ***as well as a common logo.***

In order to ensure that data altruism organisations recognised in the Union are easily identifiable throughout the Union, the Commission shall, by means of implementing acts, establish a design for the common logo. Data altruism organisations recognised in the Union shall display the common logo clearly on

every online and offline publication that relates to their data altruism activities. The common logo shall be accompanied by a QR code with a link to the Union register of data altruism organisations recognised in the Union.

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 29(2).

Amendment 177

Proposal for a regulation

Article 15 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(3a) Member States may establish national polices for data altruism and may put in place organisational and technical arrangements to facilitate data altruism.

Amendment 178

Proposal for a regulation

Article 16 – paragraph 1 – point b

Text proposed by the Commission

Amendment

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

(b) operate on a not-for-profit basis and be **legally** independent from any entity that operates on a for-profit basis; **the entity shall not use the data collected based on data altruism for other activities;**

Amendment 179

Proposal for a regulation

Article 16 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) perform the activities related to data altruism **take place** through a legally

(c) perform the activities related to data altruism through a legally independent

independent structure, separate from other activities it has undertaken.

structure, separate from other activities it has undertaken, ***including for-profit activities.***

Amendment 180

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(ca) have procedures in place to ensure compliance with the Union and national law on the protection of personal data, including procedures for ensuring the exercise of data subjects' rights;

Amendment 181

Proposal for a regulation

Article 17 – paragraph 1

Text proposed by the Commission

Amendment

(1) Any entity which meets the requirements of Article 16 ***may request*** to be entered in the register of recognised data altruism organisations referred to in Article 15(1).

(1) Any entity which meets the requirements of Article 16 ***shall submit an application, to be evaluated by the competent authority,*** to be entered in the register of recognised data altruism organisations referred to in Article 15(1).

Amendment 182

Proposal for a regulation

Article 17 – paragraph 3

Text proposed by the Commission

Amendment

(3) An entity that is not established in the Union, but meets the requirements in Article 16, shall ***appoint*** a legal representative in one of the Member States where it intends to collect data based on data altruism. For the purpose of compliance with this Regulation, that

(3) An entity that is not established in the Union, but meets the requirements in Article 16, shall ***designate*** a legal representative in one of the Member States where it intends to collect data based on data altruism. ***For the purpose of compliance with this Regulation, the legal***

entity shall be deemed to be under the jurisdiction of the Member State where the legal representative is located.

representative shall be empowered by the entity to act on its behalf or together with it, in particular when addressed by competent authorities or data subjects and data holders, with regard to all issues related to the service or services provided. The legal representative shall perform its tasks in accordance with the mandate received from the entity, including cooperating with and comprehensively demonstrating to the competent authorities, upon request, the actions taken and provisions put in place by the entity to ensure compliance with this Regulation. For the purpose of compliance with this Regulation, that entity shall be deemed to be under the jurisdiction of the Member State where the legal representative is located.

Amendment 183

Proposal for a regulation Article 17 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(3a) Where an entity that is not established in the Union fails to designate a legal representative or the legal representative fails, upon request by the competent authority, to provide within a reasonable timeframe, the necessary information that comprehensively demonstrates compliance with this Regulation, the competent authority shall have the power to impose the immediate cessation of the provision of the data altruism activity.

Amendment 184

Proposal for a regulation Article 17 – paragraph 4 – point f

Text proposed by the Commission

(f) a website where information on the entity and the activities can be found;

Amendment

(f) a **public** website where **up-to-date** information on the entity and the activities can be found **including at least the information as referred to in points a, b, d, e and h;**

Amendment 185

Proposal for a regulation

Article 17 – paragraph 4 – point h a (new)

Text proposed by the Commission

Amendment

(ha) the nature of the data that it intends to control or process, and, in the case of personal data, an indication of the categories of personal data.

Amendment 186

Proposal for a regulation

Article 17 – paragraph 5

Text proposed by the Commission

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.

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

Amendment 187

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** national register of recognised data altruism organisations.

Amendment 188

Proposal for a regulation
Article 17 – paragraph 7

Text proposed by the Commission

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

Amendment

(7) Any entity entered in the **public national** register of recognised data altruism organisations shall submit any changes of the information provided pursuant to paragraph 4 to the competent authority within 14 calendar days from the day on which the change takes place. ***The competent authority shall inform the Commission of each such notification without delay by electronic means.***

Amendment 189

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** national register of recognised data altruism organisations shall keep full and accurate records concerning:

Amendment 190

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

Text proposed by the Commission

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

Amendment

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

Amendment 191

Proposal for a regulation

Article 19 – paragraph 1 – introductory part

Text proposed by the Commission

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

Amendment

(1) Any entity entered in the **public** register of recognised data altruism organisations shall inform data holders **or data subjects prior to any processing of their data in a clear and easy-to-understand manner**:

Amendment 192

Proposal for a regulation

Article 19 – paragraph 1 – point a

Text proposed by the Commission

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

Amendment

(a) about the purposes of general interest for which it permits the processing of their data by a data user;

Amendment 193

Proposal for a regulation

Article 19 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) in the case of personal data, about the legal basis pursuant to Regulation

(EU) 2016/679 on which it processes that data;

Amendment 194

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 ***the location of and the purposes of general interest for which it permits*** any processing ***performed*** outside the Union.

Amendment 195

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 be used for other purposes than those of general interest for which it permits the processing. ***The entity shall not use misleading marketing practices to solicit donations of data.***

Amendment 196

Proposal for a regulation

Article 19 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(2a) The entity shall also ensure that the consent of data subjects or permission to process data made available by legal persons can be withdrawn easily and in a user-friendly way by the data subject or legal person.

Amendment 197

Proposal for a regulation
Article 19 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

(2b) The entity shall take measures to ensure a high level of security for the storage and processing of data that it has collected.

Amendment 198

Proposal for a regulation
Article 19 – paragraph 3

Text proposed by the Commission

Amendment

(3) Where an entity entered in the register of recognised data altruism organisations provides tools for obtaining consent from data subjects or permissions to process data made available by legal persons, it shall specify the jurisdiction or jurisdictions in which the data use is intended to take place.

(3) Where an entity entered in the **public national** register of recognised data altruism organisations provides tools for obtaining consent from data subjects or permissions to process data made available by legal persons, it shall specify the jurisdiction or jurisdictions in which the data use is intended to take place.

Amendment 199

Proposal for a regulation
Article 20 – title

Text proposed by the Commission

Amendment

Competent authorities for registration

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

Amendment 200

Proposal for a regulation
Article 20 – paragraph 1

Text proposed by the Commission

Amendment

(1) Each Member State shall designate

(1) Each Member State shall designate

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

one or more competent authorities responsible for the **public national** register of recognised data altruism organisations and for the monitoring of compliance with the requirements of this Chapter. The designated competent authorities **for the registration of data altruism organisations** shall meet the requirements of Article 23.

Amendment 201

Proposal for a regulation Article 20 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Amendment 202

Proposal for a regulation Article 21 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 203

Proposal for a regulation
Article 21 – paragraph 2

Text proposed by the Commission

(2) The competent authority shall have the power to request information from entities included in the register of recognised data altruism organisations that is necessary to verify compliance with the provisions of this Chapter. Any request for information shall be proportionate to the performance of the task and shall be reasoned.

Amendment

(2) The competent authority shall have the power to request information from entities included in the ***public national*** register of recognised data altruism organisations that is necessary to verify compliance with the provisions of this Chapter. Any request for information shall be proportionate to the performance of the task and shall be reasoned.

Amendment 204

Proposal for a regulation
Article 21 – paragraph 5 – introductory part

Text proposed by the Commission

(5) If an entity does not comply with one or more of the requirements of this Chapter ***even*** after ***having been notified*** in accordance with paragraph 3 by the competent authority, ***the entity shall***:

Amendment

(5) If an entity does not comply with one or more of the requirements of this Chapter after ***notification by the competent authority*** in accordance with paragraph 3, ***the competent authority shall have the power to require the cessation of the infringement within a reasonable time limit or immediately in the case of a serious infringement and shall take appropriate and proportionate measures aiming to ensure compliance with this Regulation. In that regard, the entity shall, where deemed appropriate*** by the competent authority:

Amendment 205

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

Text proposed by the Commission

(a) lose its ***right*** to refer to itself as a

Amendment

(a) lose its ***rights to collect data made***

‘data altruism organisation recognised in the Union’ in any written and spoken communication;

available by natural or legal persons on the basis of data altruism, to perform the activities linked to the realisation of the data altruism purpose, to refer to itself as a ‘data altruism organisation recognised in the Union’ in any written and spoken communication, and to use the common logo, as well as be subject to financial penalties;

Amendment 206

Proposal for a regulation

Article 21 – paragraph 5 – point b

Text proposed by the Commission

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

Amendment

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

Amendment 207

Proposal for a regulation

Article 21 – paragraph 6

Text proposed by the Commission

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

Amendment

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

Amendment 208

Proposal for a regulation Article 22 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 209

Proposal for a regulation Article 22 – paragraph 4

Text proposed by the Commission

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

Amendment

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

Amendment 210

Proposal for a regulation Article 23 – paragraph 1

Text proposed by the Commission

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

Amendment

(1) The competent authorities designated pursuant to ***Articles*** 12 and 20 shall be legally distinct from, and functionally independent of any provider of data ***intermediation*** services or entity included in the ***public national*** register of

altruism organisations.

recognised data altruism organisations. *The functions of the competent authorities designated pursuant to Articles 12 and 20 may be carried out by the same authority. Member States may decide to assign the tasks of the competent authorities under this Regulation to the supervisory authorities designated under Regulation (EU) 2016/679.*

Amendment 211

Proposal for a regulation Article 23 – paragraph 2

Text proposed by the Commission

(2) Competent authorities shall exercise their tasks in an impartial, transparent, consistent, reliable and timely manner.

Amendment

(2) Competent authorities shall exercise their tasks in an impartial, transparent, consistent, reliable and timely manner *and shall safeguard fair competition and non-discriminatory access for natural persons and SMEs and start-ups at all times.*

Amendment 212

Proposal for a regulation Article 23 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Amendment 213

Proposal for a regulation

Article 24 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 214

Proposal for a regulation

Article 25 – paragraph 1 – point b

Text proposed by the Commission

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

Amendment

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

Amendment 215

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 collectively**.

Amendment 216

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 ***European Data Protection Supervisor, the European Union Agency for Cybersecurity (ENISA), the Commission, the EU SME Envoy or a representative appointed by the network of SME envoys,*** and other representatives of competent authorities in specific sectors ***and a representative of the Data Innovation Advisory Council established in paragraph 2. The Board shall be gender balanced.***

Amendment 217

Proposal for a regulation Article 26 – paragraph 2

Text proposed by the Commission

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

Amendment

(2) ***The Board shall establish a Data Innovation Advisory Council (Advisory Council). The Advisory Council shall be composed of relevant representatives from industry, research, academia, civil society, standardisation organisations, relevant common European data spaces and other relevant stakeholders or third parties appointed by the Board, representing all Member States to maintain geographical balance. The Advisory Council shall support the work of the Board by providing advice relating to the tasks of the Board. The Advisory Council shall nominate a relevant representative, depending on the configuration in which***

the Board meets, to attend meetings of the Board and to participate in its work. ***The composition of the Advisory Council and its recommendations to the Board shall be made public.***

Amendment 218

Proposal for a regulation Article 26 – paragraph 3

Text proposed by the Commission

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

Amendment

(3) The Commission shall chair the meetings of the Board, ***which may be conducted in different configurations, depending on the subjects to be discussed and in line with the tasks of the Board, including a fixed configuration that focuses on data interoperability and portability and that meets at regular intervals.***

Amendment 219

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

Text proposed by the Commission

Amendment

(4a) The Board's deliberations and documents shall be made public.

Amendment 220

Proposal for a regulation Article 27 – paragraph 1 – point b

Text proposed by the Commission

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

Amendment

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

entities carrying out activities in relation to data altruism;

Amendment 221

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 such as anonymisation, pseudonymisation, differential privacy, generalisation, or suppression and randomisation for the re-use of personal and non-personal data;

Amendment 222

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(bb) to advise and assist the Member States and the Commission on the harmonisation of the legal interpretation of anonymisation of data across the Union;

Amendment 223

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(bc) to advise and assist the Commission in developing consistent guidelines on how to best protect, in the context of this Regulation, commercially sensitive non-personal data, in particular

trade secrets, but also non-personal data representing content protected by intellectual property rights from unlawful access that risks IP theft or industrial espionage.

Amendment 224

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;

Amendment 225

Proposal for a regulation

Article 27 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) to advise the Commission on the prioritisation of cross-sector standards to be used and developed for data use and cross-sector data sharing, cross-sectoral comparison and exchange of best practices with regards to sectoral requirements for security, access procedures, while taking into account sector-specific standardisations activities;

(c) to advise the Commission, *in particular taking into account the input from standardisation organisations*, on the prioritisation of cross-sector standards to be used and developed for data use and cross-sector data sharing *between emerging common European data spaces*, cross-sectoral comparison and exchange of best practices with regards to sectoral requirements for security, access procedures, while taking into account sector-specific standardisations activities, *and in particular in clarifying and distinguishing which standards and practices are cross-sectoral and which are sectoral; for that specific task a fixed configuration of the Board shall meet regularly;*

Amendment 226

Proposal for a regulation

Article 27 – paragraph 1 – point d

Text proposed by the Commission

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

Amendment

(d) to assist the Commission, **in particular taking into account the input from standardisation organisations, in addressing fragmentation of the internal market and the data economy in the internal market by** enhancing **cross-border and cross-sector** interoperability of data as well as data sharing services between different sectors and domains, building on existing European, international or national standards, **inter alia with the aim of encouraging the creation of common European data spaces**;

Amendment 227

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(da) to propose guidelines for ‘common European data spaces’, meaning purpose- or sector-specific or cross-sectoral interoperable frameworks of common standards and practices to share or jointly process data for, inter alia, development of new products and services, scientific research or civil society initiatives; such common standards and practices shall take into account existing standards, comply with the competition rules and ensure non-discriminatory access for all participants, for the purpose of facilitating data sharing in the Union and reaping the potential of existing and future data spaces.

Those guidelines shall address, inter alia:

(i) cross-sectoral standards to be used and developed for data use and cross-sector data sharing, cross-sectoral comparison

and exchange of best practices with regards to sectoral requirements for security, access procedures, while taking into account sector-specific standardisations activities, in particular in clarifying and distinguishing which standards and practices are cross-sectoral and which are sectoral;

(ii) requirements to counter barriers to market entry and to avoid lock-in effects, for the purpose of ensuring fair competition and interoperability;

(iii) adequate protection for legal data transfers outside the Union, including safeguards against any transfers prohibited by Union law;

(iv) adequate and non-discriminatory representation of relevant stakeholders in the governance of a common European data spaces;

(v) adherence to cybersecurity requirements in line with Union law.

Amendment 228

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(db) to advise the Commission and the Member States on the possibility to set harmonised conditions allowing for re-use of data referred to in Article 3(1) held by public sector bodies across the internal market;

Amendment 229

Proposal for a regulation

Article 27 – paragraph 1 – point d c (new)

Text proposed by the Commission

Amendment

(dc) to assist the Commission in defining policies and strategies with the aim of avoiding any cases of data manipulation and the creation of "falsified data";

Amendment 230

Proposal for a regulation

Article 27 – paragraph 1 – point e

Text proposed by the Commission

Amendment

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

(e) to facilitate the cooperation between national competent authorities, **the Commission and other Union and international bodies** 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;

Amendment 231

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 recommendations as regards the harmonisation of those penalties across the Union, as well as advise the Commission on the need to amend this Regulation with a view to further harmonisation of the rules on penalties

referred to in Article 31;

Amendment 232

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(eb) to advise the Commission on the decision to adopt delegated acts referred to in Article 5(9), on the basis of the information on the volume of requests for re-use of data from specific third countries that is regularly provided to the Board by the competent bodies designated in accordance with Article 7(1);

Amendment 233

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(ec) to assist the Commission in the discussions conducted at bilateral, plurilateral or multilateral level with third countries aimed at improving the regulatory environment for non-personal data, including standardisation, at global level.

Amendment 234

Proposal for a regulation

Article 28 – paragraph 2

Text proposed by the Commission

Amendment

(2) The power to adopt delegated acts referred to in Article 5(11) shall be conferred on the Commission for an indeterminate period of time from [...].

(2) The power to adopt delegated acts referred to in Article 5**(9) and** (11) shall be conferred on the Commission for an indeterminate period of time from [...].

Amendment 235

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 any delegated acts already in force.

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.

Amendment 236

Proposal for a regulation Article 28 – paragraph 6

Text proposed by the Commission

(6) A delegated act adopted pursuant to Article 5(11) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.

Amendment

(6) A delegated act adopted pursuant to Article 5(9) **and** (11) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.

Amendment 237

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 ***II***, the provider ***of data intermediation services*** 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 238

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

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

Amendment 239

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 agreements regulating such matters,*** where a public sector body, a natural or legal person to which the right to re-use data was granted under Chapter ***II***, 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 240

Proposal for a regulation

Article 30 – paragraph 3 – subparagraph 1

Text proposed by the Commission

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

Amendment

The addressee of the decision shall ask the opinion of the relevant competent bodies or authorities, pursuant to this Regulation, in order to determine if these conditions are met. ***The relevant competent bodies may exchange information on international access requests in the framework of the Board.***

Amendment 241

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 request.

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 ***II***, 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 reasonable interpretation of the request.

Amendment 242

**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 ***II***, the provider ***of data intermediation services*** and the entity providing data altruism shall inform the data holder ***or data subject*** 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.

Amendment 243

**Proposal for a regulation
Article 31 – paragraph 1**

Text proposed by the Commission

Member States shall lay down the rules on penalties applicable to infringements of

Amendment

Member States shall lay down the rules on penalties applicable to infringements of

this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall notify the Commission of those rules and measures by [date of application of the Regulation] and shall notify the Commission without delay of any subsequent amendment affecting them.

this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. ***In their rules on penalties, Member States shall take into account the recommendations of the European Data Innovation Board.*** Member States shall notify the Commission of those rules and measures by ... [date of application of the Regulation] and shall notify the Commission without delay of any subsequent amendment affecting them.

Amendment 244

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

Text proposed by the Commission

Amendment

Member States shall ensure that the following non-exhaustive and indicative criteria are taken into account for the imposition of penalties on providers of data intermediation services and data altruism organisations for infringements of this Regulation, where appropriate:

(a) the nature, gravity, scale and duration of the infringement;

(b) any action taken by the provider of data intermediation services or data altruism organisation to mitigate or remedy the damage caused by the infringement;

(c) any previous infringements by the provider of data intermediation services or data altruism organisation;

(d) the financial benefits gained or losses avoided by the provider of data intermediation services or data altruism organisation due to the infringement, insofar as such gains or losses can be reliably established;

(e) penalties imposed on the provider of

data intermediation services or data altruism organisation for the same infringement in other Member States in cross-border cases where information about such penalties is available;

(f) any other aggravating or mitigating factors applicable to the circumstances of the case.

Amendment 245

Proposal for a regulation Article 32 – paragraph 1

Text proposed by the Commission

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

Amendment

By ... [**two** years after the **date** of application of this Regulation], the Commission shall carry out an evaluation of this Regulation, and submit a report on its main findings to the European Parliament and to the Council as well as to the European Economic and Social Committee.

That evaluation shall assess, in particular:

(a) the application and functioning of the rules on penalties laid down by the Member States pursuant to Article 31, in particular focusing on the existence of large discrepancies between the penalties imposed for infringements of this Regulation among Member States that might distort competition across the Union, taking into account the recommendations of the Board and the positions and findings of other relevant bodies and sources;

(b) the level of compliance of the legal representatives of providers of data intermediation services and data altruism organisations not established in the Union with this Regulation and the level of enforceability of penalties on those

providers and organisations;

(c) the type of data altruism organisations registered under Chapter IV and overview of the purposes of general interests for which data are shared in view of establishing clear criteria in that respect.

Member States shall provide the Commission with the information necessary for the preparation of that report. ***The report shall be accompanied, where necessary, by legislative proposals.***

Amendment 246

Proposal for a regulation

Article 33 – paragraph 1 – table

<i>Text proposed by the Commission</i>		
Starting, running and closing a business	Notification as a provider of data <i>sharing</i> services	Confirmation of the receipt of notification
	Registration as a European Data Altruism Organisation	Confirmation of the registration
<i>Amendment</i>		
Starting, running and closing a business	Notification as a provider of data <i>intermediation</i> services	Confirmation of the receipt of notification
	Registration as a European Data Altruism Organisation	Confirmation of the registration

Amendment 247

Proposal for a regulation

Article 34 – paragraph 1

Text proposed by the Commission

Entities providing the data ***sharing*** services provided in Article 9(1) on the date of entry into force of this Regulation shall comply with the obligations set out in Chapter III by [***date*** - 2 years after the ***start***

Amendment

Entities providing the data ***intermediation*** services provided in Article 9(1) on ... [***the date of entry into force of this Regulation/*** shall comply with the obligations set out in Chapter III by ... [***two*** years after the date

date of the application of *the* Regulation]
at the latest.

of the application of *this* Regulation].

24.6.2021

OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION

for the Committee on Industry, Research and Energy

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

Rapporteur for opinion: Sandro Gozi

SHORT JUSTIFICATION

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

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

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

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

On the concept of **data altruism** (Chapter IV), the Rapporteur would like to highlight the need for **national policies on Data altruism and technical arrangements** to facilitate it. Data intermediaries and data altruism organisations that fulfil the requirements set out in the

Regulation should be able to obtain a ‘label’ and to use a dedicated Union logo that provides a coherent visual identity and link to the respective public registers.

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

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

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

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

AMENDMENTS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Industry, Research and Energy, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation

Recital 1

Text proposed by the Commission

(1) The Treaty on the functioning of the European Union (‘TFEU’) provides for the establishment of an internal market and

Amendment

(1) The Treaty on the functioning of the European Union (‘TFEU’) provides for the establishment of an internal market and

the institution of a system ensuring that competition in the internal market is not distorted. The establishment of common rules and practices in the Member States relating to the development of a framework for data governance should contribute to the achievement of those objectives.

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

Amendment 2

Proposal for a regulation Recital 2

Text proposed by the Commission

(2) Over the last few years, digital technologies have transformed the economy and society, affecting all sectors of activity and daily life. Data is at the centre of this transformation: data-driven innovation will bring enormous benefits for ***citizens***, for example through improved personalised medicine, new mobility, and its contribution to the European Green Deal²³. In its Data Strategy²⁴, 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

Amendment

(2) Over the last few years, digital technologies have transformed the economy and society, affecting all sectors of activity and daily life. Data is at the centre of this transformation: data-driven innovation will bring enormous benefits for ***both businesses and consumers***, for example through improved personalised medicine, new mobility, and its contribution to the European Green Deal²³. In its Data Strategy²⁴, the Commission described the vision of a common European data space, a Single Market for data in which data could be used irrespective of its physical location of storage in the Union in compliance with applicable law ***and will facilitate and enhance access to and the use of data, especially for microenterprises, SMEs and start-ups***. It also called for the free and safe flow of ***non-personal*** data with third countries, subject to exceptions and restrictions for public security, public order and other legitimate public policy objectives of the European Union, in line

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.

with international obligations. In order to turn that vision into reality **and to increase flows of non-personal data between businesses, relevant stakeholders and the public sector within the internal market**, it proposes to establish domain-specific common European data spaces, as the concrete arrangements in which data sharing and data pooling can happen. As foreseen in that strategy, such common European data spaces can cover areas such as health, mobility, manufacturing, financial services, energy, or agriculture or thematic areas, such as the European green deal or European **dataspaces** for public administration or skills. **They should be designed in full compliance with the principles of the Regulation on the free flow of non-personal data and should, as a matter of principle and where possible, be based on existing regulatory and technical standards for interoperability, portability and openness, such as those already developed under the European Cloud infrastructure initiative Gaia-X or similar projects.**

²³ 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)

²⁴ COM (2020) 66 final.

²³ 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)

²⁴ COM (2020) 66 final.

Amendment 3

Proposal for a regulation Recital 3

Text proposed by the Commission

(3) It is necessary to improve the conditions for data sharing in the internal market, by creating a harmonised

Amendment

(3) It is necessary **to create a genuine single market for data by ensuring a level playing field and** to improve the conditions

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 space²⁵ 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 data²⁶. This Regulation is therefore without prejudice to Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽²⁷⁾, 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 ⁽²⁸⁾, Directive (EU) 2016/943 of the European Parliament and of the Council ⁽²⁹⁾, Regulation (EU) 2018/1807 of the European Parliament and of the Council ⁽³⁰⁾, Regulation (EC) No 223/2009 of the European Parliament and of the Council ⁽³¹⁾, Directive 2000/31/EC of the European Parliament and of the Council ⁽³²⁾, Directive 2001/29/EC of the European Parliament and of the Council ⁽³³⁾, Directive (EU) 2019/790 of the European Parliament and of the Council ⁽³⁴⁾, Directive 2004/48/EC of the European Parliament and of the Council ⁽³⁵⁾, Directive (EU) 2019/1024 of the European Parliament and of the Council ⁽³⁶⁾, as well as Regulation 2018/858/EU of the European Parliament and of the Council ⁽³⁷⁾, Directive 2010/40/EU of the European Parliament and of the Council ⁽³⁸⁾ 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

for data sharing in the internal market ***in order to facilitate access to data for all relevant stakeholders, especially for microenterprises, SMEs and start-ups***, by creating a harmonised framework for data exchanges. Sector-specific legislation can develop, adapt and propose new and complementary elements, depending on the specificities of the sector, such as the envisaged legislation on the European health data space²⁵ 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 data²⁶. This Regulation is therefore without prejudice to Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽²⁷⁾, 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 ⁽²⁸⁾, Directive (EU) 2016/943 of the European Parliament and of the Council ⁽²⁹⁾, Regulation (EU) 2018/1807 of the European Parliament and of the Council ⁽³⁰⁾, Regulation (EC) No 223/2009 of the European Parliament and of the Council ⁽³¹⁾, Directive 2000/31/EC of the European Parliament and of the Council ⁽³²⁾, Directive 2001/29/EC of the European Parliament and of the Council ⁽³³⁾, Directive (EU) 2019/790 of the European Parliament and of the Council ⁽³⁴⁾, Directive 2004/48/EC of the European Parliament and of the Council ⁽³⁵⁾, Directive (EU) 2019/1024 of the European Parliament and of the Council ⁽³⁶⁾, as well as Regulation 2018/858/EU of the European Parliament and of the Council ⁽³⁷⁾, Directive 2010/40/EU of the European Parliament and of the Council ⁽³⁸⁾ 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

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.

without prejudice to the access and use of data for the purpose of international cooperation in the context of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties. ***This Regulation should be without prejudice to the competences of the Member States regarding activities concerning public security, defence and national security.*** A horizontal regime for the re-use of certain categories of protected data held by public sector bodies, the provision of data sharing services and of services based on data altruism in the Union should be established. Specific characteristics of different sectors may require the design of sectoral data-based systems, while building on the requirements of this Regulation. Where a sector-specific Union legal act requires public sector bodies, ***data intermediaries*** or registered entities providing data altruism services to comply with specific additional technical, administrative or organisational requirements, including through an authorisation or certification regime, those provisions of that sector-specific Union legal act should also apply.

²⁵ 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).

²⁶ 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.

²⁷ 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

²⁵ 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).

²⁶ 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.

²⁷ 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)

²⁸ 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)

²⁹ 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)

³⁰ 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)

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

³² Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000, on certain legal aspects 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)

²⁸ 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)

²⁹ 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)

³⁰ 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)

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

³² 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)

³³ 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)

³⁴ 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)

³⁵ 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).

³⁶ 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).

³⁷ 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).

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

information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce). (OJ L 178, 17.07.2000, p. 1)

³³ 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)

³⁴ 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)

³⁵ 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).

³⁶ 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).

³⁷ 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).

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

Amendment 4

Proposal for a regulation
Recital 3 a (new)

Text proposed by the Commission

Amendment

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

^{1a} **Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).**

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

Amendment 5

Proposal for a regulation
Recital 4

Text proposed by the Commission

Amendment

(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

(4) Action at Union level is necessary in order *to build trust among individuals and companies and* to address the barriers to a well-functioning data-driven economy

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.

by creating a Union-wide governance framework for data access and use, in particular regarding the re-use of certain types of data held by the public sector, the provision of services by data **intermediaries** to business users and to data subjects, the collection and processing of data made available for altruistic purposes by natural and legal persons, **and for the establishment of a European Data Innovation Board. It is furthermore crucial to ensure access to high-quality data sets for the development and training of effective, properly functioning and unbiased artificial intelligence (AI) systems, as well as effective access to data on the edge, which includes addressing interoperability challenges coming from the unprecedented scale and the distributed nature of edge computing.**

Amendment 6

Proposal for a regulation Recital 5

Text proposed by the Commission

(5) The idea that data that has been generated at the expense of public budgets should benefit society has been part of Union policy for a long time. Directive (EU) 2019/1024 as well as sector-specific legislation ensure that the public sector makes more of the data it produces easily available for use and re-use. However, certain categories of data (commercially confidential data, data subject to statistical confidentiality, data protected by intellectual property rights of third parties, including trade secrets and personal data not accessible on the basis of specific national or Union legislation, such as Regulation (EU) 2016/679 and Directive (EU) 2016/680) in public databases is often not made available, not even for research or innovative activities. Due to the

Amendment

(5) The idea that data that has been generated at the expense of public budgets should benefit society has been part of Union policy for a long time. Directive (EU) 2019/1024 as well as sector-specific legislation ensure that the public sector makes more of the data it produces easily available for use and re-use. However, certain categories of data (commercially confidential data, data subject to statistical confidentiality, data protected by intellectual property rights of third parties, including trade secrets and personal data not accessible on the basis of specific national or Union legislation, such as Regulation (EU) 2016/679 and Directive (EU) 2016/680) in public databases is often not made available, not even for research or innovative activities. Due to the

sensitivity of this data, certain technical and legal procedural requirements must be met before they are made available, in order to ensure the respect of rights others have over such data. Such requirements are usually time- and knowledge-intensive to fulfil. This has led to the underutilisation of such data. While some Member States are setting up structures, processes and sometimes legislate to facilitate this type of re-use, this is not the case across the Union.

sensitivity of this data, certain technical and legal procedural requirements must be met before they are made available, in order to ensure the respect of rights others have over such data. Such **legitimate** requirements are usually time- and knowledge-intensive to fulfil. This has led to the underutilisation of such data. While some Member States are setting up structures, processes and sometimes legislate to facilitate this type of re-use, this is not the case across the Union.

Therefore, the Member States are encouraged to ensure better access to and clear and transparent conditions for re-use of certain categories of public sector data that could be re-used in a secure and user-friendly manner as well as to ensure the improved and enhanced usability of such data, especially for microenterprises, SMEs and start-ups.

Amendment 7

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) There are techniques enabling privacy-friendly analyses on databases that contain personal data, such as anonymisation, pseudonymisation, differential privacy, generalisation, or suppression and randomisation. Application of these privacy-enhancing technologies, together with comprehensive data protection approaches should ensure the safe re-use of personal data and commercially confidential business data for research, innovation and statistical purposes. In many cases this implies that the data use and re-use in this context can only be done in a secure processing environment set in place and supervised by the public sector. There is experience at Union level with such secure processing environments that are used for research on

Amendment

(6) There are techniques enabling privacy-friendly analyses on databases that contain personal data, such as anonymisation, pseudonymisation, differential privacy, generalisation, or suppression and randomisation. Application of these privacy-enhancing technologies, together with comprehensive data protection approaches should ***be prioritised in order to ensure privacy by design and by default, permitting*** the safe re-use of personal data and commercially confidential business data for research, innovation and statistical purposes. In many cases this implies that the data use and re-use in this context can only be done in a secure processing environment set in place and supervised by the public sector. There is experience at Union level with

statistical microdata on the basis of Commission Regulation (EU) 557/2013 ⁽³⁹⁾). 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.

³⁹ 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).

such secure processing environments that are used for research on statistical microdata on the basis of Commission Regulation (EU) 557/2013 ⁽³⁹⁾). 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.

³⁹ 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).

Amendment 8

Proposal for a regulation Recital 9

Text proposed by the Commission

(9) Public sector bodies should comply with competition law when establishing the principles for re-use of data they hold, avoiding ***as far as possible*** the conclusion of agreements, which might have as their objective or effect the creation of exclusive rights for the re-use of certain data. Such agreement should be only possible when justified and necessary for the provision of a service of general interest. This may be the case when exclusive use of the data is the only way to maximise the societal benefits of the data in question, for example where there is only one entity (which has specialised in the processing of a specific dataset) capable of delivering the service or the product which allows the public sector body to provide an advanced digital service in the general interest. Such arrangements should, however, be

Amendment

(9) Public sector bodies should comply with competition law when establishing the principles for re-use of data they hold, avoiding the conclusion of agreements, which might have as their objective or effect the creation of exclusive rights for the re-use of certain data. Such agreement should be only possible when justified and necessary for the provision of a service of general interest. This may be the case when exclusive use of the data is the only way to maximise the societal benefits of the data in question, for example where there is only one entity (which has specialised in the processing of a specific dataset) capable of delivering the service or the product which allows the public sector body to provide an advanced digital service in the general interest. Such arrangements should, however, be concluded in

concluded in compliance with public procurement rules and be subject to regular review based on a market analysis in order to ascertain whether such exclusivity continues to be necessary. In addition, such arrangements should comply with the relevant State aid rules, as appropriate, and should be concluded for a limited period, which should not exceed **three** years. In order to ensure transparency, such exclusive agreements should be published online, regardless of a possible publication of an award of a public procurement contract.

compliance with public procurement rules and be subject to regular review based on a market analysis in order to ascertain whether such exclusivity continues to be necessary. In addition, such arrangements should comply with the relevant State aid rules, as appropriate, and should be concluded for a limited period, which should not exceed **two** years. ***Any exclusive right to the re-use of data that does not meet the conditions set out in this Regulation should be invalid.*** In order to ensure transparency, such exclusive agreements should be published online ***at least two months before their entry into force***, regardless of a possible publication of an award of a public procurement contract. ***This Regulation should not be understood as preventing data licensors to public sector bodies from concluding agreements, which limit the re-use of such licenced data, where a data license addresses the manner of delivery, maintenance and control of the data, as well as data security policies, practices and protocols.***

Amendment 9

Proposal for a regulation

Recital 10

Text proposed by the Commission

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

Amendment

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

into force of this Regulation.

agreements, they should be terminated within three years from the date of entry into force of this Regulation.

Amendment 10

Proposal for a regulation Recital 11

Text proposed by the Commission

(11) Conditions for re-use of protected data that apply to public sector bodies competent under national law to allow re-use, and which should be without prejudice to rights or obligations concerning access to such data, ***should be laid down***. Those conditions should be non-discriminatory, proportionate and objectively justified, while not restricting competition. In particular, public sector bodies allowing re-use should have in place the technical means necessary to ensure the protection of rights and interests of third parties. Conditions attached to the re-use of data should be limited to what is necessary to preserve the rights and interests of others in the data and the integrity of the information technology and communication systems of the public sector bodies. Public sector bodies should apply conditions which best serve the interests of the re-user without ***leading to*** a disproportionate effort for the public sector. Depending on the case at hand, before its transmission, personal data should be fully anonymised, so as to definitively not allow the identification of the data subjects, or data containing commercially confidential information modified in such a way that no confidential information is disclosed. Where provision of anonymised or modified data would not respond to the needs of the re-user, on-premise or remote re-use of the data within a secure processing environment could be permitted. Data analyses in such secure processing environments should be supervised by the public sector body, so as

Amendment

(11) ***It is necessary to establish conditions*** for re-use of protected data that apply to public sector bodies competent under national law to allow re-use, and which should be without prejudice to rights or obligations concerning access to such data. Those conditions should be ***transparent, lawful, clearly indicated***, non-discriminatory, proportionate and objectively justified, while not restricting competition. In particular, public sector bodies allowing re-use should have in place the technical means necessary to ensure the protection of rights and interests of third parties. Conditions attached to the re-use of data should be limited to what is necessary to preserve the rights and interests of others in the data and the integrity of the information technology and communication systems of the public sector bodies. Public sector bodies should apply conditions which best serve the interests of the re-user without ***requiring*** a disproportionate effort for the public sector. Depending on the case at hand, before its transmission, personal data should be fully anonymised, so as to definitively not allow the identification of the data subjects, or data containing commercially confidential information modified in such a way that no confidential information is disclosed. ***Safeguards against the de-anonymisation and identification of natural persons should be provided for. Moreover, companies should not have direct access to protected data and, as a consequence, de-***

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.

anonymisation should not be carried out by them. Where provision of anonymised or modified data would not respond to the needs of the re-user, on-premise or remote re-use of the data within a secure processing environment could be permitted. Data analyses in such secure processing environments should be supervised by the public sector body, so as to protect the rights and interests of others. In particular, personal data should only be transmitted for re-use to a third party where a legal basis allows such transmission. The public sector body could make the use of such secure processing environment conditional on the signature by the re-user of a confidentiality agreement that prohibits the disclosure of any information that jeopardises the rights and interests of third parties that the re-user may have acquired despite the safeguards put in place. The public sector bodies, where relevant, should facilitate the re-use of data on the basis of consent of data subjects or permissions of legal persons on the re-use of data pertaining to them through *the use of* adequate technical means. In this respect, the public sector body *could* support potential re-users in seeking such consent by establishing technical mechanisms that permit transmitting requests for consent from re-users, where practically feasible. No contact information should be given that allows re-users to contact data subjects or companies directly. *When transmitting the request to consent, the public sector body should ensure that the data subject is clearly informed about the implications involved in giving consent, the possibility to refuse such a request, and to subsequently easily revoke it at any time.*

Amendment 11

Proposal for a regulation Recital 14

Text proposed by the Commission

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

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

Amendment 12

Proposal for a regulation
Recital 15

Text proposed by the Commission

(15) Furthermore, it is important to protect commercially sensitive data of non-personal nature, notably trade secrets, but also non-personal data representing content protected by intellectual property rights from unlawful access that may lead to IP theft or industrial espionage. In order to ensure the protection of fundamental rights or interests of data holders, non-personal data which is to be protected from unlawful or unauthorised access under Union or

Amendment

(15) Furthermore, it is important to protect commercially sensitive data of non-personal nature, notably trade secrets, but also non-personal data representing content protected by intellectual property rights from unlawful access that may lead to IP theft or industrial espionage. In order to ensure the protection of fundamental rights or interests of data holders, non-personal data which is to be protected from unlawful or unauthorised access under Union or

national law, and which is held by public sector bodies, should be transferred only to third-countries where appropriate safeguards for the use of data are provided. Such appropriate safeguards should be considered to exist when in that third-country there are equivalent measures in place which ensure that non-personal data benefits from a level of protection similar to that applicable by means of Union or national law in particular as regards the protection of trade secrets and the protection of intellectual property rights. To that end, the Commission may adopt implementing acts that declare that a third country provides a level of protection that is essentially equivalent to those provided by Union or national law. 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

national law, and which is held by public sector bodies, should be transferred only to third-countries where appropriate safeguards for the use of data are provided. Such appropriate safeguards should be considered to exist when in that third-country there are equivalent measures in place which ensure that non-personal data benefits from a level of protection similar to that applicable by means of Union or national law in particular as regards the protection of trade secrets and the protection of intellectual property rights. To that end, the Commission may adopt implementing acts that declare that a third country provides a level of protection that is essentially equivalent to those provided by Union or national law. ***Additionally, if there is any information about worrying cases concerning the re-use of non-personal data in third countries, the Commission should take it into account when considering the adoption of implementing acts.*** The assessment of the level of protection afforded in such third-country should, in particular, take into consideration the relevant legislation, both general and sectoral, including concerning public security, defence, national security and criminal law concerning the access to and protection of non-personal data, any access by the public authorities of that third country to the data transferred, the existence and effective functioning of one or more independent supervisory authorities in the third country with responsibility for ensuring and enforcing compliance with the legal regime ensuring access to such data, or the third countries' international commitments regarding the protection of data the third country concerned has entered into, or other obligations arising from legally binding conventions or instruments as well as from its participation in multilateral or regional systems. The existence of effective legal remedies for data holders, public sector bodies or data *intermediaries* in the third country concerned is of particular

remedies.

importance in the context of the transfer of non-personal data to that third country. Such safeguards should therefore include the availability of enforceable rights and of effective legal remedies.

Amendment 13

Proposal for a regulation Recital 17

Text proposed by the Commission

(17) Some third countries adopt laws, regulations and other legal acts which aim at directly transferring or providing access to non-personal data in the Union under the control of natural and legal persons under the jurisdiction of the Member States. Judgments of courts or tribunals or decisions of administrative authorities in third countries requiring such transfer or access to non-personal data should be enforceable when based on an international agreement, such as a mutual legal assistance treaty, in force between the requesting third country and the Union or a Member State. In some cases, situations may arise where the obligation to transfer or provide access to non-personal data arising from a third country law conflicts with a competing obligation to protect such data under Union or national law, in particular as regards the protection of commercially sensitive data and the protection of intellectual property rights, and including its contractual undertakings regarding confidentiality in accordance with such law. In the absence of international agreements regulating such matters, transfer or access should only be allowed under certain conditions, in particular that the third-country system requires the reasons and proportionality of the decision to be set out, that the court order or the decision is specific in character, and the reasoned objection of the addressee is subject to a review by a

Amendment

(17) Some third countries adopt laws, regulations and other legal acts which aim at directly transferring or providing access to non-personal data in the Union under the control of natural and legal persons under the jurisdiction of the Member States. Judgments of courts or tribunals or decisions of administrative authorities in third countries requiring such transfer or access to non-personal data should be enforceable when based on an international agreement, such as a mutual legal assistance treaty, in force between the requesting third country and the Union or a Member State. ***The public sector bodies, natural and legal entities, data intermediaries and data altruism organisations which have granted or have been granted the right to exchange or re-use data, should ensure that the transfer of data to third countries fully comply with Union and national law.*** In some cases, situations may arise where the obligation to transfer or provide access to non-personal data arising from a third country law conflicts with a competing obligation to protect such data under Union or national law, in particular as regards the protection of commercially sensitive data and the protection of intellectual property rights, and including its contractual undertakings regarding confidentiality in accordance with such law. In the absence of international agreements regulating such matters, transfer or access should only be

competent court in the third country, which is empowered to take duly into account the relevant legal interests of the provider of such data.

allowed under certain conditions, in particular that the third-country system requires the reasons and proportionality of the decision to be set out, that the court order or the decision is specific in character, and the reasoned objection of the addressee is subject to a review by a competent court in the third country, which is empowered to take duly into account the relevant legal interests of the provider of such data.

Amendment 14

Proposal for a regulation Recital 18

Text proposed by the Commission

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

Amendment

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

Amendment 15

Proposal for a regulation Recital 19

Text proposed by the Commission

(19) In order to build trust in re-use mechanisms, it may be necessary to attach stricter conditions for certain types of non-personal data that have been identified as highly sensitive, as regards the transfer to third countries, if such transfer could jeopardise public policy objectives, in line with international commitments. For

Amendment

(19) In order to build trust in re-use mechanisms, it may be necessary to attach stricter conditions for certain types of non-personal data that have been identified as highly sensitive ***according to Union law***, as regards the transfer to third countries, if such transfer could jeopardise public policy objectives, in line with international

example, in the health domain, certain datasets held by actors in the public health system, such as public hospitals, could be identified as highly sensitive health data. In order to ensure harmonised practices across the Union, such types of highly sensitive non-personal public data should be defined by Union law, for example in the context of the European Health Data Space or other sectoral legislation. The conditions attached to the transfer of such data to third countries should be laid down in delegated acts. Conditions should be proportionate, non-discriminatory and necessary to protect legitimate public policy objectives **identified**, such as the protection of public health, public order, safety, the environment, public morals, consumer 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.

commitments. For example, in the health domain, certain datasets held by actors in the public health system, such as public hospitals, could be identified as highly sensitive health data. In order to ensure harmonised practices across the Union, such types of highly sensitive non-personal public data should be defined by Union law, for example in the context of the European Health Data Space or other sectoral legislation. The conditions attached to the transfer of such data to third countries should be laid down in delegated acts. Conditions should be **transparent**, proportionate, non-discriminatory and necessary to protect **clearly identified** legitimate public policy objectives, such as the protection of public health, public order, safety, the environment, public morals, consumer protection, privacy and personal data protection. The conditions should correspond to the risks identified in relation to the sensitivity of such data, including in terms of the risk of the re-identification of individuals. These conditions could include terms applicable for the transfer or technical arrangements, such as the requirement of using a secure processing environment, limitations as regards the re-use of data in third-countries or categories of persons which are entitled to transfer such data to third countries or who can access the data in the third country. In exceptional cases they could also include restrictions on transfer of the data to third countries to protect the public interest.

Amendment 16

Proposal for a regulation

Recital 20

Text proposed by the Commission

(20) Public sector bodies should be able to charge fees for the re-use of data **but** should also be able to decide to make the

Amendment

(20) Public sector bodies should be able to charge **cost-based** fees for the re-use of data. **Such fees should be transparent,**

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

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

Amendment 17

Proposal for a regulation Recital 25

Text proposed by the Commission

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

Amendment

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

Providers of data sharing services may also make available specific technical infrastructure for the interconnection of data holders and data users.

use. Providers of data sharing services may also make available specific technical infrastructure for the interconnection of data holders and data users.

Amendment 18

Proposal for a regulation Recital 26

Text proposed by the Commission

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

Amendment 19

Proposal for a regulation Recital 27

Text proposed by the Commission

(27) In order to ensure the compliance of **the providers of data sharing services** with the conditions set out in this Regulation, such **providers** should have a place of establishment in the Union. Alternatively, where a **provider of data sharing services** not established in the Union offers services within the Union, it should designate a representative. Designation of a representative is necessary, given that such **providers of data sharing services** handle personal data as well as commercially confidential data, which necessitates the close monitoring of the compliance of **such service providers** with the conditions laid out in this Regulation. In order to determine whether such a **provider of data sharing services** is offering services within the Union, it should be ascertained whether it is apparent that the **provider of data sharing services** is planning to offer services to persons in one or more Member States. The mere accessibility in the Union of the website or of an email address and of other contact details of the **provider of data sharing services**, or the use of a language generally used in the third country where the **provider of data sharing services** is established, should be considered insufficient to ascertain such an intention. However, factors such as the use of a language or a currency generally used in one or more Member States with the possibility of ordering services in that other language, or the mentioning of users who are in the Union, may make it apparent that the **provider of data sharing services** is planning to offer services within the Union. The representative should act on behalf of

Amendment

(27) In order to ensure the compliance of **data intermediaries** with the conditions set out in this Regulation, such **intermediaries** should have a place of establishment in the Union. Alternatively, where a **data intermediary** not established in the Union offers services within the Union, it should designate a representative. Designation of a representative is necessary, given that such **data intermediaries** handle personal data as well as commercially confidential data, which necessitates the close monitoring of the compliance of **data intermediaries** with the conditions laid out in this Regulation. In order to determine whether such a **data intermediary** is offering services within the Union, it should be ascertained whether it is apparent that the **data intermediary** is planning to offer services to persons in one or more Member States. The mere accessibility in the Union of the website or of an email address and of other contact details of the **data intermediary**, or the use of a language generally used in the third country where the **data intermediary** is established, should be considered insufficient to ascertain such an intention. However, factors such as the use of a language or a currency generally used in one or more Member States with the possibility of ordering services in that other language, or the mentioning of users who are in the Union, may make it apparent that the **data intermediary** is planning to offer services within the Union. The representative should act on behalf of the **data intermediary** and it should be possible for competent authorities to contact the representative. The representative should

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.

be designated by a written mandate of the ***data intermediary*** to act on the latter's behalf with regard to the latter's obligations under this Regulation.

Amendment 20

Proposal for a regulation Recital 28

Text proposed by the Commission

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

Amendment 21

Proposal for a regulation Recital 29

Text proposed by the Commission

(29) ***Providers of data sharing services*** should also take measures to ensure compliance with competition law. Data sharing may generate various types of efficiencies but may also lead to

Amendment

(29) ***Data intermediaries*** should also take measures to ensure compliance with competition law. Data sharing may generate various types of efficiencies but may also lead to restrictions of

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.

competition, in particular where it includes the sharing of competitively sensitive information. This applies in particular in situations where data sharing enables businesses to become aware of market strategies of their actual or potential competitors. Competitively sensitive information typically includes information on future prices, production costs, quantities, turnovers, sales or capacities.

Amendment 22

Proposal for a regulation Recital 30 a (new)

Text proposed by the Commission

Amendment

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

Amendment 23

Proposal for a regulation Recital 30 b (new)

Text proposed by the Commission

Amendment

(30b) The competent authority for data

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

Amendment 24

Proposal for a regulation Recital 31

Text proposed by the Commission

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

Amendment

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

Amendment 25

Proposal for a regulation Recital 32

Text proposed by the Commission

(32) The main establishment of ***a provider of data sharing services*** in the Union should be the Member State with the place of its central administration in the Union. The main establishment of ***a provider of data sharing services*** in the

Amendment

(32) The main establishment of ***data intermediary*** in the Union should be the Member State with the place of its central administration in the Union. The main establishment of ***data intermediary*** in the Union should be determined according to

Union should be determined according to objective criteria and should imply the effective and real exercise of management activities.

objective criteria and should imply the effective and real exercise of management activities.

Amendment 26

Proposal for a regulation Recital 36

Text proposed by the Commission

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

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 **registration as ‘Data Altruism Organisation Recognised in the Union’ and the** compliance of such registered entities with a set of requirements should bring trust that the data made available on altruistic purposes **serves** a general interest purpose **only, and should ensure that the use of such data is in strict compliance with the purpose for which consent or permission was given**. Such trust should result in particular from a place of

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.

establishment within the Union, as well as from the requirement that registered entities have a not-for-profit character, from transparency requirements and from specific safeguards in place to protect rights and interests of data subjects and companies. ***Such safeguards should include the application of the rights provided for in Directive (EU) 2020/1828 of the European Parliament and of the Council^{1a} for infringements of this Regulation and should guarantee that legal entities will not use misleading marketing practices to solicit donations of data.*** Further safeguards should include making it possible to process relevant data within a secure processing environment operated by the registered entity, oversight mechanisms such as ethics councils or boards to ensure that the data controller maintains high standards of scientific ethics, effective technical means to withdraw or modify consent at any moment, based on the information obligations of data processors under Regulation (EU) 2016/679 as well as means for data subjects to stay informed about the use of data they made available. ***Furthermore, without prejudice to Regulation (EU) 2016/679 data intermediaries should compensate data holders in the case of a loss of data.***

^{1a} ***Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC (OJ L 409, 4.12.2020, p. 1)***

Amendment 27

Proposal for a regulation Recital 37

Text proposed by the Commission

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

Amendment

(37) This Regulation is without prejudice to the establishment, organisation and functioning of entities that seek to engage in data altruism pursuant to national law. It builds on national law requirements to operate lawfully in a Member State as a not-for-profit organisation. Entities which meet the requirements in this Regulation should be able to use the title of ‘Data Altruism Organisations recognised in the Union’.
The entity should use a dedicated Union logo or QR code that provides for a link to the European register of recognised data altruism organisations, both online and offline. The objective of the logo should be to provide for a coherent visual identity to data altruism organisations of the Union and contribute to increase trust for data subjects and legal entities. The logo should be created and displayed with rules established in a separate implementing act.

Amendment 28

**Proposal for a regulation
Recital 39**

Text proposed by the Commission

(39) To bring additional legal certainty to granting and withdrawing of consent, in particular in the context of scientific research and statistical use of data made available on an altruistic basis, a European data altruism consent **form** should be developed and used in the context of altruistic data sharing. Such **a form** should contribute to additional transparency for data subjects that their data will be accessed and used in accordance with their consent and also in full compliance with the data protection rules. It could also be used to streamline data altruism performed

Amendment

(39) To bring additional legal certainty to granting and withdrawing of consent, in particular in the context of scientific research and statistical use of data made available on an altruistic basis, a European data altruism consent **interface** should be developed and used in the context of altruistic data sharing. Such **an interface** should contribute to additional transparency for data subjects that their data will be accessed and used in accordance with their consent and also in full compliance with the data protection rules. It could also be used to streamline

by companies and provide a mechanism allowing such companies to withdraw their permission to use the data. In order to take into account the specificities of individual sectors, including from a data protection perspective, there should be a possibility for sectoral adjustments of the European data altruism consent **form**.

data altruism performed by companies and provide a mechanism allowing such companies to withdraw their permission to use the data. In order to take into account the specificities of individual sectors, including from a data protection perspective, there should be a possibility for sectoral adjustments of the European data altruism consent **interface**. *The interface should provide up-to-date information concerning the types of data that have been used, the frequency of their use and the purposes for which they have been used by users of the data altruism organisation.*

Amendment 29

Proposal for a regulation Recital 40

Text proposed by the Commission

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

Amendment

(40) In order to successfully implement the data governance framework, a European Data Innovation Board should be established, in the form of an expert group. The Board should consist of representatives of the Member States, the Commission, **the EU SME Envoy or a representative appointed by the network of SME envoys**, representatives of relevant data spaces, **representatives of relevant agencies and competent authorities in specific sectors** (such as health, agriculture, transport and statistics). The European Data Protection Board **as well as relevant standardisation organisations** should be invited to appoint a representative to the European Data Innovation Board. **Representatives from industry, including representatives of national, trans-national or common European data spaces, SMEs, research organisations, non-governmental organisations (NGOs), European social partners, and consumers' and civil society organisations should be invited to attend meetings of the**

Board and to participate in its work. Moreover, experts appointed in their personal capacity, who have proven knowledge and experience in the areas covered by this Regulation should also be invited to attend meetings of the Board and to participate, to the extent relevant, in its work. The Board should meet in different configurations, depending on the subjects to be discussed, and its deliberations and documents should be made public.

Amendment 30

Proposal for a regulation

Recital 41

Text proposed by the Commission

(41) The Board should support the Commission in coordinating national practices and policies on the topics covered by this Regulation, and in supporting cross-sector data use by adhering to the European Interoperability Framework (EIF) principles and through the utilisation of standards and specifications (such as the Core Vocabularies⁴⁴ and the CEF Building Blocks⁴⁵), without prejudice to standardisation work taking place in specific sectors or domains. Work on technical standardisation may include the identification of priorities for the development of standards and establishing and maintaining a set of technical and legal standards for transmitting data between two processing environments that allows data spaces to be organised without making recourse to an intermediary. The Board should cooperate with sectoral bodies, networks or expert groups, or other cross-sectoral organisations dealing with re-use of data. Regarding data altruism, the Board should assist the Commission in the development of the data altruism consent form, in consultation with the European

Amendment

(41) The Board should support the Commission in coordinating national practices and policies on the topics covered by this Regulation, and in supporting cross-sector data use by adhering to the European Interoperability Framework (EIF) principles and through the utilisation of standards and specifications (such as the Core Vocabularies⁴⁴ and the CEF Building Blocks⁴⁵), without prejudice to standardisation work taking place in specific sectors or domains. ***Work on technical standardisation should build on industry and internal market initiatives, receiving wide and significant acceptance. When establishing technical standards for data sharing across sectors, particular attention should be paid to existing standards applying within the relevant sector in order to ensure coherent standards for cross-sector data sharing and interoperability, and to avoid one sector being advantaged at the expense of another. Furthermore,*** work on technical standardisation may include the identification of priorities for the development of standards and establishing

Data Protection Board.

and maintaining a set of technical and legal standards for transmitting data between two processing environments that allows data spaces to be organised without making recourse to an intermediary. The Board should cooperate with sectoral bodies, networks or expert groups, or other cross-sectoral organisations dealing with re-use of data. Regarding data altruism, the Board should assist the Commission in the development of the data altruism consent form, in consultation with the European Data Protection Board.

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<https://joinup.ec.europa.eu/collection/semantic-interoperability-community-semic/core-vocabularies>

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

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<https://joinup.ec.europa.eu/collection/semantic-interoperability-community-semic/core-vocabularies>

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

Amendment 31

Proposal for a regulation Recital 41 a (new)

Text proposed by the Commission

Amendment

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

Amendment 32

Proposal for a regulation

Article 1 – paragraph 1 – point b

Text proposed by the Commission

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

Amendment

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

Amendment 33

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Amendment 34

Proposal for a regulation

Article 1 – paragraph 2

Text proposed by the Commission

Amendment

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

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

Amendment 35

Proposal for a regulation

Article 1 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Union and national law on the protection of personal data shall apply to any personal data processed in connection with this Regulation. This Regulation is without prejudice to Regulations (EU) 2016/679 and (EU) 2018/1725 and Directive 2002/58/EC, including the powers of supervisory authorities. In the event of a conflict between the provisions of this Regulation and Union law on the protection of personal data, the latter prevails.

Amendment 36

Proposal for a regulation

Article 1 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

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

Amendment 37

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

- (a) *cloud services;*
- (b) *services that obtain data from data holders, aggregate, enrich or transform the data and license the use of the resulting data to data users, without establishing a direct relationship between data holders and data users;*
- (c) *services that focus on the intermediation of content, in particular on copyright-protected content;*
- (d) *the services of data exchange platforms that are exclusively used by one data holder in order to enable the use of data they hold as well as platforms developed in the context of objects and devices connected to the Internet-of-Things that have as their main objective of ensuring functionalities of the connected object or device and allow value added services;*
- (e) *the services of consolidated tape providers as defined in point (53) of Article 4(1) of Directive 2014/65/EU; and*
- (f) *the services of account information service providers as defined in point (19) of Article 4 of Directive(EU) 2015/2366;*

Amendment 38

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Amendment 39

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

Text proposed by the Commission

Amendment

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

Amendment 40

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

Text proposed by the Commission

Amendment

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

Amendment 41

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

Text proposed by the Commission

Amendment

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

Amendment 42

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

Text proposed by the Commission

Amendment

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

Amendment 43

Proposal for a regulation

Article 2 – paragraph 1 – point 6

Text proposed by the Commission

(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;

Amendment

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

Amendment 44

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Amendment 45

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Text proposed by the Commission

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

([to apply coherently throughout the text])

Amendment 46

Proposal for a regulation
Article 2 – paragraph 1 – point 9 a (new)

Text proposed by the Commission

Amendment

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

Amendment 47

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

Text proposed by the Commission

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

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

Amendment 48

Proposal for a regulation
Article 2 – paragraph 1 – point 14

Text proposed by the Commission

Amendment

(14) ‘secure processing environment’ means the physical or virtual environment and organisational means to provide the opportunity to re-use data in a manner that

(14) ‘secure processing environment’ means the physical or virtual environment and organisational means to provide the opportunity to re-use data in a manner,

allows for the operator of the secure processing environment to determine and supervise all data processing actions, including to display, storage, download, export of the data and calculation of derivative data through computational algorithms.

without prejudice to Regulation (EU) 2016/679 as well as commercial and statistical confidentiality, that ensures compliance with applicable legislation, that allows for the operator of the secure processing environment to determine and supervise all data processing actions, including to display, storage, download, export of the data and calculation of derivative data through computational algorithms.

Amendment 49

Proposal for a regulation

Article 3 – paragraph 1 – point d

Text proposed by the Commission

(d) protection of personal data.

Amendment

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

Amendment 50

Proposal for a regulation

Article 4 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 51

Proposal for a regulation Article 4 – paragraph 2

Text proposed by the Commission

(2) By way of derogation from paragraph 1, an exclusive right to re-use data referred to in that paragraph may be granted to the extent necessary for the provision of a service or a product in the 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 to the extent necessary for the provision of a service or ***the supply of*** a product in the general interest, ***that would have otherwise not been possible, and subject to justifications as to why it is of general interest.***

Amendment 52

Proposal for a regulation Article 4 – paragraph 5

Text proposed by the Commission

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

Amendment

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

Amendment 53

Proposal for a regulation Article 4 – paragraph 6

Text proposed by the Commission

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

Amendment

(6) The award of an exclusive right pursuant to paragraphs (2) to (5), including the ***reasoned justification*** why it is necessary to grant such a right, shall be transparent and be made publicly available

of a possible publication of an award of a public procurement and concessions contract.

online, regardless of a possible publication of an award of a public procurement and concessions contract.

Amendment 54

Proposal for a regulation Article 4 – paragraph 7

Text proposed by the Commission

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

Amendment

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

Amendment 55

Proposal for a regulation Article 5 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 56

Proposal for a regulation Article 5 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 57

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

Text proposed by the Commission

Amendment

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

Amendment 58

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

Text proposed by the Commission

Amendment

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

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

Amendment 59

Proposal for a regulation

Article 5 – paragraph 4 – introductory part

Text proposed by the Commission

Amendment

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

deleted

Amendment 60

Proposal for a regulation

Article 5 – paragraph 4 – point -a a (new)

Text proposed by the Commission

Amendment

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

Amendment 61

Proposal for a regulation

Article 5 – paragraph 4 – point a

Text proposed by the Commission

Amendment

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

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

Amendment 62

Proposal for a regulation

Article 5 – paragraph 5

Text proposed by the Commission

Amendment

(5) The public sector bodies shall impose conditions that preserve the integrity of the functioning of the technical

(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.

systems of the secure processing environment used, ***including high level of cybersecurity standards***. The public sector body shall be able to verify ***the means and*** any results of processing of data undertaken by the re-user and reserve the right to prohibit the use of results that contain information jeopardising the rights and interests of third parties. ***To this end, the public sector bodies shall be equipped with the necessary human and financial resources for monitoring and law enforcement.***

Amendment 63

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

Text proposed by the Commission

Amendment

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

Amendment 64

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

Text proposed by the Commission

Amendment

(6a) Where public sector bodies make personal data available for re-use pursuant to this Article, they shall inform data subjects accordingly of this re-use

and of their rights. The public sector body shall support data subjects in exercising their rights, including in relation to other re-users. In that task they may be assisted by the competent bodies referred to in Article 7 (1).

Amendment 65

Proposal for a regulation

Article 5 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

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

Amendment 66

Proposal for a regulation

Article 5 – paragraph 9 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

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

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

Amendment 67

Proposal for a regulation

Article 5 – paragraph 13

Text proposed by the Commission

Amendment

(13) Where the re-user intends to

(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.

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

Amendment 68

Proposal for a regulation Article 6 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 69

Proposal for a regulation Article 6 – paragraph 4

Text proposed by the Commission

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

Amendment

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

Amendment 70

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

Text proposed by the Commission

Amendment

(4a) Public sector bodies may set up a list of categories of re-users for which data is made available at reduced or no cost, which shall be published together with the criteria used to establish such list and which shall have the objective to foster a wider re-use of data held by public sector bodies as referred to in Article 3(1) and accessibility by a wider range of re-users, in line with State aid rules and competition law.

Amendment 71

Proposal for a regulation

Article 7 – paragraph 2 – point a

Text proposed by the Commission

Amendment

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

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

Amendment 72

Proposal for a regulation

Article 7 – paragraph 2 – point a a (new)

Text proposed by the Commission

Amendment

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

Amendment 73

Proposal for a regulation

Article 7 – paragraph 2 – point b

Text proposed by the Commission

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

Amendment

(b) providing technical support in the application of tested techniques ensuring data processing in a manner that preserves privacy of the information contained in the data for which re-use is allowed, including techniques for pseudonymisation, anonymisation, generalisation, suppression and randomisation of personal data, ***and the deletion of commercially confidential information, including trade secrets or content protected by intellectual property rights;***

Amendment 74

Proposal for a regulation

Article 7 – paragraph 2 – point d

Text proposed by the Commission

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

Amendment

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

Amendment 75

Proposal for a regulation

Article 7 – paragraph 4

Text proposed by the Commission

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

Amendment

(4) The competent body or bodies shall have adequate ***financial and human resources***, legal and technical capacities and expertise ***to carry out their duties in effective and efficient way*** and to be able to comply with relevant Union or national law concerning the access regimes for the

categories of data referred to in Article 3 (1), ***in order to fully respect the principles of data protection, privacy and confidentiality.***

Amendment 76

Proposal for a regulation Article 7 – paragraph 5

Text proposed by the Commission

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

Amendment

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

Amendment 77

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

Text proposed by the Commission

Amendment

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

Amendment 78

Proposal for a regulation Article 8 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Amendment 79

Proposal for a regulation Article 9 – title

Text proposed by the Commission

Providers of data sharing services

Amendment

Data intermediation services

Amendment 80

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

Text proposed by the Commission

(a) intermediation services between data holders which are legal persons and potential data users, including making

Amendment

(a) intermediation services between data holders which are legal persons and potential data users, including making

available the technical or other means to enable such services; those services may include bilateral or multilateral exchanges of data or the creation of platforms or databases enabling the exchange or joint **exploitation** of data, as well as the establishment of a specific infrastructure for the interconnection of data holders and data users;

available the technical or other means to enable such services; those services may include bilateral or multilateral exchanges of data or the creation of platforms or databases enabling the exchange or joint **use** of data, as well as the establishment of a specific infrastructure for the interconnection of data holders and data users;

Amendment 81

Proposal for a regulation

Article 9 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

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

Amendment 82

Proposal for a regulation

Article 9 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

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

adopted in accordance with the advisory procedure referred to in Article 29.

Amendment 83

Proposal for a regulation Article 10 – title

Text proposed by the Commission

Notification of data *sharing service providers*

Amendment

Notification of data *intermediaries*

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

Amendment 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 *data intermediary* with establishments in more than one Member State, shall be deemed to be under the jurisdiction of the Member State in which it has its main establishment.

Amendment 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 **data intermediary** that is not established in the Union, but offers the services referred to in Article 9 (1) within the Union, shall appoint a legal representative in one of the Member States in which those services are offered. The provider shall be deemed to be under the jurisdiction of the Member State in which the legal representative is established. ***The data intermediary shall provide the legal representative with the necessary resources to ensure efficient collaboration with relevant national authorities. For the purposes of ensuring compliance with this Regulation, the legal representative shall be empowered by the data intermediary to act on its behalf or together with it, in particular when addressed by competent authorities or data subjects and data holders, on all issues related to the service or services provided. The designation of a legal representative by the data intermediary shall be without prejudice to legal actions, which could be initiated against the data intermediaries themselves.***

Amendment 87

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

Text proposed by the Commission

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

Amendment

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

Amendment 88

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

Text proposed by the Commission

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

Amendment

(f) a description of the service the provider intends to provide, ***including by specifying which types of services referred in Article 9(1) of this Regulation are provided, as well as how the conditions set out in Article 11 are fulfilled;***

Amendment 89

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

Text proposed by the Commission

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

Amendment

deleted

Amendment 90

Proposal for a regulation
Article 10 – paragraph 7

Text proposed by the Commission

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

Amendment

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

Amendment 91

Proposal for a regulation
Article 10 – paragraph 8

Text proposed by the Commission

(8) The competent authority shall forward each notification to the national

Amendment

(8) The competent authority ***for data intermediaries*** shall forward each

competent authorities of the Member States by electronic means, without delay.

notification to the national competent authorities of the Member States by electronic means, without delay.

Amendment 92

Proposal for a regulation Article 10 – paragraph 9

Text proposed by the Commission

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

Amendment

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

Amendment 93

Proposal for a regulation Article 10 – paragraph 10

Text proposed by the Commission

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

Amendment

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

Amendment 94

Proposal for a regulation Article 10 – paragraph 11

Text proposed by the Commission

(11) Where a ***provider of data sharing***

Amendment

(11) Where a ***data intermediary*** ceases

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.

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

Amendment 95

Proposal for a regulation Article 11 – title

Text proposed by the Commission

Conditions for providing data **sharing** services

Amendment

Conditions for providing data **intermediation** services

Amendment 96

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

Text proposed by the Commission

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

Amendment

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

Amendment 97

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

Text proposed by the Commission

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

Amendment

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

Amendment 98

Proposal for a regulation

Article 11 – paragraph 1 – point 2

Text proposed by the Commission

(2) the metadata collected from the 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 **and shall, where possible, be made available to the data holders upon request;**

Amendment 99

Proposal for a regulation

Article 11 – paragraph 1 – point 3

Text proposed by the Commission

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

Amendment

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

Amendment 100

Proposal for a regulation

Article 11 – paragraph 1 – point 4

Text proposed by the Commission

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

Amendment

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

Amendment 101

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Amendment 102

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Amendment 103

Proposal for a regulation

Article 11 – paragraph 1 – point 5

Text proposed by the Commission

Amendment

(5) the ***provider*** shall have procedures in place to prevent fraudulent or abusive

(5) the ***data intermediary*** shall have procedures in place to ***detect, mitigate and***

practices in relation to access to data from parties seeking access through their services;

prevent fraudulent or abusive practices in relation to access to data from parties seeking access through their services;

Amendment 104

Proposal for a regulation

Article 11 – paragraph 1 – point 6

Text proposed by the Commission

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

Amendment

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

Amendment 105

Proposal for a regulation

Article 11 – paragraph 1 – point 7

Text proposed by the Commission

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

Amendment

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

Amendment 106

Proposal for a regulation

Article 11 – paragraph 1 – point 8

Text proposed by the Commission

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

Amendment

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

Amendment 107

Proposal for a regulation

Article 11 – paragraph 1 – point 9

Text proposed by the Commission

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

Amendment

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

Amendment 108

Proposal for a regulation

Article 11 – paragraph 1 – point 10

Text proposed by the Commission

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

Amendment

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

Amendment 109

Proposal for a regulation

Article 11 – paragraph 1 – point 11

Text proposed by the Commission

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

Amendment

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

subjects with tools to withdraw consent and data holders with tools to withdraw permissions to process data at any point in time.

Amendment 110

Proposal for a regulation Article 12 – title

Text proposed by the Commission

Competent authorities

Amendment

Competent authorities ***for data intermediaries***

Amendment 111

Proposal for a regulation Article 12 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 112

Proposal for a regulation Article 12 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 113

Proposal for a regulation Article 12 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Amendment 114

Proposal for a regulation Article 13 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 115

Proposal for a regulation Article 13 – paragraph 2

Text proposed by the Commission

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

Amendment

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

task and shall be reasoned.

be proportionate to the performance of the task and shall be reasoned.

Amendment 116

Proposal for a regulation Article 13 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Amendment 117

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

Text proposed by the Commission

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

Amendment

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

Amendment 118

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

Text proposed by the Commission

(a) to impose dissuasive financial

Amendment

(a) to impose dissuasive financial

penalties which may include periodic penalties with retroactive effect;

penalties which may include periodic penalties **and penalties** with retroactive effect;

Amendment 119

Proposal for a regulation

Article 13 – paragraph 4 – point b

Text proposed by the Commission

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

Amendment

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

Amendment 120

Proposal for a regulation

Article 13 – paragraph 5

Text proposed by the Commission

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

Amendment

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

Amendment 121

Proposal for a regulation

Article 13 – paragraph 6

Text proposed by the Commission

(6) If a **provider of data sharing services** has its main establishment or legal representative in a Member State, but

Amendment

(6) If a **data intermediary** has its main establishment or legal representative in a Member State, but provides services in

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

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

Amendment 122

Proposal for a regulation Article 14 – paragraph 1

Text proposed by the Commission

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

Amendment

This Chapter shall not apply to:

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

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

Amendment 123

Proposal for a regulation Article 15 – paragraph 1

Text proposed by the Commission

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

Amendment

(1) Each competent authority *for the registration of data altruism organisations* designated pursuant to Article 20 shall

organisations.

keep a **public** register of recognised data altruism organisations.

Amendment 124

Proposal for a regulation Article 15 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 125

Proposal for a regulation Article 15 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Amendment 126

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

Text proposed by the Commission

Amendment

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

Amendment 127

Proposal for a regulation

Article 15 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

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

Amendment 128

Proposal for a regulation

Article 16 – paragraph 1 – point a

Text proposed by the Commission

Amendment

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

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

Amendment 129

Proposal for a regulation

Article 16 – paragraph 1 – point b

Text proposed by the Commission

Amendment

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

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

operates on a for-profit basis;

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

Amendment 130

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Amendment 131

Proposal for a regulation

Article 17 – title

Text proposed by the Commission

Amendment

Registration

Registration ***of recognised data altruism organisations***

Amendment 132

Proposal for a regulation

Article 17 – paragraph 4 – point d

Text proposed by the Commission

Amendment

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

(d) the entity's sources of income;

Amendment 133

Proposal for a regulation

Article 17 – paragraph 4 – point h

Text proposed by the Commission

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

Amendment

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

Amendment 134

Proposal for a regulation

Article 17 – paragraph 5

Text proposed by the Commission

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

Amendment

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

Amendment 135

Proposal for a regulation

Article 17 – paragraph 6

Text proposed by the Commission

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

Amendment

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

Amendment 136

Proposal for a regulation
Article 17 – paragraph 7

Text proposed by the Commission

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

Amendment

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

Amendment 137

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

Text proposed by the Commission

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

Amendment

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

Amendment 138

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

Text proposed by the Commission

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

Amendment

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

Amendment 139

Proposal for a regulation

Article 18 – paragraph 2 – introductory part

Text proposed by the Commission

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

Amendment

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

Amendment 140

Proposal for a regulation

Article 19 – paragraph 1 – introductory part

Text proposed by the Commission

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

Amendment

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

Amendment 141

Proposal for a regulation

Article 19 – paragraph 1 – point a

Text proposed by the Commission

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

Amendment

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

Amendment 142

Proposal for a regulation

Article 19 – paragraph 1 – point a (new)

Text proposed by the Commission

Amendment

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

Amendment 143

Proposal for a regulation

Article 19 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) about any processing outside the Union.

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

Amendment 144

Proposal for a regulation

Article 19 – paragraph 2

Text proposed by the Commission

Amendment

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

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

Amendment 145

Proposal for a regulation

Article 20 – title

Text proposed by the Commission

Amendment

Competent authorities for registration

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

Amendment 146

Proposal for a regulation Article 20 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 147

Proposal for a regulation Article 20 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Amendment 148

Proposal for a regulation Article 21 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 149

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

Text proposed by the Commission

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

Amendment

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

Amendment 150

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

Text proposed by the Commission

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

Amendment

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

Amendment 151

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

Text proposed by the Commission

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

Amendment

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

Amendment 152

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

Text proposed by the Commission

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

Amendment

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

Amendment 153

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

Text proposed by the Commission

European data altruism consent **form**

Amendment

European data altruism consent **interface**

Amendment 154

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

Text proposed by the Commission

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

Amendment

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

Amendment 155

Proposal for a regulation
Article 22 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 156

Proposal for a regulation
Article 22 – paragraph 3

Text proposed by the Commission

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

Amendment

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

altruism organisation.

Amendment 157

Proposal for a regulation Article 22 – paragraph 4

Text proposed by the Commission

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

Amendment

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

Amendment 158

Proposal for a regulation Article 23 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 159

Proposal for a regulation Article 23 – paragraph 3

Text proposed by the Commission

(3) The top-management and the

Amendment

(3) The top-management and the

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

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

Amendment 160

Proposal for a regulation Article 23 – paragraph 5

Text proposed by the Commission

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

Amendment

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

Amendment 161

Proposal for a regulation Article 23 – paragraph 6

Text proposed by the Commission

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

Amendment

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

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

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

Amendment 162

Proposal for a regulation

Article 23 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

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

Amendment 163

Proposal for a regulation

Article 24 – paragraph 1

Text proposed by the Commission

Amendment

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

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

Amendment 164

Proposal for a regulation

Article 24 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 165

Proposal for a regulation

Article 25 – paragraph 1 – point b

Text proposed by the Commission

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

Amendment

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

Amendment 166

Proposal for a regulation

Article 25 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

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

Amendment 167

Proposal for a regulation

Article 26 – paragraph 1

Text proposed by the Commission

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

Amendment

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

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

Amendment 168

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

Text proposed by the Commission

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

Amendment

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

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

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

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

Amendment 169

Proposal for a regulation Article 26 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Amendment 170

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

Text proposed by the Commission

Amendment

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

Amendment 171

Proposal for a regulation Article 27 – title

Text proposed by the Commission

Amendment

Tasks of the Board

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

Amendment 172

Proposal for a regulation

Article 27 – paragraph 1 – introductory part

Text proposed by the Commission

The Board shall have the following tasks:

Amendment

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

Amendment 173

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Amendment 174

Proposal for a regulation

Article 27 – paragraph 1 – point b

Text proposed by the Commission

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

Amendment

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

Amendment 175

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

Text proposed by the Commission

Amendment

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

Amendment 176

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

Text proposed by the Commission

Amendment

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

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

Amendment 177

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

Text proposed by the Commission

Amendment

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

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

data altruism organisations.

organisations.

Amendment 178

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Amendment 179

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Amendment 180

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

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

Amendment 181

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Amendment 182

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Amendment 183

Proposal for a regulation

Article 27 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

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

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

Amendment 184

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

Text proposed by the Commission

Amendment

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

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

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

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

Amendment 185

Proposal for a regulation Article 30 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 186

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

Text proposed by the Commission

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

Amendment

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

Amendment 187

Proposal for a regulation

Article 30 – paragraph 3 – subparagraph 2

Text proposed by the Commission

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

Amendment

The addressee of the decision **may** ask the opinion of the relevant competent bodies or authorities, pursuant to this Regulation, in order to determine if these conditions are met. ***The relevant competent bodies shall exchange information on international access requests in the framework of the European Data Innovation Board.***

Amendment 188

Proposal for a regulation

Article 30 – paragraph 5

Text proposed by the Commission

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

Amendment

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

Amendment 189

Proposal for a regulation

Article 32 – paragraph 1

Text proposed by the Commission

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

Amendment

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

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

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

- (a) the conditions for the re-use of data under Chapter II with a view to their further harmonisation and the potential need for definition of highly sensitive data;***
- (b) the level of compliance with the requirements set out in this Regulation, as well as the quality and security of services provided by data intermediaries under Chapter III;***
- (c) the type of altruistic organisations registered under Chapter IV and overview of the objectives of general interests for which data are shared in view of establishing clear criteria in this respect;***
- (d) the functioning of the Data Innovation Board, including summarising its most important actions, provided added value, issued recommendations and overall contributions to the development of the European data economy;***
- (e) the conditions for international access under Article 30.***

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

PROCEDURE – COMMITTEE ASKED FOR OPINION

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

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

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

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

2	0
ID	Alessandra Basso
The Left	Anne-Sophie Pelletier

Key to symbols:

+ : in favour

- : against

0 : abstention

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

PA_Legam

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 Deal²³. In its Data Strategy²⁴, 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.

²³ 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)

²⁴ COM (2020) 66 final.

(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 Deal²³. **But it could also generate potential risks, without a specific intention**. In its Data Strategy²⁴, 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.

²³ 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)

²⁴ 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 space²⁵ 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 data²⁶. This Regulation is therefore without prejudice to Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽²⁷⁾, 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 ⁽²⁸⁾, Directive (EU) 2016/943 of the European Parliament and of the Council ⁽²⁹⁾, Regulation (EU) 2018/1807 of the European Parliament and of the Council ⁽³⁰⁾, Regulation (EC) No 223/2009 of the European Parliament and of the Council ⁽³¹⁾, Directive 2000/31/EC of the European Parliament and of the Council ⁽³²⁾, Directive 2001/29/EC of the European Parliament and of the Council ⁽³³⁾, Directive (EU) 2019/790 of the European Parliament and of the Council ⁽³⁴⁾, Directive 2004/48/EC of the European Parliament and of the Council ⁽³⁵⁾, Directive (EU) 2019/1024 of the European Parliament and of the Council ⁽³⁶⁾, as well as Regulation 2018/858/EU of the

Amendment

(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 space²⁵ 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 data²⁶. This Regulation is therefore without prejudice to Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽²⁷⁾, 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 ⁽²⁸⁾, Directive (EU) 2016/943 of the European Parliament and of the Council ⁽²⁹⁾, Regulation (EU) 2018/1807 of the European Parliament and of the Council ⁽³⁰⁾, Regulation (EC) No 223/2009 of the European Parliament and of the Council ⁽³¹⁾, Directive 2000/31/EC of the European Parliament and of the Council ⁽³²⁾, Directive 2001/29/EC of the European Parliament and of the Council ⁽³³⁾, Directive (EU) 2019/790 of the European Parliament and of the Council ⁽³⁴⁾, Directive 2004/48/EC of the European Parliament and of the Council ⁽³⁵⁾, Directive (EU) 2019/1024 of the European Parliament and of the Council ⁽³⁶⁾, as well as Regulation 2018/858/EU of the

European Parliament and of the Council ⁽³⁷⁾), Directive 2010/40/EU of the European Parliament and of the Council ⁽³⁸⁾) 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.

²⁵ 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).

²⁶ 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 ⁽³⁷⁾), Directive 2010/40/EU of the European Parliament and of the Council ⁽³⁸⁾) 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.

²⁵ 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).

²⁶ 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.

²⁷ 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)

²⁸ 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)

²⁹ 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)

³⁰ 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)

³¹ 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.

²⁷ 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)

²⁸ 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)

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

164)

³² 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)

³³ 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)

³⁴ 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)

³⁵ 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).

³⁶ 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).

³⁷ 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).

³⁸ 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)

³² 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)

³³ 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)

³⁴ 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)

³⁵ 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).

³⁶ 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).

³⁷ 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).

³⁸ 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 ⁽³⁹⁾). 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.

³⁹ 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 ⁽³⁹⁾). 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.

³⁹ 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 ⁽⁴¹⁾) 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.

⁴¹ 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 ⁽⁴¹⁾) 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.

⁴¹ 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

(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 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

(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.

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.

discriminatory.

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 Council¹ 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 Council² 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.

¹ 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 as defined in Article 2, point (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 Council¹ 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 Council² 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.

¹ 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.

² 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.

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

² 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^{1a}*. 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.***

^{1a} ***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 Article 4(1), point (53), of Directive 2014/65/EU; and

(f) services of account information service providers as defined in Article 4, point (19), 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 Article 4, point (11), 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 Article 4, point (1), 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 (EU) 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**;

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

Title	European data governance (Data Governance Act)
References	COM(2020)0767 – C9-0377/2020 – 2020/0340(COD)
Committee responsible Date announced in plenary	ITRE 14.12.2020
Opinion by Date announced in plenary	JURI 14.12.2020
Rapporteur for the opinion Date appointed	Karen Melchior 10.5.2021
Discussed in committee	27.5.2021
Date adopted	1.7.2021
Result of final vote	<div style="display: flex; justify-content: space-between;"> +: 24 </div> <div style="display: flex; justify-content: space-between;"> –: 0 </div> <div style="display: flex; justify-content: space-between;"> 0: 1 </div>
Members present for the final vote	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
Substitutes present for the final vote	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

30.6.2021

OPINION OF THE COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS

for the Committee on Industry, Research and Energy

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

Rapporteur for opinion: Sergey Lagodinsky

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

PA_Legam

SHORT JUSTIFICATION

1. Background

The proposed Data Governance Act (DGA) presented in November 2020 follows the Commission's Communication "A European Strategy for Data" from February of the same year. According to the announcements, the DGA is the first of what is to become a number of legislative proposals to govern access and use of data in the Union.

The DGA combines several instruments. First, it complements the Open Data Directive (EU) 2019/1024 by a regime which allows public sector bodies to make data available for re-use covered by third party rights, including personal data. Second, it establishes rules for data intermediation services, with the purpose of enabling data sharing among businesses with and without remuneration, and encourages the creation of cooperatives that would strengthen the position of both individual data subjects and small non-personal data holders. Finally, it encourages "data altruism" by individuals by creating a standardised consent form for data subjects to make their personal data available for purposes serving the general interest, and by establishing organisations to pool these data and make them attractive for data users. It also creates a structure of competent authorities to enforce its provisions and an expert group to support its goals.

In its impact assessment, the Commission estimates the economic value of the combined measures to amount to 3,87 % to 3,95 % growth of the GDP.

2. The Rapporteur's Position

In its opinion the rapporteur focuses on a number of improvements, most importantly the following:

A. Emphasising the centrality of GDPR

The rapporteur deems legal clarity and certainty about the DGA's relationship vis-a-vis the General Data Protection Regulation (GDPR) a central element of the new regulation, considering that the legislator is bound by Article 8 of the Charter of Fundamental Rights of the European Union and Article 16 of the Treaty on the Functioning of the European Union. Thus, the LIBE opinion draft proposes one central provision stating the primary role of the GDPR. This clarification will secure the fundamental right of protection of personal data. This solution also follows the joint opinion of the EDPB and the EDPS¹.

B. Effective differentiation between personal and non-personal data.

One of the main premises of the data protection law is that the data subjects' rights are very different from rights exercised by holders of non-personal data. Thus, the rapporteur decided to re-draft the provisions applying to data subjects and data holders respectively to emphasize the differences between the two categories.

This also applies to data intermediation services that must treat the two categories differently.

¹ https://edps.europa.eu/press-publications/press-news/press-releases/2021/edpb-edps-adopt-joint-opinion-data-governance-act_en

In case of non-personal data, they can offer pooling and sharing as well as additional treatment of data as a service. Regarding personal data, the providers cannot and should not substitute data subjects who must continue to comprehensively exercise their rights in their own name. As a result, the providers' function with respect to personal data must be distinctly different and focus on facilitating between data subjects and potential data users. Only then will they be able to remain neutral and not process personal data themselves.

C. No disincentive for public sector bodies to make data available under the Open Data Directive

While the Open Data Directive's provisions exclude non-personal data protected on grounds of commercial and statistical confidentiality and of intellectual property rights of third parties, as well as personal data, the Data Governance Act applies explicitly to those.

This should not create any disincentive for public sector bodies to publishing Open Data. Where techniques such as anonymisation, aggregation and others can effectively be applied and thus derive data that does fall under the re-use regime mandated by the Open Data Directive, the latter should take precedence.

D. Data altruism must lead to data use in the public interest

Where individuals are incentivised to make their data available voluntarily for the benefit of public interest, their trust should not be abused. Therefore, it is important to clarify that the organisations that make such data available, as well as the potential data users, use the data with the same objective of contributing to the public interest.

Consequently, the rapporteur has opted to change the name of the organisations pooling and sharing altruism data, to "Public Interest Data Hubs".

AMENDMENTS

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

Amendment 1

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) Over the last few years, digital technologies have transformed the economy and society, affecting all sectors of activity and daily life. Data is at the centre of this transformation: data-driven innovation **will bring** enormous benefits for citizens, for example through improved

Amendment

(2) Over the last few years, digital technologies have transformed the economy and society, affecting all sectors of activity and daily life. Data is at the centre of this transformation: data-driven innovation **promises** enormous benefits for citizens, for example through improved

personalised medicine, new mobility, and its contribution to the European Green Deal²³. In its Data Strategy²⁴, 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.

²³ 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)

²⁴ COM (2020) 66 final.

personalised medicine, new mobility, and its contribution to the European Green Deal²³. In its Data Strategy²⁴, 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.

²³ 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).

²⁴ COM (2020) 66 final.

Amendment 2

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

Amendment

(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 space²⁵ 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 data²⁶. This Regulation is therefore without prejudice to ***Regulation (EU) 2016/679 of the European Parliament and of the Council (27), 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 (28), Directive (EU) 2016/943 of the European Parliament and of the Council (29), Regulation (EU) 2018/1807 of the European Parliament and of the Council (30), Regulation (EC) No 223/2009 of the European Parliament and of the Council (31), Directive 2000/31/EC of the European Parliament and of the Council (32), Directive 2001/29/EC of the European Parliament and of the Council (33), Directive (EU) 2019/790 of the European Parliament and of the Council (34), Directive 2004/48/EC of the European Parliament and of the Council (35), Directive (EU) 2019/1024 of the European Parliament and of the Council (36), as well as Regulation 2018/858/EU of the European Parliament and of the Council (37), Directive 2010/40/EU of the European Parliament and of the Council (38) 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***

framework for data exchanges ***and laying down requirements for data governance.*** 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 space²⁵ and on access to vehicle data, ***in full respect of the rules and principles defined in applicable Union and Member State law.*** 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 data²⁶. This Regulation is therefore without prejudice to Directive (EU) 2016/943 of the European Parliament and of the Council (27), Regulation (EU) 2018/1807 of the European Parliament and of the Council (28), Regulation (EC) No 223/2009 of the European Parliament and of the Council (29), Directive 2000/31/EC of the European Parliament and of the Council (30), Directive 2001/29/EC of the European Parliament and of the Council (31), Directive (EU) 2019/790 of the European Parliament and of the Council (32), Directive 2004/48/EC of the European Parliament and of the Council (33), Directive (EU) 2019/1024 of the European Parliament and of the Council (34), as well as Regulation 2018/858/EU of the European Parliament and of the Council (35), Directive 2010/40/EU of the European Parliament and of the Council (36) 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 ***Union or Member State law on the access and use of data for the purpose of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, as well as international cooperation in this context. This Regulation should be without prejudice to the competences of the Member States regarding activities concerning public***

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.

security, defence and national security. A horizontal regime for the re-use of certain categories of protected data held by public sector bodies, the provision of data **intermediation** 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.

²⁵ 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).

²⁶ 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.

²⁷ ***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)***

²⁸ ***Directive (EU) 2016/680 of the European Parliament and of the Council***

²⁵ 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).

²⁶ 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.

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)

²⁹ 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)

³⁰ 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)

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

³² 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)

³³ Directive 2001/29/EC of the European Parliament and of the Council of 22 May

²⁹ 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)

²⁸ 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)

²⁹ Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities. (OJ L 87, 31.03.2009, p. 164)

³⁰ 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)

³¹ 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)

³⁴ 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)

³⁵ 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).

³⁶ 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).

³⁷ 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).

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

2001 on the harmonisation of certain aspects of copyright and related rights in the information society. (OJ L 167, 22.6.2001, p. 10)

³² 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)

³³ 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).

³⁴ 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).

³⁵ 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).

³⁶ Directive 2010/40/EU of the European Parliament and of the Council of 7 July 2010 on the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other modes of transport. (OJ L 207, 6.8.2010, p. 1)

Amendment 3

Proposal for a regulation

Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) This Regulation is without prejudice to Regulation (EU) 2016/679^{1a} of the European Parliament and of the Council and to Directives 2002/58/EC^{1b} and (EU) 2016/680^{1c} of the European Parliament and of the Council. This Regulation should in particular not be read as creating a new legal basis for the processing of personal data for any of the regulated activities. In the event of conflict between the provisions of this Regulation and Union law on the protection of personal data, the latter should prevail. It should be possible to consider data protection authorities competent authorities for the purpose of this Regulation. Where other entities act as competent authorities under this Regulation, it should be without prejudice to the supervisory powers of data protection authorities under Regulation (EU) 2016/679.

^{1a} 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).

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

^{1c} 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).

Amendment 4

Proposal for a regulation Recital 3 b (new)

Text proposed by the Commission

Amendment

(3b) In the case of a data set composed of both personal and non-personal data, where these data are inextricably linked, the data set should be considered personal data.

Amendment 5

Proposal for a regulation Recital 4

Text proposed by the Commission

Amendment

(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.

(4) Action at Union level ***can help to increase awareness and foster trust regarding data sharing, in particular by establishing proper mechanisms for data subjects to know and meaningfully exercise their rights, as well as for data holders to exercise control over data,*** in order to address ***different*** 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 6

Proposal for a regulation

Recital 5

Text proposed by the Commission

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

Amendment

(5) The idea that data that has been generated at the expense of public budgets should benefit society has been part of Union policy for a long time. Directive (EU) 2019/1024 as well as sector-specific legislation ensure that the public sector makes more of the data it produces ***or holds*** 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 in public databases is often not made available ***despite this being possible in accordance with the applicable Union law, notably Regulation (EU) 2016/679, Directive (EU) 2016/680 and Directive (EU) 2002/58***, not even for research or innovative activities ***in the public interest***. Due to the sensitivity of this data, certain technical and legal procedural requirements must be met before they are made available, ***not least*** 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 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 7

Proposal for a regulation Recital 6

Text proposed by the Commission

(6) There are techniques enabling **privacy-friendly** analyses on databases that contain personal data, such as anonymisation, pseudonymisation, differential privacy, generalisation, or suppression and randomisation.

Application of these **privacy-enhancing** technologies, together with comprehensive data protection **approaches should ensure the safe** re-use of personal data and commercially confidential business data for research, innovation and statistical purposes. In many cases this implies that the data use and re-use in this context can only be done in a secure processing environment set in place and **supervised** by the public sector. There is experience at Union level with such secure processing environments that are used for research on statistical microdata on the basis of Commission Regulation (EU) 557/2013 ⁽³⁹⁾. 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.

³⁹ 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

Amendment

(6) There are techniques enabling analyses on databases that contain personal data, such as anonymisation, pseudonymisation, differential privacy, generalisation, or suppression, and randomisation **and other state-of-the-art privacy preserving methods that could contribute to a more privacy-friendly processing of data** Member States should **provide support to public sector bodies to make optimal use of such techniques, thus making as much data as possible available for sharing.** The application of these technologies, together with comprehensive data protection **impact assessments and other safeguards, can contribute to more safety in the use and re-use of certain categories of protected data, for example** 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 **subject to supervision** 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 ⁽³⁹⁾. 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 **and 9** of Regulation (EU) 2016/679.

³⁹ 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).

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 8

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 apply the principle of ‘open by design and by default’ as referred to in Recital (16) of Directive (EU) 2019/1024 and promote the creation and the procurement of data in formats and structures that allow for swift anonymisation in this regard.

Amendment 9

Proposal for a regulation Recital 7

Text proposed by the Commission

Amendment

(7) The categories of data held by public sector bodies which should be subject to re-use under this Regulation fall outside the scope of Directive (EU) 2019/1024 that excludes data which is not accessible due to commercial and statistical confidentiality and data for which third parties have intellectual property rights. Personal data fall outside the scope of Directive (EU) 2019/1024 insofar as the access regime excludes or restricts access to such data for reasons of data protection, privacy and the integrity of the individual, in particular in accordance with data protection rules. The re-use of data, which

(7) The categories of data held by public sector bodies which should be subject to re-use under this Regulation fall outside the scope of Directive (EU) 2019/1024 that excludes data which is not accessible due to commercial and statistical confidentiality and data for which third parties have intellectual property rights. ***This Regulation should apply to*** personal data ***that*** fall outside the scope of Directive (EU) 2019/1024 insofar as the access regime excludes or restricts access to such data for reasons of data protection, privacy and the integrity of the individual, in particular in accordance with data

may contain trade secrets, should take place without prejudice to Directive (EU) 2016/943⁴⁰, which sets the framework for the lawful acquisition, use or disclosure of trade secrets. This Regulation is without prejudice and complementary to more specific obligations on public sector bodies to allow re-use of data laid down in sector-specific Union or national law.

⁴⁰ OJ L 157, 15.6.2016, p. 1–18

Amendment 10

Proposal for a regulation Recital 9

Text proposed by the Commission

(9) Public sector bodies should comply with competition law when establishing the principles for re-use of data they hold, avoiding as far as possible the conclusion of agreements, which might have as their objective or effect the creation of exclusive rights for the re-use of certain data. Such agreement should be only possible when justified and necessary for the provision of a service of **general** interest. This may be the case when exclusive use of the data is the only way to maximise the societal benefits of the data in question, for example where there is only one entity (which has specialised in the processing of a specific dataset) capable of delivering the service or the product which allows the public sector body to provide an advanced digital service in the **general** interest. Such arrangements should, however, be concluded in compliance with public procurement rules and be subject to regular review based on a market analysis in order to ascertain whether such exclusivity continues to be necessary. In addition, such

protection rules. The re-use of data, which may contain trade secrets, should take place without prejudice to Directive (EU) 2016/943⁴⁰, which sets the framework for the lawful acquisition, use or disclosure of trade secrets. This Regulation is without prejudice and complementary to more specific obligations on public sector bodies to allow re-use of data laid down in sector-specific Union or national law. ***This Regulation should not create an obligation to allow re-use of personal data held by public sector bodies.***

⁴⁰ OJ L 157, 15.6.2016, p. 1–18

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 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 **public** interest. This may be the case when exclusive use of the data is the only way to maximise the societal benefits of the data in question, for example where there is only one entity (which has specialised in the processing of a specific dataset) capable of delivering the service or the product which allows the public sector body to provide an advanced digital service in the **public** interest. Such arrangements should, however, be concluded in compliance with public procurement rules and be subject to regular review based on a market analysis in order to ascertain whether such exclusivity continues to be necessary. In addition, such

arrangements should comply with the relevant State aid rules, as appropriate, and should be concluded for a limited period, which should not exceed three years. In order to ensure transparency, such exclusive agreements should be published online, regardless of a possible publication of an award of a public procurement contract.

Amendment 11

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 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***

arrangements should comply with the relevant State aid rules, as appropriate, and should be concluded for a limited period, which should not exceed three years. In order to ensure transparency, such exclusive agreements should be published online, regardless of a possible publication of an award of a public procurement contract.

Amendment

(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 ***provided in Union or Member State law***. Those conditions should be non-discriminatory, proportionate and objectively justified, while not restricting competition. 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 ***burden*** for the public sector. ***Conditions should be designed to ensure effective safeguards with regard to the protection of personal data. 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

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.

confidential information is disclosed. Where ***any requirements to complete a data protection impact assessment and consult the supervisory authority pursuant to Articles 35 and 36 of Regulation (EU) 2016/679 have been fulfilled and the risks for the rights and interests of data subjects are minimal***, 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. ***In a context of growing availability and sharing of data, even the re-use of non-personal data could have an impact on the protection of personal data, especially where such data are the result of anonymisation, aggregation and other techniques, as an increase in available data can lead to an increase in the chance of re-identification of data subjects, as also pointed out in the joint paper of the Agencia Española de Protección de Datos and the European Data Protection Supervisor entitled ‘10 misunderstandings related to anonymisation’, published on 27 April 2021. In the event of any re-identification of individuals concerned, the re-users should report the incident to the supervisory authority competent under Regulation (EU) 2016/679 and inform the public sector body.*** The public sector bodies, where relevant, should facilitate the re-use of ***personal*** data on the basis of consent of data subjects or, ***in case of non-personal data, on the basis of*** permissions of legal persons on the re-use of data pertaining to them, ***or permissions of data holders to allow the use of their non-personal data***, through adequate technical means. In this respect, ***it should be possible for the public sector body to*** support potential re-users in seeking such consent ***or permission*** by establishing technical

mechanisms that permit transmitting requests for consent *or permission* from re-users, where *permitted and* practically feasible. No contact information should be given that allows re-users to contact data subjects or companies directly. *When transmitting the request to consent to reuse of their data to data subjects that have previously given their consent, or where there is another legal basis for contacting them, the public sector body should ensure that the data subjects are thoroughly informed of their rights, in particular of the right to refuse such a request and not give their consent. The responsibility for demonstrating that valid consent has been obtained should lie with the re-users.*

Amendment 12

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 13

Proposal for a regulation Recital 14

Text proposed by the Commission

Amendment

(14) Companies and data subjects

(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.

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 14

Proposal for a regulation

Recital 15

Text proposed by the Commission

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

Amendment

(15) Furthermore, it is important to protect 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 subjects and** data holders, non-personal data which is to be protected from unlawful or unauthorised access under Union or national law, and which is held by public sector bodies, should be transferred only to third-countries where appropriate safeguards for the use of data are provided. Such appropriate safeguards should be considered to exist when in that third-country there are equivalent measures in place which ensure that non-personal data benefits from a level of protection similar to that applicable by means of Union or national law in particular as

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.

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 *subjects and data 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.

Amendment 15

Proposal for a regulation Recital 18

Text proposed by the Commission

(18) In order to prevent unlawful access

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 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**.

to non-personal data, 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 **Public Interest Data Hubs** should take all reasonable measures **to ensure a high level of cybersecurity that is proportionate to the sensitivity of data they process and** to prevent **unauthorised** access to the systems where non-personal data is stored, including encryption of data.

Amendment 16

Proposal for a regulation Recital 19

Text proposed by the Commission

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

Amendment

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

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 17

Proposal for a regulation

Recital 20

Text proposed by the Commission

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

Amendment

(20) Public sector bodies should be able to charge 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.

Amendment 18

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. ***The Commission should make public in an easily accessible way, and in all official languages of the Union, information about available data resources from all Member States' single information points. The single information point*** 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 ***subjects and data*** holders with management of ***consents and permissions***, including consent ***or permission to re-use*** for certain areas of scientific research when in keeping with recognised ethical standards for scientific research. ***The competent bodies should not have any supervisory function which is reserved for supervisory authorities under Regulation (EU) 2016/679. Without prejudice to the supervisory powers of data protection authorities***, 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, ***while fully respecting the powers of supervisory authorities under Regulation (EU) 2016/679.***

Amendment 19

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

Amendment

(22) Providers of data ***intermediation*** services (data intermediaries) are expected to play a key role in the data economy, ***in particular in supporting data intermediation practises between data holders and data users, based on voluntary agreements or Union or Member State law, as well as the provision of data by data subjects to data users based on consent. They could become*** 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 ***subjects and data*** holders and ***from*** 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 technical relation between data subjects ***and data holders***, 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

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 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 Council⁴² 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 Council⁴³ 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.

an **undefined** number of data **subjects and data** holders, **on the one hand**, and data users, **on the other hand**, excluding data **intermediation** services that are meant to be used by a closed group of data **subjects and data** holders, and users. Providers of cloud services should be excluded, as well as service providers that obtain data from **data subjects and** 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 **subjects and data** holders, **on the one hand**, and data users, **on the other hand**, for example advertisement or data brokers, data consultancies, providers of data products resulting from value added to the data by the service provider. At the same time, data **intermediation** 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 Council⁴² 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 Council⁴³ should not be considered as data **intermediation** 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 **public** interest by increasing the volume of data available for such purposes.

⁴² 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.

⁴³ 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.

⁴² 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.

⁴³ 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 20

Proposal for a regulation Recital 23

Text proposed by the Commission

(23) A specific category of data intermediaries includes providers of data **sharing** services that offer their services to data subjects in the sense of Regulation (EU) 2016/679. Such providers **focus exclusively on personal data and** seek to enhance individual agency and the individuals' control over the data **pertaining** to them. They would assist individuals in exercising their rights under Regulation (EU) 2016/679, in particular **managing** their consent to data processing, the right of access to their own data, the right to the rectification of inaccurate personal data, the right of erasure or right 'to be forgotten', the right to restrict processing and the data portability right,

Amendment

(23) A specific category of data intermediaries includes providers of data **intermediation** services that offer their services to data subjects in the sense of Regulation (EU) 2016/679. Such providers seek to enhance individual agency and **in particular** the individuals' control over the data **relating** to them. They would assist individuals in exercising their rights under Regulation (EU) 2016/679, in particular **giving and withdrawing** their consent to data processing, the right of access to their own data, the right to the rectification of inaccurate personal data, the right of erasure or right 'to be forgotten', the right to restrict processing and the data portability right, which allows data

which allows data subjects to move their personal data from one controller to the other. In this context, it is important that their business model ensures that there are no misaligned incentives that encourage individuals to make more data available for processing than what is in the individuals' own interest. This could include advising individuals on uses of their data they could allow and making due diligence checks on data users before allowing them to contact data subjects, in order to avoid fraudulent practices. In certain situations, it could be desirable to collate actual data within a personal data storage space, or 'personal data space' so that processing can happen within that space without personal data being transmitted to third parties in order to maximise the protection of personal data and privacy.

subjects to move their personal data from one controller to the other. In this context, it is important that their business model ensures that there are no misaligned incentives that encourage individuals to make more data available for processing than what is in the individuals' own interest. This could include advising individuals on uses of their data they could allow and making due diligence checks on data users before allowing them to contact data subjects, in order to avoid fraudulent practices. In certain situations, it could be desirable to collate actual data within a personal data storage space, or 'personal data space' so that processing can happen within that space without personal data being transmitted to third parties in order to maximise the protection of personal data and privacy.

Amendment 21

Proposal for a regulation Recital 24

Text proposed by the Commission

(24) Data cooperatives seek to strengthen the position of individuals in making informed choices before consenting to data use, influencing the terms and conditions of data user organisations attached to data use or potentially ***solving disputes between*** members of a group on how data can be used when such data ***pertain*** to several data subjects within that group. In this context it is important to acknowledge that the rights under Regulation (EU) 2016/679 can only be exercised by each individual and cannot be conferred or delegated to a data cooperative. Data cooperatives could also provide a useful means for one-person companies, micro, small and medium-sized enterprises that in terms of knowledge of data sharing, are often comparable to individuals.

Amendment

(24) Data cooperatives seek to ***achieve a number of objectives, in particular to*** strengthen the position of individuals in making informed choices before consenting to data use, influencing the terms and conditions of data user organisations attached to data use ***in a manner that gives better choices to the individual members of the group*** or potentially ***finding solutions to conflicting positions of individual*** members of a group on how data can be used when such data ***relates*** to several data subjects within that group. In this context it is important to acknowledge that the rights under Regulation (EU) 2016/679 can only be exercised by each individual and cannot be conferred or delegated to a data cooperative. Data cooperatives could also provide a useful means for one-person companies, micro, small and medium-sized

enterprises that in terms of knowledge of data sharing, are often comparable to individuals.

Amendment 22

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 subjects and** 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 **subjects and data** holders, **as well as** 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, providers **of data intermediation services** 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 **subjects and data** holders **with** data users.

Amendment 23

Proposal for a regulation Recital 26

Text proposed by the Commission

(26) A key element to bring trust and

Amendment

(26) A key element to bring trust and

more control for data **holder and** data users in data **sharing** services is the neutrality of **data 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**.

more control for data **subjects and data holders, as well as** data users, in data **intermediation** services is the neutrality of providers **of data intermediation services** as regards the data exchanged between data **subjects and data** holders, **on the one hand**, and data users, **on the other hand**. 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, **with the exception of where it is used strictly to improve their services**. 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** that intermediate the exchange of data between individuals as data **subjects** and legal persons **as data users** should, in addition, bear fiduciary duty towards the individuals, to ensure that they act in the best interest of the data **subjects**. **Data intermediation services should be able to offer additional specific tools and services to data subjects and data holders to facilitate the exercise of the data subjects' rights, on the one hand, and the exchange of data, on the other hand. Those tools and services should only be used at the request of, or following the consent of, data subjects, and at the explicit request or with the explicit approval of the data holder. Such tools and services can include analysis, temporary storage, aggregation, curation, conversion, anonymisation, and pseudonymisation. Third-party tools offered in that context should not use data for other purposes.**

Amendment 24

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. 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

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. 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 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

sharing services to act on the latter's behalf with regard to the latter's obligations under this Regulation.

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 25

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. ***When providers of data intermediation services process personal data, this Regulation should not affect the protection of personal data.*** 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 26

Proposal for a regulation

Recital 29

Text proposed by the Commission

(29) Providers of data **sharing** services should also take measures to ensure compliance with competition law. Data sharing may generate various types of efficiencies but may also lead to restrictions of competition, in particular where it includes the sharing of competitively sensitive information. This applies in particular in situations where data sharing enables businesses to become

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.

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 27

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 28

Proposal for a regulation Recital 31

Text proposed by the Commission

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

Amendment

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

Regulation.

Amendment 29

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 30

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. Member States should notify the Commission of the identity of the designated competent authorities.

Amendment 31

Proposal for a regulation

Recital 34

Text proposed by the Commission

(34) The notification framework laid down in this Regulation should be without prejudice to specific additional rules for the provision of data **sharing** services applicable by means of sector-specific legislation.

Amendment

(34) The notification framework laid down in this Regulation should be without prejudice to specific additional rules for the provision of data **intermediation** services applicable by means of sector-specific legislation.

Amendment 32

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 **public** interest. Such purposes would include healthcare, combating climate change, improving mobility, **improving education**, 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, **can also fulfil** purposes of **public** interest. This Regulation aims at contributing to the emergence of pools of **interoperable** 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 33

Proposal for a regulation
Recital 36

Text proposed by the Commission

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

(36) Legal entities that seek to support purposes of **public** interest by making available relevant data based on data altruism at scale and meet certain requirements, should be able to **apply for registration as ‘Public Interest Data Hub’**. 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. 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 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 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, **including representatives from civil society and relevant affected communities**, to ensure that the data controller maintains high standards of scientific ethics **and protection of fundamental rights**, 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.

about the use of data they made available.

Amendment 34

Proposal for a regulation

Recital 37

Text proposed by the Commission

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

Amendment

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

Amendment 35

Proposal for a regulation

Recital 38

Text proposed by the Commission

(38) **Data Altruism Organisations recognised in the Union** should be able to collect relevant data directly from natural and legal persons or to process data collected by others. Typically, data altruism would rely on consent of data subjects in the sense of Article 6(1)(a) and 9(2)(a) and in compliance with requirements for lawful consent in accordance with Article 7 of Regulation (EU) 2016/679. In accordance with Regulation (EU) 2016/679, scientific research purposes can be supported by consent to certain areas of scientific research when in keeping with recognised ethical standards for scientific research or only to certain areas of research or parts of research projects. Article 5(1)(b) of Regulation (EU) 2016/679 specifies that

Amendment

(38) **Public Interest Data Hubs** should be able to collect relevant data directly from natural and legal persons or to process data collected by others. **Where they are data controllers or processors in the meaning of Regulation (EU) 2016/679, they are bound by that Regulation.** Typically, data altruism would rely on consent of data subjects in the sense of Article 6(1)(a) and 9(2)(a) and in compliance with requirements for lawful consent in accordance with Article 7 **and 8** of Regulation (EU) 2016/679. In accordance with Regulation (EU) 2016/679, scientific research purposes can be supported by consent to certain areas of scientific research when in keeping with recognised ethical standards for scientific research or only to certain areas of research

further processing for scientific or historical research purposes or statistical purposes should, in accordance with Article 89(1) of Regulation (EU) 2016/679, not be considered to be incompatible with the initial purposes.

or parts of research projects. Article 5(1)(b) of Regulation (EU) 2016/679 specifies that further processing for scientific or historical research purposes or statistical purposes should, in accordance with Article 89(1) of Regulation (EU) 2016/679, not be considered to be incompatible with the initial purposes. ***For non-personal data, the usage limitations should be found in the permission given by the data holder.***

Amendment 36

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, ***the Union-level coordination board of [supervisory authorities for artificial intelligence as proposed in the Proposal for an Artificial Intelligence Act]^{1a}, and the cybersecurity Cooperation Group, established by Directive (EU) 2016/1148 of the European Parliament and of the Council^{1b},*** should be invited to appoint a representative to the European Data Innovation Board.

^{1a} “***European Artificial Intelligence Board***” in the ***Proposal for a regulation of the European Parliament and of the Council laying down harmonised rules on***

artificial intelligence (Artificial Intelligence Act) and amending certain union legislative acts

^{1b} Directive (EU) 2016/1148 of the European Parliament and of the Council concerning measures for a high common level of security of network and information systems across the Union (OJ L 194, 19.7.2016, p. 1)

Amendment 37

Proposal for a regulation Recital 44

Text proposed by the Commission

(44) This Regulation should not affect the application of the rules on competition, and in particular Articles 101 and 102 of the Treaty on the Functioning of the European Union. The measures provided for in this Regulation should not be used to restrict competition in a manner contrary to the Treaty on the Functioning of the European Union. This concerns in particular the rules on the exchange of competitively sensitive information between actual or potential competitors through data **sharing** services.

Amendment

(44) This Regulation should not affect the application of the rules on competition, and in particular Articles 101 and 102 of the Treaty on the Functioning of the European Union. The measures provided for in this Regulation should not be used to restrict competition in a manner contrary to the Treaty on the Functioning of the European Union. This concerns in particular the rules on the exchange of competitively sensitive information between actual or potential competitors through data **intermediation** services.

Amendment 38

Proposal for a regulation Recital 45

Text proposed by the Commission

(45) The European Data Protection Supervisor and the European Data Protection Board were consulted in accordance with Article 42 of Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽⁴⁷⁾ and delivered an opinion on [...].

Amendment

(45) The European Data Protection Supervisor and the European Data Protection Board were consulted in accordance with Article 42 of Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽⁴⁷⁾ and delivered an opinion on **10 March 2021**.

⁴⁷ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

⁴⁷ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

Amendment 39

Proposal for a regulation

Article 1 – paragraph 1 – point b

Text proposed by the Commission

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

Amendment

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

Amendment 40

Proposal for a regulation

Article 1 – paragraph 1 – point c

Text proposed by the Commission

(c) a framework for *voluntary* registration of entities which collect and process data made available for altruistic purposes.

Amendment

(c) a framework for registration of entities which collect and process data made available for altruistic purposes.

Amendment 41

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 personal or non-personal data. Where a sector-specific Union legal act requires

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.

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 42

Proposal for a regulation

Article 1 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(2a) Union and Member State law on the protection of personal data apply to any personal data processed in connection with this Regulation. In particular, this Regulation is without prejudice to Regulations (EU) 2016/679^{1a} and (EU) 2018/1725^{1b} of the European Parliament and of the Council and Directive 2002/58/EC of the European Parliament and of the Council^{1c}, and the corresponding provisions in Member State law, including the competences and powers of supervisory authorities. In the event of conflict between the provisions of this Regulation and Union law on the protection of personal data, the latter prevails. This Regulation does not create a legal basis for the processing of personal data.

^{1a} 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)

^{1b} Regulation (EU) 2018/1725 of the European Parliament and of the Council

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

^{1c} Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37)

Amendment 43

Proposal for a regulation

Article 1 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

(2b) Where data can be reasonably assumed to lead to the identification or identifiability of natural persons when combined with other datasets, or where personal and non-personal data in a data set are inextricably linked in mixed data sets, the data shall be treated as personal data.

Amendment 44

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(2a) 'personal data' means personal data as defined in Article 4, point (1), 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 Article 4, point (11), of Regulation (EU) 2016/679 and subject to the conditions set out in Article 7 and Article 8 of that Regulation;

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 Article 4, point (1), of Regulation (EU) 2016/679;

Amendment 47

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

Text proposed by the Commission

Amendment

(4) ‘metadata’ means data collected on any activity of a natural or legal person for the purposes of the provision of a data sharing service, including the date, time and geolocation data, duration of activity, connections to other natural or legal persons established by the person who uses the service;

deleted

Amendment 48

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

Text proposed by the Commission

Amendment

(5) ‘data holder’ means a legal person

(5) ‘data holder’ means a *natural or*

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;

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 49

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

Text proposed by the Commission

(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;

Amendment

(6) ‘data user’ means a natural or legal 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 50

Proposal for a regulation Article 2 – paragraph 1 – point 6 a (new)

Text proposed by the Commission

Amendment

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

Amendment 51

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 sharing’ means the provision **of data** by a data holder to a data user for the purpose of joint or individual use of **that** data, based on voluntary agreements **or Union law, as well as the provision of data by a data subject to a data user based on consent**, directly or through an intermediary;

Amendment 52

Proposal for a regulation

Article 2 – paragraph 1 – point 7 a (new)

Text proposed by the Commission

Amendment

(7a) ‘data intermediation service’ means a service, that, through the provision of technical, legal and other means establishes relationships between an undefined number of data subjects or data holders, on the one hand, and data users, on the other hand;

Amendment 53

Proposal for a regulation

Article 2 – paragraph 1 – point 7 b (new)

Text proposed by the Commission

Amendment

(7b) ‘processing’ means processing as defined in Article 4, point (2), of Regulation (EU) 2016/679;

Amendment 54

Proposal for a regulation

Article 2 – paragraph 1 – point 8

Text proposed by the Commission

Amendment

(8) ‘access’ means *processing by a data user of data that has been provided by a data holder*, in accordance with specific technical, legal, or organisational requirements, without necessarily implying the transmission or downloading of such data;

(8) ‘access’ means *data use*, in accordance with specific technical, legal, or organisational requirements, without necessarily implying the transmission or downloading of such data;

Amendment 55

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Text proposed by the Commission

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

Amendment

(10) ‘data altruism’ means ***voluntary data sharing by data holders, or the consent to data sharing by a data subject,*** without seeking ***or receiving*** a reward, for purposes of ***public*** interest, such as ***healthcare, combating climate change, improving mobility, facilitating the establishment of official statistics, improving public services, or*** scientific research purposes ***in the public interest***;

Amendment 56

Proposal for a regulation

Article 2 – paragraph 1 – point 10 a (new)

Text proposed by the Commission

Amendment

(10a) ‘Public Interest Data Hub’ means an entity controlling, facilitating the processing, or processing itself, data pursuant to paragraph 10 for objectives of public interest such as healthcare, combating climate change, improving mobility, facilitating the establishment of official statistics, improving public services, or scientific research purposes in the public interest;

Amendment 57

Proposal for a regulation

Article 2 – paragraph 1 – point 12 – point a

Text proposed by the Commission

Amendment

(a) they are established for the specific purpose of meeting needs in the ***general*** interest, and do not have an industrial or commercial character;

(a) they are established for the specific purpose of meeting needs in the ***public*** interest, and do not have an industrial or commercial character;

Amendment 58

Proposal for a regulation

Article 2 – paragraph 1 – point 14

Text proposed by the Commission

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

Amendment

(14) ‘secure processing environment’ means the physical or virtual environment and organisational means to provide the opportunity to re-use data in a manner that **ensures compliance with applicable law, in particular the preservation of the rights of data subjects under Regulation (EU) 2016/679, and commercial and statistical confidentiality as appropriate, and** that allows **the entity providing** the secure processing environment to determine and supervise all data processing actions, including **the** display, storage, download, export of the data, and calculation of derivative data.

Amendment 59

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 **public** 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 60

Proposal for a regulation

Article 3 – paragraph 2 – point e a (new)

Text proposed by the Commission

Amendment

(ea) personal data processed in the context of employment.

Amendment 61

Proposal for a regulation Article 3 – paragraph 3

Text proposed by the Commission

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. 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.

(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 Member State 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 62

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, Directive (EU) 2019/1024 applies, without prejudice to the provisions of Article 5 of this Directive.

Amendment 63

Proposal for a regulation Article 4 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 64

**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 ***only*** to the extent necessary for the provision of a service or a product ***with a defined public*** interest.

Amendment 65

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

Text proposed by the Commission

(4) In all cases not covered by paragraph 3 and where the ***general*** interest purpose cannot be fulfilled without granting an exclusive right, the principles of transparency, equal treatment and non-discrimination on grounds of nationality shall apply.

Amendment

(4) In all cases not covered by paragraph 3 and where the ***public*** interest purpose cannot be fulfilled without granting an exclusive right, the principles of transparency, equal treatment and non-discrimination on grounds of nationality shall apply.

Amendment 66

Proposal for a regulation
Article 5 – paragraph 3

Text proposed by the Commission

Amendment

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

deleted

Amendment 67

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

Text proposed by the Commission

Amendment

(4) Public sector bodies *may* impose obligations

(4) Public sector bodies *shall, in accordance with Union law*, impose conditions necessary to preserve protection on the grounds listed in Article 3(1) to enable re-use. These conditions shall consist of one or more of the following requirements:

Amendment 68

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

Text proposed by the Commission

Amendment

(-a) in the case of personal data to only allow access to pre-processed data that has been anonymised, and in the case of commercially confidential information, including trade secrets, confidential statistical data, and content protected by intellectual property rights to only allow access to data that has been modified, aggregated, or treated by any other method to prevent unwanted disclosure;

Amendment 69

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 70

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) ***In cases where re-use has been allowed in accordance with paragraph 4, points (a) and (b),*** 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 ***reserve the right*** to verify ***the process, the means and*** any results of processing of data undertaken by the re-user ***to preserve the integrity of the protection of the data,*** and shall reserve the right to prohibit the use of results that contain information jeopardising the rights and interests of third parties. ***In order to use such a secure processing environment, the re-user shall enter into a confidentiality agreement that prohibits the disclosure of any information jeopardising the rights and interests of third parties that the re-user may have acquired despite the safeguards and conditions put in place pursuant to paragraph 4.***

Amendment 71

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

Text proposed by the Commission

Amendment

(5a) *Public sector bodies shall apply technical means that prevent the re-users from identifying any data subject as a result of the processing outside the secure processing environment and shall hold the re-users responsible for continuously assessing the risk of identification and de-anonymisation of the results of the processing and for reporting to the public sector body concerned any breaches of the confidentiality, the integrity or the security of the data, in particular where a data breach has resulted in identification of an individual, notwithstanding any reporting obligations under Union law.*

Amendment 72

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

Text proposed by the Commission

Amendment

(5b) *Where it can be reasonably assumed, or where an impact assessment indicates that there is a specific risk, that the processing or subsequent combination of data could lead to identification or de-anonymisation, the public sector body shall not allow access to, or re-use of, the data before any requirements of completing a data protection impact assessment and consulting the supervisory authority pursuant to Articles 35 and 36 of Regulation (EU) 2016/679 have been fulfilled.*

Amendment 73

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

Text proposed by the Commission

Amendment

(5c) *Re-use with the purpose of*

identifying data subjects or otherwise de-anonymising datasets shall be prohibited, unless the data subjects have given their consent.

Amendment 74

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

Text proposed by the Commission

Amendment

(5d) The public sector bodies shall publish a list of categories of anonymised data made available for re-use, the methods used for anonymisation and other pre-processing, as well as methods of transmission, covering a period of at least the preceding two calendar years or the shorter period anonymised data was made available for re-use.

Amendment 75

Proposal for a regulation Article 5 – paragraph 6

Text proposed by the Commission

Amendment

(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).

(6) Where the re-use of **personal** data cannot be granted in accordance with the obligations laid down in paragraphs 3 to 5d and there is no other legal basis for transmitting the data under Regulation (EU) 2016/679, the public sector body shall support **entities requesting re-use** in seeking **valid** consent of the data subjects, **insofar as a legal basis exists for the public sector body to collect their consent**, and/or permission from the **data holders** whose rights and interests may be affected by such re-use, where it is feasible without disproportionate cost for the public sector, **and where there is no reason to believe that the combination of non-personal data sets would lead to the identification of data subjects**. In that task they may be assisted by the competent

bodies referred to in Article 7 (1). ***Re-use of data shall be conditional on the re-user entering into a confidentiality agreement.***

Amendment 76

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

Text proposed by the Commission

Amendment

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

Amendment 77

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

Text proposed by the Commission

Amendment

(6b) Where appropriate, public sector bodies shall invite individuals and civil society, including consumer protection organisations, in an open and collaborative manner, to participate in setting up processes for allowing the re-use of personal data.

Amendment 78

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

Text proposed by the Commission

Amendment

(6c) Re-use of personal data shall take into account the outcome of prior data protection impact assessments, where such data protection impact assessments

are required by Union law, in particular where special categories of data and sensitive sectors, such as the health sector, are concerned.

Amendment 79

Proposal for a regulation

Article 5 – paragraph 9 – introductory part

Text proposed by the Commission

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

Amendment

(9) ***When this is justified by a high volume of cases pursuant to paragraph 10 in specific third countries,*** the Commission may adopt implementing acts declaring that the legal, supervisory and enforcement arrangements of a third country:

Amendment 80

Proposal for a regulation

Article 5 – paragraph 10 – introductory part

Text proposed by the Commission

(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:

Amendment

(10) Public sector bodies shall ***impose an obligation upon the re-user not to transfer non-personal*** data or data protected ***on grounds set out in Article 3 (1), points (a), (b) or (c)*** to a third country other than a country designated in accordance with paragraph 9 ***unless*** the re-user undertakes:

Amendment 81

Proposal for a regulation

Article 5 – paragraph 11

Text proposed by the Commission

(11) Where specific Union acts adopted in accordance with a legislative procedure establish that certain non-personal data

Amendment

(11) Where specific Union acts adopted in accordance with a legislative procedure establish that certain non-personal data

categories held by public sector bodies shall be deemed to be highly sensitive for the purposes of this Article, the Commission shall be empowered to adopt delegated acts in accordance with Article 28 supplementing this Regulation by laying down special conditions applicable for transfers to third-countries. **The conditions for the transfer to third-countries** shall be based on the nature of data categories identified in the Union act and on the grounds for deeming them highly sensitive, non-discriminatory and limited to what is necessary to achieve the public policy objectives identified in the Union law act, such as safety and public health, as well as risks of **re-identification of anonymized data for** data subjects, in accordance with the Union's international obligations. **They** may include terms applicable for the transfer or technical arrangements in this regard, 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, in exceptional cases, restrictions as regards transfers to third-countries.

categories held by public sector bodies shall be deemed to be highly sensitive for the purposes of this Article **and where their transfer to third countries may put at risk Union policy objectives, including with respect to safety and public health**, the Commission shall be empowered to adopt delegated acts in accordance with Article 28 supplementing this Regulation by laying down special conditions applicable for transfers to third-countries. **Those** conditions shall be based on the nature of data categories identified in the Union act and on the grounds for deeming them highly sensitive, non-discriminatory and limited to what is necessary to achieve the public policy objectives identified in the Union law act, such as safety and public health, as well as risks of **identification of** data subjects, in accordance with the Union's international obligations. **The conditions** may include terms applicable for the transfer or technical arrangements in this regard, 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, in exceptional cases, restrictions as regards transfers to third-countries.

Amendment 82

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 about the **intention to transfer that** data to that third country **and the purpose for the transfer**.

Amendment 83

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, ***create incentives to lower the protection of sensitive data, or inhibit the re-use of data for purposes in the public interest.***

Amendment 84

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) ***by non-profit organisations and*** for non-commercial purposes ***such as scientific research,*** and by small and medium-sized enterprises in line with State aid rules. ***Where possible, this should allow the re-use at lower or no cost.***

Amendment 85

Proposal for a regulation
Article 6 – paragraph 5

Text proposed by the Commission

(5) Fees shall be derived from the costs related to the processing of requests for re-use of the categories of data referred to in Article 3 (1). ***The*** methodology for calculating fees shall be published in advance.

Amendment

(5) Fees shall be derived from the costs related to the processing of requests for re-use of the categories of data referred to in Article 3 (1). ***Any fees shall be limited to covering the costs incurred, such as for the preparation of data to uphold protection on the grounds listed in Article 3(1), for maintaining the secure processing environment and further costs***

incurred by Article 5(3), incurred in relation to supporting re-users seeking consent and permission as provided in Article 5(6), and incurred by monitoring and enforcement. The criteria and methodology for calculating fees shall be published in advance.

Amendment 86

Proposal for a regulation Article 7 – paragraph 1

Text proposed by the Commission

(1) Member States shall designate one or more competent bodies, which may be sectoral, to support the public sector bodies which grant access to the re-use of the categories of data referred to in Article 3 (1) in the exercise of that task.

Amendment

(1) ***For the tasks mentioned in this Article,*** Member States shall designate ***or establish*** one or more competent bodies, which may be sectoral, to support the public sector bodies which grant access to the re-use of the categories of data referred to in Article 3 (1) in the exercise of that task.

Amendment 87

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

Text proposed by the Commission

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

Amendment

(b) providing technical support ***for*** ensuring data processing in a manner that preserves privacy of the information contained in the data for which re-use is allowed;

Amendment 88

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 89

Proposal for a regulation

Article 7 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(c) assisting the public sector bodies **to support re-users** in obtaining consent **for re-use of personal data** or permission **from data holders** in line with **their** specific decisions, including on the jurisdiction or jurisdictions in which the data processing is intended to take place;

Amendment 90

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

(ca) **assisting public sector bodies, where relevant, with formatting data for ensuring a higher level of interoperability with other data available for re-use, according to Union interoperability standards and without prejudice to the data itself or to Union law;**

(1) **Each** Member **State** shall ensure that all relevant information concerning the application of Articles 5 and 6 is available through a single information point. **They shall inform the Commission of the single information points.**

Amendment 91

Proposal for a regulation

Article 8 – paragraph 2

Text proposed by the Commission

(2) The single information point shall receive requests for the re-use of the

Amendment

(2) The single information point shall receive requests for the re-use of the

categories of data referred to in Article 3 (1) and shall transmit them to the competent public sector bodies, or the competent bodies referred to in Article 7 (1), where relevant. **The** single information point shall make available by electronic means a register of available data resources containing relevant information describing the nature of available data.

Amendment 92

Proposal for a regulation

Article 8 – paragraph 2 a (new)

Text proposed by the Commission

categories of data referred to in Article 3 (1) and shall transmit them to the competent public sector bodies, or the competent bodies referred to in Article 7 (1), where relevant. **Each** single information point shall make available by electronic means a register of available data resources containing relevant information describing the nature of available data.

Amendment

(2a) The Commission shall make public in an easily accessible way, and in all official languages of the Union, information about available data resources from all Member States' single information points.

Amendment 93

Proposal for a regulation

Article 8 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Amendment 94

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 95

Proposal for a regulation

Article 9 – paragraph 1 – point a

Text proposed by the Commission

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

Amendment

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

Amendment 96

Proposal for a regulation

Article 9 – paragraph 1 – point b

Text proposed by the Commission

(b) intermediation services between data subjects that seek to make their personal data available and potential data users, including making available the technical or other means to enable such services, **in** the exercise of the rights provided in Regulation (EU) 2016/679;

Amendment

(b) intermediation services between data subjects that seek to make their personal data available and potential data users, including making available the technical or other means to enable such services, **and in particular enabling** the exercise of the **data subjects'** rights provided in Regulation (EU) 2016/679;

Amendment 97

Proposal for a regulation

Article 9 – paragraph 1 – point c

Text proposed by the Commission

(c) ***services*** of data cooperatives, that is to say services ***supporting data subjects or one-person companies or micro, small and medium-sized enterprises, who are members of the cooperative or who confer the power to the cooperative to negotiate terms and conditions for data processing before they consent, in making informed choices before consenting to data processing, and allowing for mechanisms to exchange views on data processing purposes and conditions that would best represent the interests of data subjects or legal persons.***

Amendment

(c) ***activities*** of data cooperatives, that is to say ***organisations or*** services, ***which:***

Amendment 98

Proposal for a regulation

Article 9 – paragraph 1 – point c – point i (new)

Text proposed by the Commission

Amendment

i) support members who are data subjects to exercise the rights provided in Regulation (EU) 2016/679, by offering services including, but not limited to, collectively negotiating terms and conditions for data processing, and allowing for mechanisms to exchange views on data processing purposes and conditions, thereby representing their interests; this may be paired with making available data storage services to members; or

Amendment 99

Proposal for a regulation

Article 9 – paragraph 1 – point c – point ii (new)

Text proposed by the Commission

Amendment

ii) enable small and medium-sized

enterprises and not-for-profit or academic institutions who are members of the cooperative or who confer the power to the cooperative to collectively negotiate terms for sharing non-personal data.

Amendment 100

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 **Regulation** 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 and competition law.

Amendment 101

Proposal for a regulation Article 10 – title

Text proposed by the Commission

*Notification of **data sharing service** providers*

Amendment

*Notification of providers **of data intermediation services***

Amendment 102

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 103

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 104

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. ***The representative shall be mandated by the provider of data intermediation services to be addressed in addition to or instead of it by, in particular, competent authorities and data subjects and data holders on all issues related to the data intermediation services for the purposes of ensuring compliance with this Regulation. The fact that a given Member State will have jurisdiction over a provider of a data intermediation service on the basis of that provider's representative being established in that Member State shall not prevent the initiation of legal action against that provider in any other jurisdiction or forum.***

Amendment 105

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) *A provider of data intermediation services shall not start the activity before any measures required under applicable law have been taken, in particular completing a data protection impact assessment and consulting the supervisory authority pursuant to Articles 35 and 36 of Regulation (EU) 2016/679. Without prejudice to any such obligations*, the provider of data *intermediation* services may start the activity subject to the conditions laid down in this Chapter *upon notification of the competent authority*.

Amendment 106

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 107

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 108

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

Text proposed by the Commission

Amendment

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

(d) a ***publicly accessible*** website where information on the provider and the activities can be found, ***including as a minimum the information referred to in this paragraph, points (a), (b), (c), (e), (f), and (fa)***;

Amendment 109

Proposal for a regulation

Article 10 – paragraph 6 – point f

Text proposed by the Commission

Amendment

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

(f) a description of the ***services*** the provider intends to provide ***and a declaration of compliance with the conditions set out in Article 11 and with Regulation (EU) 2016/679 when the data intermediation service involves personal data***;

Amendment 110

Proposal for a regulation

Article 10 – paragraph 6 – point f a (new)

Text proposed by the Commission

Amendment

(fa) the nature of data to be controlled, processed, or re-used by the provider, including information, where applicable, on whether the provider intends to provide services on the basis of, or can reasonably assume to process, any of the following: personal data or anonymised data that was derived from personal data; in the case of personal data, an indication of the categories of personal data and the categories of recipients of personal data;

Amendment 111

Proposal for a regulation
Article 10 – paragraph 6 – point f b (new)

Text proposed by the Commission

Amendment

(fb) an indication in the case of processing of personal data or where the provider can reasonably assume that the combination of non-personal data under the service it provides could lead to the identification or identifiability of natural persons;

Amendment 112

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

Text proposed by the Commission

Amendment

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

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

Amendment 113

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

Text proposed by the Commission

Amendment

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

deleted

Amendment 114

Proposal for a regulation
Article 10 – paragraph 7

Text proposed by the Commission

Amendment

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

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

Amendment 115

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 and shall make available in that register the information referred to in paragraph 6, points (a), (b), (c), (d),(f), (fa) and (fb).**

Amendment 116

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 117

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

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

notification to the national competent authorities in the Member States and to the Commission by electronic means.

without delay each such notification to the national competent authorities in the Member States and to the Commission by electronic means.

Amendment 118

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 119

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 120

Proposal for a regulation

Article 11 – paragraph 1 – point 1

Text proposed by the Commission

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

Amendment

(1) the 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 shall be placed in a separate legal entity;

Amendment 121

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 **data** collected **with respect to any activity of a natural or legal person for the purposes of** the provision of **a data intermediation service, including the date, time and geolocation data, duration of activity and connections to other natural or legal persons established by the person who uses the** service, may be used only for the development of that service;

Amendment 122

Proposal for a regulation

Article 11 – paragraph 1 – point 3

Text proposed by the Commission

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

Amendment

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

Amendment 123

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 **a data subject or a** 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 124

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 subjects and data holders to facilitate the exercise of the data subjects' rights, on the one hand, and the exchange of data, on the other hand, those tools and services to be used only at the request, or following the consent, of data subjects and at the explicit request or approval of the data holder with third-party tools offered in that context not to use data for other purposes;

Amendment 125

Proposal for a regulation
Article 11 – paragraph 1 – point 5

Text proposed by the Commission

Amendment

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

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

Amendment 126

Proposal for a regulation
Article 11 – paragraph 1 – point 6

Text proposed by the Commission

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 have sufficient guarantees in place that allow data holders and data users to obtain access to their data in case of insolvency;

(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 **and effective** guarantees in place that allow data holders and data users to obtain access to, **to transfer or to retrieve**, their data, **or, in the case of providing intermediation**

services between data subjects and data users pursuant to Article 9(1), point b, that allow data subjects to exercise their rights in case of the provider's insolvency;

Amendment 127

Proposal for a regulation

Article 11 – paragraph 1 – point 6 a (new)

Text proposed by the Commission

Amendment

(6a) the provider shall take reasonable measures to ensure interoperability with other data intermediation services by means of accessible application programming interfaces (APIs), making use of commonly used formats and commonly used, formal or informal, open standards in the sector in which the providers of data sharing intermediation services operate;

Amendment 128

Proposal for a regulation

Article 11 – paragraph 1 – point 9

Text proposed by the Commission

Amendment

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

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

Amendment 129

Proposal for a regulation

Article 11 – paragraph 1 – point 9 a (new)

Text proposed by the Commission

Amendment

(9a) the provider may in particular provide the data subjects with easily accessible tools, allowing them a comprehensive view of how, with whom,

and for which specific purpose their personal data are shared by the provider;

Amendment 130

Proposal for a regulation

Article 11 – paragraph 1 – point 11

Text proposed by the Commission

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

Amendment

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

Amendment 131

Proposal for a regulation

Article 12 – paragraph 3

Text proposed by the Commission

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

Amendment

(3) **The powers of** the designated competent authorities **are without prejudice to the powers of** the data protection authorities, the national **supervisory authorities for artificial intelligence, the national** competition authorities, the authorities in charge of cybersecurity, and other relevant sectorial authorities. **In accordance with their respective competences under Union and Member State law, those authorities** shall exchange the information which is necessary for the exercise of their tasks in relation to data **intermediation** providers. **On any question regarding compliance with Regulation (EU) 2016/679, the competent supervisory authorities established pursuant to that Regulation**

are fully competent.

Amendment 132

Proposal for a regulation

Article 13 – paragraph 2

Text proposed by the Commission

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

Amendment

(2) The competent authority shall have the power to **make reasoned requests** from providers of data **intermediation** services all the information that is necessary to verify compliance with the requirements ***of this Chapter.***

Amendment 133

Proposal for a regulation

Article 13 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Amendment 134

Proposal for a regulation

Article 13 – paragraph 4

Text proposed by the Commission

(4) The competent authority shall have the power to require the cessation of the breach referred to in paragraph 3 either immediately or within a reasonable time limit and shall take appropriate and

Amendment

(4) The competent authority shall have the power to require the cessation of the breach referred to in paragraph 3 either immediately or within a reasonable time limit and shall take appropriate and

proportionate measures aimed at ensuring compliance. In this regard, the competent authorities shall be able, *where appropriate*:

proportionate measures aimed at ensuring compliance. In this regard, the competent authorities shall be able:

Amendment 135

Proposal for a regulation

Article 13 – paragraph 4 – point a

Text proposed by the Commission

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

Amendment

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

Amendment 136

Proposal for a regulation

Article 13 – paragraph 4 – point b

Text proposed by the Commission

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

Amendment

(b) to require cessation of the provision of the data *intermediation* service *in cases where intentional, repeated, serious or substantial breaches have not been corrected even after the competent authority gave prior notification, issued a warning or requested postponement of the provision of such a service until after modifications of the conditions of service; the competent authority shall request the Commission to remove the provider of the data intermediation service from the register of providers of data intermediation services, once it has ordered the cessation of the service.*

Amendment 137

Proposal for a regulation

Article 13 – paragraph 6

Text proposed by the Commission

(6) If a provider of data **sharing** services has its main establishment or legal representative in a Member State, but provides services in other Member States, the competent authority of the Member State of the main establishment or where the legal representative is located and the competent authorities of those other Member States shall cooperate and assist each other. Such assistance and cooperation may cover information exchanges between the competent authorities concerned and requests to take the measures referred to in this Article.

Amendment

(6) If a provider of data **intermediation** services has its main establishment or legal representative in a Member State, but provides services in other Member States, the competent authority of the Member State of the main establishment or where the legal representative is located and the competent authorities of those other Member States shall cooperate and assist each other. Such assistance and cooperation may cover information exchanges between the competent authorities concerned **for the purpose of their tasks under this Regulation** and requests to take the measures referred to in this Article. **Where a competent authority for data intermediation services in one Member State requests assistance from a competent authority in another Member State, it shall submit a duly justified request. The competent authority for data intermediation services in that other Member State shall respond within two weeks of receipt of the request. Any information exchanged in the context of assistance requested and provided under this paragraph shall be used only in respect of the matter for which it was requested.**

Amendment 138

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

Text proposed by the Commission

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

Amendment

This Chapter shall not apply to:

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

basis;

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

Amendment 139

Proposal for a regulation Article 14 a (new)

Text proposed by the Commission

Amendment

Article 14a (new)

Policies for data altruism in Member States

(1) Member States shall define policies for data altruism and shall put in place organisational or technical arrangements, in particular, to enable public sector bodies to provide secure processing environments that can be made available to Public Interest Data Hubs by the public sector to allow supervision, to ensure the protection of personal data and confidentiality, and to further facilitate data altruism. These policies shall in particular support data subjects in making use of their rights, and in making personal data related to them held by public sector bodies available voluntarily for data altruism.

(2) The European Data Innovation Board shall advise and assist in developing a consistent practice with regard to data altruism throughout the Union.

Amendment 140

Proposal for a regulation Article 15 – title

Text proposed by the Commission

Amendment

Register of *recognised data altruism organisations*

Register of ***Public Interest Data Hubs***

Amendment 141

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 ***for the registration of Public Interest Data Hubs*** designated pursuant to Article 20 shall keep a ***public*** register of ***Public Interest Data Hubs***.

Amendment 142

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 a ***publicly accessible*** Union register of ***Public Interest Data Hubs***.

Amendment 143

Proposal for a regulation Article 15 – paragraph 3

Text proposed by the Commission

Amendment

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

(3) An entity registered in the register in accordance with Article 16 may refer to itself as a '***Public Interest Data Hub***' in its written and spoken communication.

Amendment 144

Proposal for a regulation

Article 16 – title

Text proposed by the Commission

General requirements for **registration**

Amendment

General requirements for **Public Interest Data Hubs**

Amendment 145

Proposal for a regulation

Article 16 – paragraph 1 – introductory part

Text proposed by the Commission

In order to qualify for registration, the data altruism organisation shall:

Amendment

(1) In order to qualify for registration as a Public Interest Data Hub, an entity shall:

Amendment 146

Proposal for a regulation

Article 16 – paragraph 1 – point a

Text proposed by the Commission

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

Amendment

(a) be a legal **person** constituted to meet objectives of **public** interest ***which shall be demonstrated in the application pursuant to Article 17(4);***

Amendment 147

Proposal for a regulation

Article 16 – paragraph 1 – point b

Text proposed by the Commission

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

Amendment

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

Amendment 148

Proposal for a regulation

Article 16 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) provide oversight mechanisms, such as ethics boards or councils;

Amendment 149

Proposal for a regulation

Article 16 – paragraph 1 – point c

Text proposed by the Commission

Amendment

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

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

Amendment 150

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(ca) have procedures in place to ensure compliance with Union and national law on the protection of personal data, including procedures for ensuring the exercise of data subjects' rights;

Amendment 151

Proposal for a regulation

Article 16 – paragraph 1 – point c b (new)

Text proposed by the Commission

Amendment

(cb) have adequate technical, legal and organisational measures in place to prevent transfer or disclosure to non-personal data that is unlawful under Union law;

Amendment 152

Proposal for a regulation
Article 16 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(1a) Public Interest Data Hubs shall only make data available to data users from the following categories:

(a) data users that pursue objectives of public interest;

(b) data users that pursue scientific research in the public interest.

Amendment 153

Proposal for a regulation
Article 16 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

(1b) Public Interest Data Hubs shall not use the data for which they provide services for other purposes than placing them at the disposal of data users, including where data is made available through a secure processing environment;

Amendment 154

Proposal for a regulation
Article 16 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

(1c) Public Interest Data Hubs shall take measures to ensure a high level of security for the storage and transmission of non-personal data;

Amendment 155

Proposal for a regulation
Article 16 – paragraph 1 d (new)

Text proposed by the Commission

Amendment

(1d) Public Interest Data Hubs shall act in the data subjects' best interest when facilitating the exercise of their rights, in particular by advising data subjects on potential data uses and standard terms and conditions attached to such uses;

Amendment 156

Proposal for a regulation Article 17 – title

Text proposed by the Commission

Amendment

Registration

Registration ***of Public Interest Data Hubs***

Amendment 157

Proposal for a regulation Article 17 – paragraph 1

Text proposed by the Commission

Amendment

(1) Any entity which meets the requirements of Article 16 may request to be entered in the register of ***recognised data altruism organisations*** referred to in Article 15 (1).

(1) Any entity which meets the requirements of Article 16 may request to be entered in the register of ***Public Interest Data Hubs*** referred to in Article 15 (1).

Amendment 158

Proposal for a regulation Article 17 – paragraph 4 – introductory part

Text proposed by the Commission

Amendment

(4) Applications for registration shall contain the following information:

(4) Applications for registration shall contain ***all of*** the following information:

Amendment 159

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 160

Proposal for a regulation

Article 17 – paragraph 4 – point f

Text proposed by the Commission

(f) a website where information on the entity and the activities can be found;

Amendment

(f) a **publicly accessible** website where information on the entity and the activities can be found, **including as a minimum the information referred to in points (a), (b), (d), (e), (g), (h) and (ha)**;

Amendment 161

Proposal for a regulation

Article 17 – paragraph 4 – point h

Text proposed by the Commission

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

Amendment

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

Amendment 162

Proposal for a regulation

Article 17 – paragraph 4 – point h a (new)

Text proposed by the Commission

Amendment

(ha) the nature of data to be controlled, processed or re-used by the provider, and, in case of personal data, an indication of the categories of personal data and the categories of recipients of personal data;

Amendment 163

Proposal for a regulation

Article 17 – paragraph 4 – point h b (new)

Text proposed by the Commission

Amendment

(hb) an indication in case of processing of personal data or where the provider can reasonably assume that the combination of non-personal data under the service it provides could lead to the identification or identifiability of natural persons;

Amendment 164

Proposal for a regulation

Article 17 – paragraph 4 – point h c (new)

Text proposed by the Commission

Amendment

(hc) whether the entity provides the data subjects with easily accessible and effective tools allowing the data subjects a comprehensive view of how and for which specific purpose their personal data are shared or used by the entity and by data users, and whether consent can be withdrawn or modified at any time;

Amendment 165

Proposal for a regulation

Article 17 – paragraph 5

Text proposed by the Commission

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

(5) Where the entity has submitted all necessary information pursuant to paragraph 4 and the competent authority **for the registration of Public Interest Data Hubs** considers that the entity complies with the requirements of Article 16, it shall register the entity in the register of **Public Interest Data Hubs** 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

recognised data altruism organisations.

inclusion in the Union register of **Public Interest Data Hubs**.

Amendment 166

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), **(h), (ha), and (hb)**, shall be published in the national register of **Public Interest Data Hubs**.

Amendment 167

Proposal for a regulation Article 17 – paragraph 7

Text proposed by the Commission

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

Amendment

(7) Any entity entered in the register of **Public Interest Data Hubs** shall **notify the competent authority for the registration of Public Interest Data Hubs** of any changes of the information provided pursuant to paragraph 4 within 14 calendar days from the day on which the change takes place. **The competent authority shall within 14 calendar days inform the Commission by electronic means of such notification.**

Amendment 168

Proposal for a regulation Article 17 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

(7a) Where the information provided in the application indicates that sensitive data categories could be controlled, processed or re-used, the Public Interest Data Hubs shall conduct a data protection

impact assessment pursuant to Article 35, and, where applicable, Article 36, of Regulation (EU) 2016/679, taking into account the possibility of using a secure processing environment as referred to in Article 14a of this Regulation, or deny the application.

Amendment 169

Proposal for a regulation

Article 18 – paragraph 1 – introductory part

Text proposed by the Commission

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

Amendment

(1) Any entity entered in the national register of ***Public Interest Data Hubs*** shall keep full and accurate records concerning:

Amendment 170

Proposal for a regulation

Article 18 – paragraph 1 – point a

Text proposed by the Commission

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

Amendment

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

Amendment 171

Proposal for a regulation

Article 18 – paragraph 1 – point b

Text proposed by the Commission

(b) the date or duration of such processing;

Amendment

(b) the date or duration of such processing, ***and the data sets processed***;

Amendment 172

Proposal for a regulation

Article 18 – paragraph 2 – introductory part

Text proposed by the Commission

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

Amendment

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

Amendment 173

Proposal for a regulation

Article 18 – paragraph 2 – point b

Text proposed by the Commission

(b) a description of the way in which the ***general*** interest purposes for which data was collected have been promoted during the given financial year;

Amendment

(b) a description of the way in which the ***public*** interest purposes for which data was collected have been promoted during the given financial year;

Amendment 174

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, 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;

Amendment

(c) a list of all natural and legal persons that were allowed to ***process or otherwise*** use data it holds, including a ***comprehensive*** description of the ***public*** 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;

Amendment 175

Proposal for a regulation

Article 19 – title

Text proposed by the Commission

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

Amendment

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

Amendment 176

Proposal for a regulation

Article 19 – paragraph 1 – introductory part

Text proposed by the Commission

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

Amendment

(1) Any entity entered in the register of **Public Interest Data Hubs** shall inform data **subjects and data** holders **in a clear and comprehensible manner prior to any processing of their data**:

Amendment 177

Proposal for a regulation

Article 19 – paragraph 1 – point – a (new)

Text proposed by the Commission

Amendment

(-a) in case of personal data, about the legal basis pursuant to Regulation (EU) 2016/679 on which it processes data;

Amendment 178

Proposal for a regulation

Article 19 – paragraph 1 – point a

Text proposed by the Commission

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

Amendment

(a) about the **specified** purposes of **public** interest for which **the data subject provides consent and for which the entity** permits the processing of their data by a data user;

Amendment 179

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 ***the location of*** any processing ***performed*** outside the Union ***and the purposes for which it permits the processing of data.***

Amendment 180

Proposal for a regulation
Article 19 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 181

Proposal for a regulation
Article 19 – paragraph 3

Text proposed by the Commission

(3) Where an entity entered in the register of ***recognised data altruism organisations*** provides tools for obtaining consent from data subjects or permissions to process data made available by ***legal persons***, it shall specify the jurisdiction or jurisdictions in which the data use is intended to take place.

Amendment

(3) Where an entity entered in the register of ***Public Interest Data Hubs*** provides tools for obtaining consent from data subjects or permissions to process data made available by ***data holders***, it shall specify the jurisdiction or jurisdictions in which the data use is intended to take place.

Amendment 182

Proposal for a regulation
Article 20 – title

Text proposed by the Commission

Competent authorities for registration

Amendment

Competent authorities for ***the*** registration

Amendment 183

Proposal for a regulation Article 20 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 184

Proposal for a regulation Article 20 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Amendment 185

Proposal for a regulation Article 21 – paragraph 1

Text proposed by the Commission

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

Amendment

(1) The competent authority shall monitor and supervise compliance of entities entered in the register of ***Public Interest Data Hubs*** with the conditions laid down in this Chapter.

Amendment 186

**Proposal for a regulation
Article 21 – paragraph 2**

Text proposed by the Commission

(2) The competent authority shall have the power to request information from entities included in the register of ***recognised data altruism organisations*** that is necessary to verify compliance with the provisions of this Chapter. Any request for information shall be proportionate to the performance of the task and shall be reasoned.

Amendment

(2) The competent authority shall have the power to request information from entities included in the register of ***Public Interest Data Hubs*** that is necessary to verify compliance with the provisions of this Chapter. Any request for information shall be proportionate to the performance of the task and shall be reasoned.

Amendment 187

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

Text proposed by the Commission

(a) lose its right to refer to itself as a ***‘data altruism organisation recognised in the Union’*** in any written and spoken communication;

Amendment

(a) lose its right to refer to itself as a ***‘Public Interest Data Hub’*** in any written and spoken communication;

Amendment 188

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

Text proposed by the Commission

Amendment

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

(b) be removed from the register of *Public Interest Data Hubs*.

Amendment 189

Proposal for a regulation Article 21 – paragraph 6

Text proposed by the Commission

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

Amendment

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

Amendment 190

Proposal for a regulation Article 22 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 191

Proposal for a regulation

Article 22 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(2a) The European data altruism consent form shall detail the specific purpose or purposes of the intended use or uses.

Amendment 192

Proposal for a regulation

Article 22 – paragraph 4

Text proposed by the Commission

Amendment

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

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

Amendment 193

Proposal for a regulation

Article 23 – paragraph 1

Text proposed by the Commission

Amendment

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

(1) The competent authorities designated pursuant to Article 12 and Article 20 shall be legally distinct from, and functionally independent of any provider of data ***intermediation*** services or entity included in the register of ***Public Interest Data Hubs***. ***The functions of the competent authorities designated pursuant to Articles 12 and 20 may be performed by the same entity. Member States shall be allowed either to establish one or more new entities or to rely on existing entities. Member States may decide to assign the competences under this Regulation to the supervisory***

Amendment 194

Proposal for a regulation Article 23 – paragraph 6

Text proposed by the Commission

(6) The competent authorities of a Member State shall provide the Commission and competent authorities from other Member States, on reasoned request, with the information necessary to carry out their tasks under this Regulation. Where a national competent authority considers the information requested to be confidential in accordance with Union and national rules on commercial and professional confidentiality, the Commission and any other competent authorities concerned shall ensure such confidentiality.

Amendment

(6) The competent authorities of a Member State shall provide the Commission and competent authorities from other Member States, on reasoned request ***and without undue delay***, with the information necessary to carry out their tasks under this Regulation. Where a national competent authority considers the information requested to be confidential in accordance with Union and national rules on commercial and professional confidentiality, the Commission and any other competent authorities concerned shall ensure such confidentiality.

Amendment 195

Proposal for a regulation Article 24 – paragraph 1

Text proposed by the Commission

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

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 ***intermediation*** services or an entity entered in the register of ***Public Interest Data Hubs in relation to any matter pertaining to this Regulation***.

Amendment 196

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

Text proposed by the Commission

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

Amendment

(b) decisions of the competent authorities referred to in Articles 13, 17 and 21 taken in the management, control and enforcement of the notification regime for providers of data **intermediation** services and the monitoring of entities entered into the register of **Public Interest Data Hub**.

Amendment 197

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 **pursuant to Articles 12 and 20**, the European Data Protection Board, the **EU-level coordination board of [supervisory authorities for artificial intelligence as proposed in the Proposal for an Artificial Intelligence Act], the cybersecurity Cooperation Group, the** Commission and other representatives **relevant bodies** in specific sectors **as well as bodies with specific expertise such as national statistical offices**.

Amendment 198

Proposal for a regulation
Article 26 – paragraph 2

Text proposed by the Commission

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

Amendment

(2) Stakeholders and relevant third parties, **in particular from civil society, including consumer protection groups,** may be invited to attend meetings of the Board and to participate in its work, **on a**

case by case basis or permanently, as relevant. Where stakeholders are invited, different groups, such as industry, academia, consumer protection groups and other parts of civil society shall be equally represented. Only stakeholders registered in the Transparency Register, established by the Interinstitutional Agreement of 20 May 2021 between the European Parliament, the Council of the European Union and the European Commission on a mandatory transparency register^{1a}, shall be invited, with the exception of academia.

^{1a} OJ L 207, 11.6.2021, p. 1.

Amendment 199

Proposal for a regulation

Article 26 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

(4a) *The Board shall publish an agenda for each meeting in due time before it takes place. After each meeting, minutes shall be published without undue delay, containing a list of the representatives that were present and the stakeholders that were represented, where applicable.*

Amendment 200

Proposal for a regulation

Article 27 – title

Text proposed by the Commission

Amendment

Tasks of the Board

Tasks of the **European Data Innovation** Board

Amendment 201

Proposal for a regulation
Article 27 – paragraph 1 – point b

Text proposed by the Commission

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

Amendment

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

Amendment 202

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

Text proposed by the Commission

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

Amendment

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

Amendment 203

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 **Public Interest Data Hubs**;

Amendment 204

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

Text proposed by the Commission

Amendment

(ea) to facilitate the cooperation between national competent authorities on the application of Article 30 and in relation to the rules on penalties laid down pursuant to Article 31.

Amendment 205

Proposal for a regulation
Article 30 – title

Text proposed by the Commission

Amendment

International access

International access **and transfer of non-personal data**

Amendment 206

Proposal for a regulation
Article 30 – paragraph -1 (new)

Text proposed by the Commission

Amendment

(-1) This Article shall apply to the transfer of non-personal data only.

Amendment 207

Proposal for a regulation
Article 30 – paragraph 1

Text proposed by the Commission

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 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

(1) 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 **Public Interest Data Hubs**, as the case may be, shall take all reasonable technical, legal and organisational measures in order to

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.***

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 paragraphs 2 or 3.***

Amendment 208

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

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 ***Public Interest Data Hubs*** 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 third country and a Member State concluded before [the entry into force of this Regulation].

Amendment 209

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

Text proposed by the Commission

(3) Where a public sector body, a natural or legal person to which the right to re-use data was granted under Chapter 2, a ***data sharing*** provider or entity entered in the register of ***recognised data altruism organisations*** is the addressee of a

Amendment

(3) ***In the absence of an international agreement 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

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:

entity entered in the register of **Public Interest Data Hubs** 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 210

Proposal for a regulation

Article 30 – paragraph 3 – subparagraph 2

Text proposed by the Commission

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

Amendment

The addressee of the decision shall ask the opinion of the relevant competent bodies or authorities, pursuant to this Regulation, in order to determine if these conditions are met. ***The relevant competent bodies or authorities shall exchange information on international access requests within the framework of the European Data Innovation Board.***

Amendment 211

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 ***Public Interest Data Hubs***, as the case may be, shall, provide the minimum amount of data permissible in response to a request, based on a reasonable

request.

interpretation of the request.

Amendment 212

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 subject or*** 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.

Amendment 213

Proposal for a regulation Article 31 – paragraph 1

Text proposed by the Commission

Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall notify the Commission of those rules and measures by [date of application of the Regulation] and shall notify the Commission without delay of any subsequent amendment affecting them.

Amendment

deleted

Amendment 214

Proposal for a regulation

Article 31 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(1a) Each competent authority shall ensure that the imposition of administrative fines pursuant to this Article in respect of infringements of this Regulation shall in each individual case be effective, proportionate and dissuasive.

Amendment 215

Proposal for a regulation

Article 31 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

(1b) When deciding whether to impose an administrative fine and deciding on the amount of the administrative fine in each individual case due regard shall be given to the following:

(a) Infringements of the following provisions shall be subject to administrative fines up to 20 000 000 EUR, or in the case of an undertaking, up to 4 % of the total worldwide annual turnover of the preceding financial year, whichever is higher:

(1)) the obligations regarding transfers of non-personal data to third countries pursuant to Article 5 (12) and Article 30,

(2)) the obligation of data intermediation service providers to notify pursuant to Article 10,

(3)) the conditions for providing services pursuant to Article 11,

(4)) conditions for the registration as a recognised data altruism organisation pursuant to Articles 18 and 19.

Amendment 216

Proposal for a regulation

Article 31 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

(1c) The exercise by the competent authority of its powers under this Article shall be subject to appropriate procedural safeguards in accordance with Union and Member State law, including effective judicial remedy and due process.

Amendment 217

Proposal for a regulation

Article 31 – paragraph 1 d (new)

Text proposed by the Commission

Amendment

(1d) Where the legal system of the Member State does not provide for administrative fines, this Article may be applied in such a manner that the fine is initiated by the competent authority and imposed by competent national courts, while ensuring that those legal remedies are effective and have an equivalent effect to the administrative fines imposed by competent authorities.

Amendment 218

Proposal for a regulation

Article 32 – paragraph 1

Text proposed by the Commission

Amendment

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

By [**three** years after the **date** of application of this Regulation], the Commission shall carry out an evaluation of this Regulation, **assessing, inter alia:**

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

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

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

(d) *the functioning of the European Data Innovation Board;*

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

The Commission shall submit a report on its main findings to the European Parliament and to the Council as well as to the European Economic and Social Committee, which report shall be made publicly available. Member States and the EDPB shall provide the Commission with the information necessary for the preparation of that report. The report shall contain a quantitative and qualitative analysis on the impact of this Regulation on the fundamental rights to privacy and on the protection of personal data.

Amendment 219

Proposal for a regulation

Article 33 – paragraph 1 – table

Text proposed by the Commission

Starting, running and closing a business

Notification as a provider of data ***sharing*** services

Confirmation of the receipt of notification

Registration as a ***European Data Altruism Organisation***

Confirmation of the registration

Amendment

Starting, running and closing a business

Notification as a provider of data ***intermediation***

Confirmation of the receipt of notification

services

Registration as a ***Public
Interest Data Hub***

Confirmation of the
registration

Amendment 220

Proposal for a regulation Article 34 – paragraph 1

Text proposed by the Commission

Entities providing the data ***sharing*** services provided in Article 9(1) on the date of entry into force of this Regulation shall comply with the obligations set out in Chapter III by [date - 2 years after the start date of the application of the Regulation] at the latest.

Amendment

Entities providing the data ***intermediation*** services provided in Article 9(1) on the date of entry into force of this Regulation shall comply with the obligations set out in Chapter III by [date - 2 years after the start date of the application of the Regulation] at the latest.

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	European data governance (Data Governance Act)		
References	COM(2020)0767 – C9-0377/2020 – 2020/0340(COD)		
Committee responsible Date announced in plenary	ITRE 14.12.2020		
Opinion by Date announced in plenary	LIBE 14.12.2020		
Associated committees - date announced in plenary	10.6.2021		
Rapporteur for the opinion Date appointed	Sergey Lagodinsky 11.1.2021		
Discussed in committee	16.3.2021	26.5.2021	28.6.2021
Date adopted	29.6.2021		
Result of final vote	+: –: 0:	53 2 11	
Members present for the final vote	Magdalena Adamowicz, Konstantinos Arvanitis, Malik Azmani, Katarina Barley, Fernando Barrena Arza, Pietro Bartolo, Nicolas Bay, Vladimír Bilčík, Vasile Blaga, Ioan-Rareș Bogdan, Patrick Breyer, Saskia Bricmont, Joachim Stanisław Brudziński, Jorge Buxadé Villalba, Damien Carême, Caterina Chinnici, Marcel de Graaff, Anna Júlia Donáth, Lena Düpont, Cornelia Ernst, Laura Ferrara, Nicolaus Fest, Jean-Paul Garraud, Maria Grapini, Sylvie Guillaume, Andrzej Halicki, Evin Incir, Sophia in 't Veld, Patryk Jaki, Marina Kaljurand, Fabienne Keller, Peter Kofod, Łukasz Kohut, Moritz Körner, Alice Kuhnke, Jeroen Lenaers, Juan Fernando López Aguilar, Lukas Mandl, Roberta Metsola, Nadine Morano, Javier Moreno Sánchez, Maite Pagazaurtundúa, Nicola Procaccini, Emil Radev, Paulo Rangel, Terry Reintke, Diana Riba i Giner, Ralf Seekatz, Michal Šimečka, Birgit Sippel, Sara Skytvedal, Martin Sonneborn, Tineke Strik, Ramona Strugariu, Annalisa Tardino, Tomas Tobé, Dragoș Tudorache, Milan Uhrík, Tom Vandendriessche, Bettina Vollath, Elissavet Vozemberg-Vrionidi, Jadwiga Wiśniewska, Elena Yoncheva, Javier Zarzalejos		
Substitutes present for the final vote	Tanja Fajon, Miguel Urbán Crespo		

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

53	+
NI	Laura Ferrara, Martin Sonneborn
PPE	Magdalena Adamowicz, Vladimír Bilčík, Vasile Blaga, Ioan-Rareș Bogdan, Lena Düpont, Andrzej Halicki, Jeroen Lenaers, Lukas Mandl, Roberta Metsola, Nadine Morano, Emil Radev, Paulo Rangel, Ralf Seekatz, Sara Skyttedal, Tomas Tobé, Elissavet Vozemberg-Vrionidi, Javier Zarzalejos
Renew	Malik Azmani, Anna Júlia Donáth, Sophia in 't Veld, Fabienne Keller, Moritz Körner, Maïte Pagazaurtundúa, Michal Šimečka, Ramona Strugariu, Dragoș Tudorache
S&D	Katarina Barley, Pietro Bartolo, Caterina Chinnici, Tanja Fajon, Maria Grapini, Sylvie Guillaume, Evrin Incir, Marina Kaljurand, Łukasz Kohut, Juan Fernando López Aguilar, Javier Moreno Sánchez, Birgit Sippel, Bettina Vollath, Elena Yoncheva
The Left	Konstantinos Arvanitis, Fernando Barrena Arza, Cornelia Ernst, Miguel Urbán Crespo
Verts/ALE	Patrick Breyer, Saskia Bricmont, Damien Carême, Alice Kuhnke, Terry Reintke, Diana Riba i Giner, Tineke Strik

2	-
ID	Marcel de Graaff
NI	Milan Uhrík

11	0
ECR	Joachim Stanisław Brudziński, Jorge Buxadé Villalba, Patryk Jaki, Nicola Procaccini, Jadwiga Wiśniewska
ID	Nicolas Bay, Nicolaus Fest, Jean-Paul Garraud, Peter Kofod, Annalisa Tardino, Tom Vandendriessche

Key to symbols:

+ : in favour

- : against

0 : abstention

PROCEDURE – COMMITTEE RESPONSIBLE

Title	European data governance (Data Governance Act)		
References	COM(2020)0767 – C9-0377/2020 – 2020/0340(COD)		
Date submitted to Parliament	25.11.2020		
Committee responsible Date announced in plenary	ITRE 14.12.2020		
Committees asked for opinions Date announced in plenary	IMCO 14.12.2020	JURI 14.12.2020	LIBE 14.12.2020
Associated committees Date announced in plenary	LIBE 10.6.2021		
Rapporteurs Date appointed	Angelika Niebler 17.12.2020		
Discussed in committee	18.3.2021	13.4.2021	
Date adopted	15.7.2021		
Result of final vote	+: –: 0:	66 0 6	
Members present for the final vote	François Alfonsi, Nicola Beer, François-Xavier Bellamy, Hildegard Bentele, Tom Berendsen, Vasile Blaga, Manuel Bompard, Paolo Borchia, Marc Botenga, Markus Buchheit, Cristian-Silviu Buşoi, Carlo Calenda, Maria da Graça Carvalho, Ignazio Corrao, Ciarán Cuffe, Josianne Cutajar, Nicola Danti, Pilar del Castillo Vera, Martina Dlabajová, Christian Ehler, Valter Flego, Lina Gálvez Muñoz, Claudia Gamon, Nicolás González Casares, Bart Groothuis, Christophe Grudler, Henrike Hahn, Robert Hajšel, Ivo Hristov, Ivars Ijabs, Eva Kaili, Seán Kelly, Izabela-Helena Kloc, Zdzisław Krasnodębski, Andrius Kubilius, Miapetra Kumpula-Natri, Thierry Mariani, Marisa Matias, Eva Maydell, Georg Mayer, Joëlle Mélin, Iskra Mihaylova, Dan Nica, Angelika Niebler, Ville Niinistö, Aldo Patriciello, Mauri Pekkarinen, Mikuláš Peksa, Tsvetelina Penkova, Markus Pieper, Clara Ponsatí Obiols, Robert Roos, Massimiliano Salini, Sara Skyttedal, Maria Spyraiki, Jessica Stegrud, Beata Szydło, Riho Terras, Grzegorz Tobiszowski, Patrizia Toia, Evžen Tošenovský, Marie Toussaint, Isabella Tovaglieri, Henna Virkkunen, Pernille Weiss, Carlos Zorrinho		
Substitutes present for the final vote	Marek Paweł Balt, Damian Boeselager, Valérie Hayer, Othmar Karas, Jutta Paulus, Sandra Pereira		
Date tabled	22.7.2021		

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

66	+
ECR	Izabela-Helena Kloc, Zdzisław Krasnodębski, Robert Roos, Beata Szydło, Grzegorz Tobiszowski, Evžen Tošenovský
ID	Paolo Borchia, Markus Buchheit, Georg Mayer, Isabella Tovaglieri
NI	Clara Ponsatí Obiols
PPE	François-Xavier Bellamy, Hildegard Bentele, Tom Berendsen, Vasile Blaga, Cristian-Silviu Buşoi, Maria da Graça Carvalho, Pilar del Castillo Vera, Christian Ehler, Othmar Karas, Seán Kelly, Andrius Kubilius, Eva Maydell, Angelika Niebler, Aldo Patriciello, Markus Pieper, Massimiliano Salini, Sara Skyttedal, Maria Spyraiki, Riho Terras, Henna Virkkunen, Pernille Weiss
Renew	Nicola Beer, Nicola Danti, Martina Dlabajová, Valter Flego, Claudia Gamon, Bart Groothuis, Christophe Grudler, Valérie Hayer, Ivars Ijabs, Iskra Mihaylova, Mauri Pekkarinen
S&D	Marek Paweł Balt, Carlo Calenda, Josianne Cutajar, Lina Gálvez Muñoz, Nicolás González Casares, Robert Hajšel, Ivo Hristov, Eva Kaili, Miapetra Kumpula-Natri, Dan Nica, Tsvetelina Penkova, Patrizia Toia, Carlos Zorrinho
The Left	Marisa Matias
Verts/ALE	François Alfonsi, Damian Boeselager, Ignazio Corrao, Ciarán Cuffe, Henrike Hahn, Ville Niinistö, Jutta Paulus, Mikuláš Peksa, Marie Toussaint

6	0
ECR	Jessica Stegrud
ID	Thierry Mariani, Joëlle Mélin
The Left	Manuel Bompard, Marc Botenga, Sandra Pereira

Key to symbols:

+ : in favour

- : against

0 : abstention