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# DATA ACT
## POLICY WATCH

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## Context & scope

In an era of rapid digitalisation and proliferation of connected products and services, the value of data has grown dramatically. At the same time, the rules governing access to, control of, sharing and re-use of data have lagged behind. The European Union (EU) has pursued a strategy to unlock the potential of data, support innovation, fairness and competitiveness, while protecting rights and ensuring trust in data-driven systems.

The Data Act is a cornerstone of the EU's Digital Decade. It sets out harmonised rules across the EU on fair access to and use of data, especially data generated by connected devices and related services. In this briefing we explain what the Data Act is, why it was introduced, the key challenges it addresses and the mechanisms through which it works in practice.

### WHAT IS THE DATA ACT?

The Data Act is formally the Regulation on harmonised rules on fair access to and use of data. It entered into force on 11 January 2024 and becomes applicable from 12 September 2025.
In essence, it is a cross-sectoral regulation that does not replace sector-specific data access obligations but overlays a harmonised baseline of rules.

### SCOPE AND PURPOSE

The Act's subject matter is "data" defined broadly as any digital representation of acts, facts or information (and compilations thereof) including sound, visual or audiovisual recordings.

It targets especially data generated by the use of "connected products" (for example IoT devices, smart machines, vehicles) and their related services.

It creates rights for users (whether consumers or businesses) of those connected products/services and imposes obligations on data holders and other actors in the chain of data generation and processing.

It also covers business-to-business (B2B) data sharing when required by law, business-to-government (B2G) access in case of exceptional need, cloud switching obligations and safeguards for non-personal data with respect to third-country governmental access.

### KEY FEATURES

Users' rights: The Act gives users of connected products the right to access the data generated by their use of those products, and to share it with third parties of their choice.

Contract fairness: It places limits on unfair contractual terms in data-sharing agreements, especially where imbalance exists between parties.

Data portability/cloud switching: It aims to reduce lock-in by requiring data processing service providers (e.g., cloud providers) to allow switching, including via portability of data and clear contract terms.

Public interest data access: In cases of exceptional need (e.g., public emergencies), the Act allows public sector bodies to request access to data from private data holders under certain conditions.

Safeguards for international access: The Act introduces protections against foreign/third-country government access to non-personal data held in the EU if such access conflicts with EU law or fundamental rights.



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## What issues the Data Act addresses and how?

### ACCESS TO & USE OF DATA GENERATED BY CONNECTED PRODUCTS

**Issue:** When a consumer or business uses a connected product (e.g., smart appliance, industrial machine, connected vehicle), the data generated by use often stays with the manufacturer or service provider, and the user lacks access or ability to share.

**How the Act addresses it:**

- Users gain the right to access the data generated by their use of the product or related service.
- The data must be accessible in a “structured, machine-readable” format, and without undue delay, free of charge for users.
- A contract between the provider/manufacturer and the user must clearly specify how data will be generated, stored, accessed, shared and processed.
- Exceptions apply when disclosure would undermine trade secrets or safety - but such refusals must be justified and supervised.

### MITIGATING UNFAIR CONTRACTUAL IMBALANCES

**Issue:** Users (especially smaller businesses or consumers) may be subject to unfair contract terms imposed by data-holders who hold much stronger bargaining power, limiting data access or reuse.

**How the Act addresses it:**

- The Act prohibits unfair contractual terms with respect to data access and sharing.
- Model contract clauses will be developed by the Commission to help standardise fair data-sharing contracts.
- For B2B data-sharing when required by law, the terms must be fair, reasonable and non-discriminatory. Data holders may charge cost-based fees (especially for SMEs) but no unjustified margin.



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## What issues the Data Act addresses and how?

### PORTABILITY / SWITCHING BETWEEN DATA PROCESSING SERVICES / CLOUD LOCK-IN

**Issue:** Many businesses and users face obstacles when trying to switch cloud or data-processing service providers, due to technical interoperability, high exit fees, complex procedures, and data lock-in. This undermines competition and innovation.

**How the Act addresses it:**

- Providers of data-processing services (e.g., IaaS, PaaS, SaaS) must support switching by users: contracts must include clear terms on switching, data formats, data transfer, and erasure of data after switching.
- Exit fees must be transparent and by January 2027 only cost-based charges will be allowed.
- Technical interoperability and machine-readable formats are required so that data can move between providers.

### DATA ACCESS BY PUBLIC BODIES (B2G) IN CASES OF EXCEPTIONAL NEED

**Issue:** Public sector bodies (national/regional) may need access to privately held data in areas of public interest (emergencies, infrastructure management, climate, health etc.). But existing frameworks may not allow timely, fair, safe access respecting the rights of data holders.

**How the Act addresses it:**

- The Act establishes that in cases of “exceptional need” (e.g., public emergencies, pandemics, major disruptions), public authorities may request data from private data holders.
- Such requests must be transparent, specific and proportionate; for emergency situations data must be provided swiftly, free of charge (or with justified costs) and in a secure way.
- In non-emergency public interest cases, only non-personal data may be requested (unless strictly necessary) and fair compensation may apply.



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## What issues the Data Act addresses and how?

### SAFEGUARDS ON INTERNATIONAL ACCESS & TRANSFER OF NON-PERSONAL DATA

**Issue:** Non-personal data generated in the EU may be stored in the EU but subject to access or transfer demands by third-country governments or authorities, which may conflict with EU law, fundamental rights or commercial confidentiality.

**How the Act addresses it:**

- Introduces obligations for data processing service providers to take appropriate technical, organisational and legal measures to prevent unlawful access or transfer of non-personal data to non-EU governments if it conflicts with EU/national law.
- Clarifies interplay with other regimes (such as the GDPR when personal data is involved) and that the Data Act does not derogate from rights under the GDPR.



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## Conclusion

The Data Act represents a significant leap forward in the EU's regulation of the data economy. By establishing harmonised rules on access, sharing, portability and fairness across all sectors, it seeks to empower users, reduce market imbalances, foster competition and innovation, and ensure that data serves broader economic and societal objectives while respecting rights and protecting trust.

For businesses, manufacturers, service-providers, cloud vendors and public authorities alike, the Act will require proactive adjustment: from data-flow mapping and contract redesign to technical interoperability and readiness for enforcement.

As the Act has become applicable in September 2025, its realisation will be a key marker of how the EU defines the contours of the digital economy in the years ahead. Stakeholders who engage early will be best placed to turn compliance into competitive advantage.



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