

BDVA/DAIRO Response to the public consultation on Data sharing in the EU – common European data spaces (new rules)

Introduction

BDVA/DAIRO welcomes the possibility to provide feedback to the public consultation on *Data Sharing in the EU – common European data spaces* and more particularly on the Data Governance Act and its inception Impact Assessment. BDVA/DAIRO position paper of November 2020 “[Towards a European-governed data sharing space](#)” includes a number of points and recommendations which are of relevance for this European Commission’s initiative. BDVA/DAIRO response to the public consultation covers in particular four aspects of the Data Governance Act and notably:

- The requirements applicable to data sharing services;
- The provisions on Data Altruism;
- Reuse of certain categories of protected data held by public sector bodies (PBSs); and
- The establishment of a European Data Innovation Board.

Requirements applicable to data sharing services

- BDVA/DAIRO Members welcome the establishment of a legal framework for data sharing services as it could help enhancing trust in data sharing and clarifying roles and responsibilities of each stakeholder, thus leading to a better governance and a more trusted market. This would also benefits research and innovation projects on AI and Big Data. At the same time, they strengthen the importance of having a framework which is flexible, practical and clear enough to allow for experimentation and innovation.
- In this respect, BDVA/DAIRO Members highlight some challenges which might derive from the establishment of the rules laid down by the DGA and notably concerning:
 - The clarity of some definitions used, i.e. the definition of data sharing services providers which might be interpreted in different ways and which might (or not) encompass also data sharing activities happening in the context of Research and Innovation projects, the definitions of ethics, general security etc.
 - The obligation for potential data sharing services providers to have/establish a legal entity that is separate from the other activities in order to provide their services;
 - The prohibition for the stakeholders in scope to use data and metadata (i.e. using transaction data as a way to deliver or optimize services). This could limit the possibility to identify and establish creative business models.
 - The compliance costs for stakeholders which might derive from the notification provisions;
 - The limited guidance provided on standards and technical challenges.
- BDVA/DAIRO Members believe that *the establishment of a framework as such is not a sufficient condition for the emergence of a European Data Space if not accompanied by a greater availability of data and the development of sustainable business models, metadata and technical data sharing solutions.*
- Despite these challenges, the framework also raises a number of opportunities as it could bring to:

- Greater amount of data being made available if the trust in the data sharing mechanisms increases. In this respect, the availability of a register certifying compliance can truly help increasing overall trust in data sharing activities;
- Strengthened research and innovation activities, and especially in domains which rely on sensitive data, due to a more trustworthy data sharing system;
- Greater involvement of SMEs and start-ups in the data market if they start trusting the system better;
- More legal certainty for all players and at the European level;
- Greater trust in data sharing organisations therefore increasing their market shares and potential;
- BDVA/DAIRO underlines that some open questions, such as those raised above, must be clarified for adopting a text which meets the needs of the research and innovation ecosystem. Furthermore, the relation of this piece of legislation with other legislative measures at the European level (i.e. Inspire Directive, Open Data Directive and others) need to be further understood.

Data altruism

- BDVA/DAIRO Members consider rather favourably the establishment of rules on a Data Altruism framework at the European level and view this as a possible way to address legal and data access concerns and especially in relation to sensitive data. At the same time, they also fear that the current DGA text does not provide sufficient clarifications on:
 - The definition of the concept of “general interest”, which is pivotal in the European Commission’s provisions, and how this should be interpreted;
 - The guarantees can be put in place to ensure a fair and ethical use of the data;
 - How to ensure the reliability and traceability of the data provided.
- BDVA/DAIRO Members welcome the possibility to discuss this topic more concretely in the coming months.

Reuse of certain categories of protected data held by public sector bodies (PBSs)

- BDVA/DAIRO Members always welcome initiatives aimed at increasing the availability of data. Nonetheless, they question whether the provisions established by the DGA will have a real impact in terms of Public Sector Bodies’ behaviour and of strengthening of data sharing, in the absence of any further incentive for PSBs to embark in these activities.

European Data Innovation Board

- BDVA/DAIRO Members welcome the establishment of a European Data Innovation Board and favour the inclusion of a wide diversity of players such as research institutions (with different scientific disciplines represented), industrial organisations, health organisations, data governance and standard experts, SMEs, associations representing citizens, regional and local authorities etc. This Board must be able to discuss both technical and strategic topics and be composed of both strategic and operational experts to be effective.

About BDVA/DAIRO

The Big Data Value Association – BDVA, (from 2021, DAIRO - Data, AI and Robotics aisbl), is an industry-driven international not-for-profit organisation with more than 220 members all over Europe and a well-balanced composition of large, small, and medium-sized industries as well as research and user organizations. BDVA/DAIRO has been the private counterpart to the EU Commission to implement the Big Data Value PPP program (2014-2020) and, since 2018, has also been a private Member of the High-Performance Computing PPP – EuroHPC. Furthermore, BDVA/DAIRO is one of the main promoters of the upcoming AI, Data and Robotics Partnership under Horizon Europe and will engage in activities related to High Performance Computing in the context of the current Multi Annual Financial Framework 2021-2027.

The overarching objective of BDVA/DAIRO is to boost Data, Artificial Intelligence and embedded AI research, development and innovation and to foster value creation for business, citizens and the environment. The association specifically aims at a) boosting European competitiveness, societal wellbeing and environmental aspects to lead the world in researching, developing and deploying value-driven trustworthy AI, data and robotics based on European fundamental rights, principles, and value, b) promoting the widest and best uptake of Data and AI technologies and c) establishing excellence in science and business. BDVA/DAIRO is an open and inclusive community and is always eager to accept new members who share these ambitious objectives.