Data regulation – not GDPR

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www.citip.be
Legal and ethical frameworks related to data (context-specific!)
An increased legislative focus on ‘data’

<table>
<thead>
<tr>
<th>Year</th>
<th>EC Communication</th>
<th>a.o. MMTIS</th>
<th>a.o. Electricity Directive</th>
<th>EC Data strategy</th>
<th>EC Data Governance Act proposal</th>
<th>EC Data Act proposal</th>
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<tbody>
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<td>2016</td>
<td>“Building a European Data Economy”</td>
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<td>2017</td>
<td>Regulatory options laid down (i.a.):</td>
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<td>- Data producer’s right</td>
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<td>- (and/or) data access rights</td>
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<td>Sectoral data access and sharing obligations</td>
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<td>- E.g. EU-wide multimodal travel information services (transport modes)</td>
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<td>- Electricity data sharing</td>
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<td>2019</td>
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<td>2-tiered approach</td>
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<td>- Horizontal (+/-)</td>
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<td>- Sectoral – data spaces</td>
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<td>2020</td>
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<td>PSBs DSSPs Data altruism org.</td>
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The broad picture: the Data Strategy of the EC

Horizontal legislation

Substantive rights


Institutional framework

(Financial) support to (technical) data infrastructure + Data governance regulation (DGA)

(sector-) specific legislation (data spaces)
Ongoing proposals

**Data Governance Act (DGA)**
Governance framework for data access and use, increase trust among actors in the data value chain and promote availability of data.

**Data Act (DA)**
New substantive rights on data (allocation of access and/or control).

**AI Act (AIA)**
Regulation of different uses of AI with the aim of increasing trust in AI technology and promote their development and use in accordance with EU values.

**Digital Markets Act (DMA)**
Regulation of “gatekeeper” companies with the aim of ensuring a fairer digital market.

**Digital Services Act (DSA)**
Reponsibilities and obligations for service providers in the online environment.
Proposed Data Act: Chapter II – IoT product data

**Data holder (i.e. manufacturer)**
- By design making available of data in principle or active provision
- Free of charge
- Transparency requirements
- Trade secrets
  - Rights of (other) individuals
  - Other (IP) rights?
- Data sharing upon request of the user
- Where applicable, continuously and in real-time
- Same quality as available to data holder
- FRAND terms (Chap. III)
- Prohibition of coercive means, abuse of gaps to obtain data by 3rd party
  - → TPMs

**IoT product user**
- Data portability request
- Prohibition of coercive, deceptive, manipulative behaviour […]

**NOT getekeeping online platform**
Chapter II – IoT product data

- Contract with the user as a legal basis for data processing
- Purpose limitation (ban on harmful processing)

Data holder (i.e. manufacturer)
- Purpose limitation (ban on harmful processing)

IoT product user
- Ban on data processing to develop a competing product

‘Third party’ (data recipient)
- Ban on data processing to develop a competing product

- Prohibition of profiling of individuals
- Processing limited to user purpose
- Prohibition of data transfer (except if necessary)
• Increasing amount of ‘data’ regulations
• From ‘data ownership’ to *sui generis* ‘data rights’
• (Still) no legal status of data
• Personal data vs non-personal data
• Data portability gaining traction as a regulatory mechanism
• More to come with data spaces (see for instance the Health Data Space Regulation proposal)
• Still questions as for how the legal frameworks will interact one with the others
Thank you for your attention!

Any questions or comments?

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