



EUROPEAN COMMISSION

*Brussels, 19.7.2021
C(2021) 5400 final*

Dear President,

The Commission would like to thank the Senat for its Opinion on the proposal for a Regulation of the European Parliament and of the Council on European data governance (Data Governance Act) {COM(2020) 767 final}.

The Commission welcomes the analysis that the Senat has carried out on this important subject. This detailed work constitutes a valuable contribution to the discussion on the future of the data economy in Europe.

This legislative proposal is a first measure to improve the availability of data for economic, scientific and societal purposes. It aims to lay down a set of horizontal rules setting the framework for increased access to publicly held data and promoting the role of data intermediaries, as an alternative European model for data sharing.

As regards the point 3.A of the Opinion, about the compatibility between the Data Governance Act (DGA) and the General Data Protection Regulation (GDPR), the Commission would like to underline that the provisions of the Data Governance Act proposal are in compliance with the provisions of the GDPR and the former does not amend or change the latter in any form or manner. The rules around personal data and the processing of personal data apply as set out in the GDPR. Instead of including a reference to the GDPR to each provision that might have a data protection aspect, the Commission chose to include in its proposal a general non-prejudice provision, which implies that the GDPR always applies to the processing of personal data, in conjunction with the DGA.

Besides, the proposal includes definitions that are not part of the GDPR, as the objective of the DGA is to regulate the data market, and not to set out further rules to data protection. The different notions in the DGA necessitate some definitions (such as metadata, data holder), but the proposal does not change the existing definitions of the GDPR. Similarly, the DGA proposal does not create a new legal basis for data processing under the GDPR, thus the processing of personal data will still have to be based on a legal basis as defined in the GDPR. Finally, whenever data intermediaries

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process personal data, they will be bound by all the provisions of the GDPR, including Articles 24 and 25.

As regards point 3.B of the Opinion, the costs of the various actors under the scope of the DGA proposal have been assessed as part of the Impact Assessment that accompanied the proposal upon its publication.

Finally, as regards point 3.C of the Opinion, the provisions on the data altruism consent form (Article 22) do not exclude the individuals' and businesses' ability to define the specific purposes for altruistic data sharing. The consent provisions of the GDPR fully apply also in the context of the DGA for data altruism and in the other situations governed by the proposal. Thus, data subjects do have the right to object to the processing of their data also through data sharing service providers.

Discussions between the co-legislators, the European Parliament and the Council, concerning the proposal are now underway and the Commission remains hopeful that an agreement will be reached in the near future. The Commission will take the comments made in the Opinion carefully into consideration during the process of interinstitutional discussions.

The Commission looks forward to continuing the political dialogue with the Senat in the future and counts on its support to the data economy in Europe.

Yours faithfully,

*Maroš Šefčovič
Vice-President*

*Thierry Breton
Member of the Commission*