

The Danish Government's response to the public consultation on the Data Act

The Danish Government welcomes the consultation on the Data Act and supports the overarching goal of increasing the access and further use of data by public and private actors. Availability and use of data are prerequisites for the development of digital technologies and tools that can spur growth and innovation. Thus, the use of data will contribute significantly to the economic recovery after the pandemic as well as providing innovative solutions to climate change and our common health challenges. It is vital for Europe to establish a true Single Market for data, where it is easy for citizens, businesses, and public institutions to engage in a fair, secure, trustworthy, and transparent exchange of data.

The Danish Government supports efforts in an upcoming Data Act to ensure a fair and efficient data economy, especially in regard to business-to-government (B2G) and business-to-business (B2B) data sharing. To realise this, there is a need for safe and secure, ethical and functional mechanisms for access to and sharing of data providing added-value for all actors involved. Key tasks in doing so will be how to:

- 1) tackle technical challenges for data users and providers in terms of data access and sharing such as data validation and enabling interoperability between services through common standards and formats;
- 2) provide legal clarity on access to and use of B2G and B2B data. It is especially important for SMEs to have the right conditions and incentives to use, process and share data in trustworthy relations with other economic actors.

A well-functioning data economy is a high priority for the Commission, which has launched several initiatives that aim at realizing the Single Market for data as well as protecting the integrity of European data. The Danish Government fully supports these ambitions and looks forward to contributing to the work on the Data Act.

At the same time, we urge the Commission to carefully coordinate and align the various data initiatives to avoid overlapping regulation and take into account the experiences and implementation of existing regulation. In our view, we should be careful to set clear rules, enable and incentivize data sharing while not create an overly complex regulative environment for European businesses. Considerations is needed regarding the Data Act's link to e.g., the Data Governance Act, the upcoming proposal for the European Health Data Space (Q4), and the Digital Products Passport.

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Making data-driven business the norm

The transformation to a data-based economy with the use of business data is an important driving force for future growth and sustainable development. It's crucial that SME's are at the forefront and able to take advantage of the many benefits of digital technologies to new and better services for the benefit of the whole society. For the SMEs, this involves better access to public and private data and better opportunities to share their business data with partners, costumers, public authorities, and other relevant stakeholders in a secure, simple and transparent manner. For public administrations, it involves investments in a secure, coherent and widely distributed digital infrastructure that makes it easier for SME's to do business nationally and across borders. Therefore, it is important that the Data Act contributes to promote more accessible, interoperable and user-driven digital services making life easier for the SME's.

The guiding principle for sharing of data should be creating the right incentives for businesses to share data. For some businesses value could be created through eco-systems around their products and sharing of data within that ecosystem. Other models for data sharing could involve financial compensation for high-quality data enabling new business models.

One example of how the values of such an eco-system could be realized is the project Nordic Smart Government¹ that aims to realize the huge potential of business data generated by the Nordic region's two million SME's. The goal is to enable the cross-border exchange of standardised business data (e.g transactional data) to be easily accessible and usable to benefit both businesses and authorities across borders. This is done by aligning the digital business systems, i.e., the SMEs' accounting systems, with other systems processing business data.

Today, some workflows are still paper-based, which often prevents SME's from taking advantage of utilizing the potential of business data. Thus, SME's cannot access their data and use it to simplify and automate their workflows, or for business intelligence and optimized production. If SME's adopt the existing European e-invoice format (as well as related digital business document formats), and business systems and third-party services adhere to a common model and method for sharing and transporting structured data from the documents, SME's will be able to utilize their data in new ways, thus making data-driven businesses the norm.

¹ www.nordicsmartgovernment.org

Thus, the overall ambition to increase sharing of data within the EU is best reached through a decentralised and broad distributed digital infrastructure combined with a strong governance structure. That means, that all actors enter the same infrastructure based on common standards and semantic models realising interoperability. A strong governance here ensures that it is clear for all actors on which standards to follow and what rules to follow when requesting access to or sharing data, such as in the Nordic Smart Government model.

B2G

The Danish Government welcomes efforts that seek to enhance the public sector's capacity to access and utilize B2G data of public interest following a fair, predictable and transparent process of obtaining these data. Here there are two significant considerations to be taken into account being 1) the purpose of B2G data collection and 2) a functional public data infrastructure.

Thus, any rights for the public sector to access certain private data for purposes of public interest, should be carefully constructed. The public interest and the purpose of accessing data in this regard should be clearly defined. It should be clear how, when and why the public sector may collect such data. This is needed to give businesses predictable framework conditions while the public sector should only access data for a specific purpose. Such purposes could be research purposes e.g. related to Covid-19 or other societal crisis or official statistics in general.

It should be easy for businesses to provide B2G data through a functional data-sharing infrastructure. This must be in place before considering obligations on businesses to share data with the public sector. Further, it is important to assess whether the establishment of such infrastructure would create benefits that would outweigh the costs or whether existing infrastructure would fulfil the need. Such an infrastructure should be user-friendly, easy to use, and provide the opportunity for private businesses to have an easy overview and access to the data they share with public authorities. A basic infrastructure for B2G data sharing opens opportunities for other data of public interest to be shared without adding disproportionate burdens on businesses. E.g., by combining e-invoice data with products and services environmental and climate performance.

B2B

The Danish Government welcomes an examination of the role of the database directive and the intention of the Commission to improve legal

certainty regarding businesses' access to and sharing of data among each other. This is important in many fields and especially when it comes to co-created industrial data within an ecosystem. At the same time, we would like to highlight the need for coordination of initiatives and tools in the Data Act with other data initiatives such as Gaia-X, common European data spaces and the newly announced industrial alliance for data, cloud and edge.

Establishing more competitive markets for cloud computing services

The Danish Government shares the Commission's assessment of the need for an open and competitive cloud market. We look forward to examining the Commission's evaluation of the portability guarantees in the Regulation of Free Flow of Non-Personal Data. In our view, it could be an interesting way forward to give users of cloud services a right to export their data in machine readable format, while not creating unnecessary regulatory burdens on providing cloud services.

Safeguards for non-personal data in international contexts

The Danish Government would urge the Commission to analyse in depth whether European businesses face challenges because of disproportionate governmental access to their data. In general, we do not support introducing new data transfer restrictions outside of WTO trade agreements. We see a risk of setting up unnecessary barriers for data transfers that could potentially limit European businesses' growth and innovation.