



One Data Act to rule them all?

Avoiding competing data sharing rules: DIGITALEUROPE's views on the European statistics regulation revision

Executive summary

DIGITALEUROPE cautions against the creation of parallel horizontal frameworks directly competing with the Data Act, as the revision of the European statistics regulation shows.

Since the release of the Data Act in February 2022, DIGITALEUROPE has been supportive of the European Commission's ambition to foster business-to-government (B2G) data sharing for the public interest in specific situations of exceptional need, such as public emergencies.

Indeed, the use and analysis of private sector data can help policymakers make evidence- and data-based decisions to respond to public emergencies. The Data Act now gives public bodies and statistical offices new possibilities to access private sector data – through a framework which is already far-reaching.

Yet, with its proposal for a revision of the Regulation on European statistics,¹ the Commission creates an additional obligation for private data holders to make data available for developing and producing European statistics. This obligation is without prejudice to the Data Act and to already existing reporting obligations. This would lead to the creation of a new and parallel B2G data sharing framework only weeks after the Data Act has been finalised and has yet to be published in the EU's Official Journal.

The Data Act will have a significant impact on data-driven business models, leading to unpredictable implementation costs. To avoid furthering regulatory uncertainty, policymakers should refrain from creating new and overlapping horizontal data sharing rules, but instead provide companies with adequate support to implement the recently adopted obligations.

Thus, as DIGITALEUROPE, we recommend the following:

- ▶ **Delete Articles 17b, 17c, 17d and 17e and recognise the Data Act's primacy** to ensure that only one framework regulates B2G data sharing for official statistics.

¹ COM(2023)402, [Proposal amending Regulation \(EC\) No 223/2009 on European statistics](#)

- ▶ **Use the revision to assess and address the flaws of the Data Act**, notably by further specifying data access safeguards and conditions for statistical bodies in Articles 16, 17, 19 and 21.



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Rationale

Redundancy with existing frameworks

There is no necessity for new and additional obligations for private data holders to make data available for developing and producing European statistics as it is redundant to the Data Act's Chapter V. Indeed, the recently adopted Data Act, already gives statistical offices a new right to access data:

“[...] where [...] a public sector body [...] has identified specific data, the lack of which prevents it from fulfilling a specific task carried out in the public interest, that has been explicitly provided by law, such as the production of official statistics [...].

Data Act, Article 15(1)(b)(i).

Therefore, the new business-to-government data sharing framework presented in the European statistics regulation revision (B2G4S) provides for a nearly identical data access logic as the Data Act.

Additionally, as the explanatory memorandum of the proposed revision notes, the new provisions would be “without prejudice to the reporting obligations upon statistical respondents laid down in sectoral legislation”. As Member States may also already have, or develop in the future, national legislation on the subject, we question the need to propose such an overlapping framework.

If that B2G4S proposal goes forward, businesses may be facing data access requests from two EU horizontal frameworks, as well as sectoral ones, but also potentially from national level rules.

Thus, the proposal is also at odds with the Commission's Better Regulation agenda and the goal to reduce reporting obligations at European level by 25%, as announced by President von der Leyen in September 2023.²

Inadequate impact assessment and obligations

Through the B2G4S Articles 17b, 17c, 17d and 17e, the Commission attempts to introduce, with almost identical wording, the same provisions as initially presented in the Data Act proposal back in February 2022. The revision of the European Statistics Regulation thus ignores the work carried by the Council and the European Parliament which led to many improvements to the B2G framework, as well as the important compromises found between the co-legislators in the Data Act up until end of June 2023.

Moreover, as the B2G4S proposal was presented on 10 July, only a few days after a compromise was reached on the Data Act, the validity of the conducted impact assessment is highly questionable. Indeed, a new impact assessment supporting the proposal should have been carried out to take stock of the adopted Data Act and update the analysis and related policy options.

Contrary to the Data Act, the B2G4S proposal foresees no safeguards to reduce legal uncertainty and protect the rights of companies. Personal data is in scope, even though personal data access requests are not linked to public emergencies under this framework, unlike the Data Act. One of the key changes from the Data Act proposal's B2G provisions to the text ultimately adopted was indeed the restriction of requests for personal data to very specific instances, where data is needed to respond to a public emergency.

Additionally, the B2G4S obligations also apply if the reuse of the accessed data would 'result in a considerable reduction in the response burden on data holders and other businesses'. This provision was rightfully deleted from the Data Act by the co-legislators for being vague, and as companies can decide by themselves to hand out data on a voluntary basis, in order to reduce their bureaucratic burden by avoiding other reporting obligations.

Over the past years, the data economy legislative landscape has evolved quite rapidly at European level, and the Data Act's implementation is expected to be quite complex and resource-intensive for companies and public authorities alike. Releasing a proposal duplicating legislative frameworks, and attempting to reintroduce provisions deleted by the co-legislators a few days before in another piece of legislation, is highly questionable: we encourage policymakers to safeguard the nascent Data Act framework and avoid the creation of any parallel horizontal rules, by deleting the proposed B2G4S provisions.

² 2023 State of the Union Address by President von der Leyen, September 2023, https://ec.europa.eu/commission/presscorner/detail/en/speech_23_4426

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DIGITALEUROPE is the leading trade association representing digitally transforming industries in Europe. We stand for a regulatory environment that enables European businesses and citizens to prosper from digital technologies. We wish Europe to grow, attract, and sustain the world's best digital talents and technology companies. Together with our members, we shape the industry policy positions on all relevant legislative matters and contribute to the development and implementation of relevant EU policies, as well as international policies that have an impact on Europe's digital economy. Our membership represents over 45,000 businesses who operate and invest in Europe. It includes 106 corporations which are global leaders in their field of activity, as well as 41 national trade associations from across Europe.

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