



EUROPEAN
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European Statistical System (ESS) position paper on the future Data Act proposal

**Access to privately held data is urgently needed for
producing new, faster, more detailed official statistics**

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The European Statistical System (ESS) is looking forward to the forthcoming Data Act proposal that the European Commission intends to put forward by the end of year. In particular, the ESS welcomes the intention to foster Business-to-Government (B2G) data sharing for public interest purposes. In this context, the ESS calls on the Commission to ensure that the Data Act proposal provides sustainable legislative access by the members of the ESS¹ to data held by the private sector when necessary for the development, production and dissemination of official statistics.

Official statistics represent a distinct public interest purpose. They are necessary for the performance of the activities of the Union. They enable policy makers, economic and other social actors, and citizens to take evidence-based decisions and build informed opinions. The mission of the ESS is to provide trustworthy high quality data and statistics on the economy, society and environment. As official statistics are delivered to everybody, at the same time and for free, they effectively represent an essential public good that benefits all.

The ESS strongly supports enhancing Business-to-Government data sharing for public interest purposes, including for official statistics

Today, the datafied society provides enormous opportunities for innovation, growth and jobs as well as for better decisions and government services. The digital transformation has profoundly changed the information needs and user expectations. It has generated increasing demands for more detailed and frequent official statistics to be delivered with much shorter deadlines than now. Recently, the Covid-19 pandemic has accentuated these demands. Availability of near real-time statistics became crucial to inform critical decisions and support corrective measures. Better and timelier official statistics that are comparable across Member States have also become instrumental in fighting fake news and disinformation.

For decades, statistical authorities had successfully accomplished their mission by relying on traditional data sources, namely censuses, surveys and administrative records. However, this model no longer suffices to meet the growing demands at European and national level for timelier and more detailed official statistics. Moreover, it is becoming evident that the use of data generated by the digital transformation is the only way to measure certain phenomena (e.g. the gig economy). The only possibility for statistical authorities to meet these growing demands is to embrace new data sources that have emerged with the digital transformation.

Business-to-Government data sharing can become a game-changer in this respect, including for providing faster and more detailed official statistics to underpin European and national policies. The ESS, therefore, fully supports the enhancement of Business-to-Government data sharing for high public interest purposes including for the development, production and dissemination of official statistics.

The Data Act provides a unique opportunity to foster Business-to-Government data sharing for public interest purposes through setting up a general framework

In the absence of a harmonised approach to Business-to-Government data sharing across Member States, data holders are subject to different rules and administrative practices. This creates asymmetries and affects negatively the development of the internal market. In addition, the lack of clear rules and procedures for data access and use as well as the fragmentation of national legislation pose a serious obstacle to fully reaping the potential of private sector data for public interest purposes. The missing governance framework for Business-to-Government data sharing at European level prevents the power of data from being unlocked for better official statistics and better decisions too.

The private sector generates and holds the vast majority of new data sources that are by-products of digital transformation. However, not all private data holders are prepared to engage in collaboration arrangements aimed at enhancing official statistics. Even where such arrangements exist, uncertainty is created by

¹ The European Statistical System comprises Eurostat, the National Statistical Institutes and other national authorities responsible in each Member State for the development, production and dissemination of European statistics. It includes the statistical offices of the EU Member States and of the EEA and EFTA countries.

commitments and agreements that are based solely on voluntary cooperation and which can simply be terminated in the short term. This is not conducive to enabling or justifying the necessary investments in methodological developments, processes and data infrastructures to replace or sustainably change the production of official statistics.

At the same time, building on successful experimentation, the ESS has gathered solid evidence that new data sources can complement traditional ones for producing more accurate and timely statistical information. Examples of applications of this new approach include high-frequency population mobility indicators based on mobile network operators data (e.g. to verify the effects of mobility restrictions in the context of a pandemic), consumer price indices based on scanner data from major retailers, statistics on household consumption or national accounts supported by data financial transactions data. Other examples are tourism statistics based on data collected from online platforms and mobile operators, energy consumption of households and businesses from smart meters and labour demand indicators from online job advertisements. In all such cases, the public benefit generally outweighs the costs incurred and the burden on data holders remains fully proportionate. The scenario is evolving rapidly, and ever more data sources are worth considering for their possible use in official statistics, either as stand-alone sources or in combination with traditional ones. The ESS has also shown that data holders may benefit from sharing data with National Statistical Institutes. For example, supermarkets no longer need to allow price collectors in their shops if they provide scanner data. In general, providing data may lead to a lower administrative burden for businesses as well as citizens.

A move from one-off proof-of-concept experimentation based on voluntary collaboration towards development and production of regular official statistics however requires sustainable legislatively based access to privately held data by the National Statistical Authorities. This is all the more necessary if access on a voluntary basis cannot be realized even for experimental purposes. However, this should be accompanied by a clear set of rights and duties, obligations and limitations for data holders, statistical authorities and possibly other involved stakeholders.

The Data Act should therefore establish a general framework on Business-to-Government data sharing (data access and use), set up clear principles and address a number of aspects (including general governance mechanisms). The operational modalities could be further developed in the national legislation, in sectoral legislation, such as Regulation (EC) No 223/2009 on European statistics, or by other accompanying measures.

The Data Act should establish obligations for the private sector to share data for official statistics under certain conditions and safeguards

The Data Act proposal should establish clear obligations to sharing privately held data that are necessary for purposes of very high public interest and include, in that respect, an explicit reference to the development, production and dissemination of official statistics. In this context, data sharing should aim at enabling a regular production and dissemination of improved official statistics, as determined by the existing European statistical governance structures and procedures, in order to respond to increasing information needs by society and by policy makers.

The existing legal framework for European Statistics (Regulation (EC) No 223/2009) provides a solid system of safeguards and guarantees for the individuals and economic operators concerning data confidentiality, for protecting both individual privacy and business confidentiality². It already includes elaborated governance mechanisms aimed at ensuring that the burden and overall cost of data collection is minimised and always justified by the societal and economic needs for official statistics derived from these data. In this respect, the Data Act should explicitly refer to the existing statistical legislation, at both national and European level, for the definition of the detailed operational modalities of data access and for the implementation of the

² The legal framework is complemented by a common quality framework of the ESS consisting of the [European Statistics Code of Practice](#) and the quality assurance framework.

appropriate safeguards. It should further extend the safeguards that are today in place for traditional data sources to privately held data to be used for official statistical purposes.

In particular, the Data Act should acknowledge the responsibility of statistical authorities to respect the confidentiality of the data, extending the current provisions in place for traditional data sources to data accessed from private sources. It should ensure the implementation of adequate safeguards and technical measures across the involved entities (e.g. data holders, statistical authorities and possibly third parties) to protect the legitimate interests of all involved stakeholders and to strengthen transparency and public trust into the process of statistical production based on privately held data.

The Data Act proposal should take into account that, at the operational level, new data sources might need to be handled differently from traditional ones. For example, in some cases detailed granular data may only need to be processed locally at the premises of the data holder, with only the resulting intermediate data being reported to the statistical authority.

Furthermore, the Data Act proposal should ensure that the National Statistical Authorities are not required to purchase data from the data holders, in line with the rules in place today for accessing and using traditional data sources in official statistics and as they will not compete with private data holders in their respective fields of business. However, it may foresee adequate mechanisms and incentives to deal with the initial investments required and marginal costs that might be incurred by the data holders in processing, especially aggregating or running algorithms on the primary data to make them ready for use in official statistics.

The Data Act proposal should acknowledge the role of existing statistical governance structures and procedures, both at national and European levels, to frame data sharing requests

The Data Act proposal should take into account, in a balanced way, the legitimate interests of all involved stakeholders, including the data holders and the prospective users of statistical information, e.g. policy makers, economic and other social actors, and citizens.

In particular, it should acknowledge the role of existing statistical governance structures and procedures, both at national and European levels, to frame data sharing requests. In so doing, it should extend their role to the identification of the categories of source data (including privately held data) that are necessary to develop, produce and disseminate those statistical products. The same governance structures and procedures should be called upon and where needed extended to identify, for each category of privately held data source, reference guidelines for data access modalities and operational conditions for their use in the statistical production process, taking into account the characteristics of each privately held data source and of the relevant business sector.

A core set of common rules applicable to all Member States could be established for selected categories of privately held data that are the most essential for the production of European statistics. Some privately held data sources can be accessed more efficiently at the European level, particularly when data are relevant to multiple ESS partners or are to be re-used in cross-border contexts. The EU wide interest in statistical products derived from such data sources will require a stronger coordination role at European level in data access and data sharing operations, which could be carried out by Eurostat.

Trustworthiness and high quality of official statistics should be maintained

In order to preserve trustworthiness, official statistics must be produced through reliable trusted processes with guarantees of objectivity, transparency, auditability, accountability, independence, impartiality and adherence to scientifically sound methodologies. The Data Act should acknowledge that privately held data will be used by the National Statistical Authorities and Eurostat in full respect of the principles and high quality standards that are enshrined in the statistical legislation, common quality framework including the European

Statistics Code of Practice, and according to well-established rules during the entire statistical development and production processes.

In order to reach the required levels of quality and trustworthiness, data holders will also have to provide the technical information that is necessary for correct data interpretation. They will also have to report events that may affect data quality (e.g. disruptions or incidents) to statistical authorities, which remain committed to protect the confidentiality of such information.

The framework should recognise the responsibility of the participants in data sharing operations to implement adequate transparency and public communication mechanisms to inform the general public about the purposes, terms and access modalities of privately held data for official statistics.

Finally, the new legal framework should allow for the optional involvement of third parties, e.g. transparent data intermediation structures, bodies or private companies providing technology services. For instance, such intermediation structures could help to ensure interoperability of data or match the demand by public sector bodies (including National Statistical Institutes) interested in specific data with the supply from private sector data holders.

Conclusion

The ESS reiterates that ensured, sustainable access to privately held data is the main challenge to unlock the power of data for better official statistics. Accessing and using the new data sources, emerging as by-products of digital transformation is becoming vital for producing timely official statistics in a more efficient and less costly way. In some cases, it is the only way to measure certain phenomena. Therefore, a legislatively framed access to and re-use of privately held data for official statistics purposes by the National Statistical Authorities and Eurostat must be regulated and organised on a sustainable basis and according to fair, clear and predictable rules that will ensure a level playing field in Europe. This is of very high public interest.

The ESS is therefore calling for determined action to enable and enforce Business-to-Government data sharing for the purpose of developing, producing and disseminating official statistics enabled through the Data Act proposal, following the rules and conditions described in this position paper.