



**2020/0340(COD)**

30.6.2021

## **OPINION**

of the Committee on Civil Liberties, Justice and Home Affairs

for the Committee on Industry, Research and Energy

on the proposal for a regulation of the European Parliament and of the Council  
Proposal for a regulation of the European Parliament and of the Council on  
European data governance (Data Governance Act)  
(COM(2020)0767 – C9-0377/2020 – 2020/0340(COD))

Rapporteur for opinion: Sergey Lagodinsky

(\*) Associated committee – Rule 57 of the Rules of Procedure

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## SHORT JUSTIFICATION

### 1. Background

The proposed Data Governance Act (DGA) presented in November 2020 follows the Commission's Communication "A European Strategy for Data" from February of the same year. According to the announcements, the DGA is the first of what is to become a number of legislative proposals to govern access and use of data in the Union.

The DGA combines several instruments. First, it complements the Open Data Directive (EU) 2019/1024 by a regime which allows public sector bodies to make data available for re-use covered by third party rights, including personal data. Second, it establishes rules for data intermediation services, with the purpose of enabling data sharing among businesses with and without remuneration, and encourages the creation of cooperatives that would strengthen the position of both individual data subjects and small non-personal data holders. Finally, it encourages "data altruism" by individuals by creating a standardised consent form for data subjects to make their personal data available for purposes serving the general interest, and by establishing organisations to pool these data and make them attractive for data users. It also creates a structure of competent authorities to enforce its provisions and an expert group to support its goals.

In its impact assessment, the Commission estimates the economic value of the combined measures to amount to 3,87 % to 3,95 % growth of the GDP.

### 2. The Rapporteur's Position

In its opinion the rapporteur focuses on a number of improvements, most importantly the following:

#### A. Emphasising the centrality of GDPR

The rapporteur deems legal clarity and certainty about the DGA's relationship vis-a-vis the General Data Protection Regulation (GDPR) a central element of the new regulation, considering that the legislator is bound by Article 8 of the Charter of Fundamental Rights of the European Union and Article 16 of the Treaty on the Functioning of the European Union. Thus, the LIBE opinion draft proposes one central provision stating the primary role of the GDPR. This clarification will secure the fundamental right of protection of personal data. This solution also follows the joint opinion of the EDPB and the EDPS<sup>1</sup>.

#### B. Effective differentiation between personal and non-personal data.

One of the main premises of the data protection law is that the data subjects' rights are very different from rights exercised by holders of non-personal data. Thus, the rapporteur decided to re-draft the provisions applying to data subjects and data holders respectively to emphasize the differences between the two categories.

This also applies to data intermediation services that must treat the two categories differently.

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<sup>1</sup> [https://edps.europa.eu/press-publications/press-news/press-releases/2021/edpb-edps-adopt-joint-opinion-data-governance-act\\_en](https://edps.europa.eu/press-publications/press-news/press-releases/2021/edpb-edps-adopt-joint-opinion-data-governance-act_en)

In case of non-personal data, they can offer pooling and sharing as well as additional treatment of data as a service. Regarding personal data, the providers cannot and should not substitute data subjects who must continue to comprehensively exercise their rights in their own name. As a result, the providers' function with respect to personal data must be distinctly different and focus on facilitating between data subjects and potential data users. Only then will they be able to remain neutral and not process personal data themselves.

#### C. No disincentive for public sector bodies to make data available under the Open Data Directive

While the Open Data Directive's provisions exclude non-personal data protected on grounds of commercial and statistical confidentiality and of intellectual property rights of third parties, as well as personal data, the Data Governance Act applies explicitly to those.

This should not create any disincentive for public sector bodies to publishing Open Data. Where techniques such as anonymisation, aggregation and others can effectively be applied and thus derive data that does fall under the re-use regime mandated by the Open Data Directive, the latter should take precedence.

#### D. Data altruism must lead to data use in the public interest

Where individuals are incentivised to make their data available voluntarily for the benefit of public interest, their trust should not be abused. Therefore, it is important to clarify that the organisations that make such data available, as well as the potential data users, use the data with the same objective of contributing to the public interest.

Consequently, the rapporteur has opted to change the name of the organisations pooling and sharing altruism data, to "Public Interest Data Hubs".

## AMENDMENTS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Industry, Research and Energy, as the committee responsible, to take into account the following amendments:

### Amendment 1

#### Proposal for a regulation

#### Recital 2

*Text proposed by the Commission*

(2) Over the last few years, digital technologies have transformed the economy and society, affecting all sectors of activity and daily life. Data is at the centre of this transformation: data-driven innovation **will bring** enormous benefits for citizens, for example through improved

*Amendment*

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personalised medicine, new mobility, and its contribution to the European Green Deal<sup>23</sup>. In its Data Strategy<sup>24</sup>, the Commission described the vision of a common European data space, a Single Market for data in which data could be used irrespective of its physical location of storage in the Union in compliance with applicable law. It also called for the free and safe flow of data with third countries, subject to exceptions and restrictions for public security, public order and other legitimate public policy objectives of the European Union, in line with international obligations. In order to turn that vision into reality, it proposes to establish domain-specific common European data spaces, as the concrete arrangements in which data sharing and data pooling can happen. As foreseen in that strategy, such common European data spaces can cover areas such as health, mobility, manufacturing, financial services, energy, or agriculture or thematic areas, such as the European green deal or European data spaces for public administration or skills.

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<sup>23</sup> Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions on the European Green Deal. Brussels, 11.12.2019. (COM(2019) 640 final)

<sup>24</sup> COM (2020) 66 final.

personalised medicine, new mobility, and its contribution to the European Green Deal<sup>23</sup>. In its Data Strategy<sup>24</sup>, the Commission described the vision of a common European data space, a Single Market for data in which data could be used irrespective of its physical location of storage in the Union in compliance with applicable law. It also called for the free and safe flow of data with third countries, subject to exceptions and restrictions for public security, public order and other legitimate public policy objectives of the European Union, in line with international obligations. In order to turn that vision into reality, it proposes to establish domain-specific common European data spaces, as the concrete arrangements in which data sharing and data pooling can happen. As foreseen in that strategy, such common European data spaces can cover areas such as health, mobility, manufacturing, financial services, energy, or agriculture or thematic areas, such as the European green deal or European data spaces for public administration or skills.

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<sup>23</sup> Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions on the European Green Deal. Brussels, 11.12.2019. (COM(2019) 640 final).

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## **Amendment 2**

### **Proposal for a regulation**

#### **Recital 3**

*Text proposed by the Commission*

(3) It is necessary to improve the conditions for data sharing in the internal market, by creating a harmonised

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framework for data exchanges. Sector-specific legislation can develop, adapt and propose new and complementary elements, depending on the specificities of the sector, such as the envisaged legislation on the European health data space<sup>25</sup> and on access to vehicle data. Moreover, certain sectors of the economy are already regulated by sector-specific Union law that include rules relating to cross-border or Union wide sharing or access to data<sup>26</sup>. This Regulation is therefore without prejudice to **Regulation (EU) 2016/679 of the European Parliament and of the Council (27), and in particular the implementation of this Regulation shall not prevent cross border transfers of data in accordance with Chapter V of Regulation (EU) 2016/679 from taking place, Directive (EU) 2016/680 of the European Parliament and of the Council (28), Directive (EU) 2016/943 of the European Parliament and of the Council (29), Regulation (EU) 2018/1807 of the European Parliament and of the Council (30), Regulation (EC) No 223/2009 of the European Parliament and of the Council (31), Directive 2000/31/EC of the European Parliament and of the Council (32), Directive 2001/29/EC of the European Parliament and of the Council (33), Directive (EU) 2019/790 of the European Parliament and of the Council (34), Directive 2004/48/EC of the European Parliament and of the Council (35), Directive (EU) 2019/1024 of the European Parliament and of the Council (36), as well as Regulation 2018/858/EU of the European Parliament and of the Council (37), Directive 2010/40/EU of the European Parliament and of the Council (38) and Delegated Regulations adopted on its basis, and any other sector-specific Union legislation that organises the access to and re-use of data. This Regulation should be without prejudice to the access and use of data for the purpose of *international cooperation in the context of* prevention, investigation, detection or prosecution of**

framework for data exchanges *and laying down requirements for data governance*. Sector-specific legislation can develop, adapt and propose new and complementary elements, depending on the specificities of the sector, such as the envisaged legislation on the European health data space<sup>25</sup> and on access to vehicle data, *in full respect of the rules and principles defined in applicable Union and Member State law*. Moreover, certain sectors of the economy are already regulated by sector-specific Union law that include rules relating to cross-border or Union wide sharing or access to data<sup>26</sup>. This Regulation is therefore without prejudice to Directive (EU) 2016/943 of the European Parliament and of the Council (27), Regulation (EU) 2018/1807 of the European Parliament and of the Council (28), Regulation (EC) No 223/2009 of the European Parliament and of the Council (29), Directive 2000/31/EC of the European Parliament and of the Council (30), Directive 2001/29/EC of the European Parliament and of the Council (31), Directive (EU) 2019/790 of the European Parliament and of the Council (32), Directive 2004/48/EC of the European Parliament and of the Council (33), Directive (EU) 2019/1024 of the European Parliament and of the Council (34), as well as Regulation 2018/858/EU of the European Parliament and of the Council (35), Directive 2010/40/EU of the European Parliament and of the Council (36) and Delegated Regulations adopted on its basis, and any other sector-specific Union legislation that organises the access to and re-use of data. This Regulation should be without prejudice to *Union or Member State law on* the access and use of data for the purpose of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, *as well as international cooperation in this context. This Regulation should be without prejudice to the competences of the Member States regarding activities concerning public*

criminal offences or the execution of criminal penalties. A horizontal regime for the re-use of certain categories of protected data held by public sector bodies, the provision of data **sharing** services and of services based on data altruism in the Union should be established. Specific characteristics of different sectors may require the design of sectoral data-based systems, while building on the requirements of this Regulation. Where a sector-specific Union legal act requires public sector bodies, providers of data **sharing** services or registered entities providing data altruism services to comply with specific additional technical, administrative or organisational requirements, including through an authorisation or certification regime, those provisions of that sector-specific Union legal act should also apply.

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<sup>25</sup> See: Annexes to the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Commission Work Programme 2021 (COM(2020) 690 final).

<sup>26</sup> For example, Directive 2011/24/EU in the context of the European Health Data Space, and relevant transport legislation such as Directive 2010/40/EU, Regulation 2019/1239 and Regulation (EU) 2020/1056, in the context of the European Mobility Data Space.

<sup>27</sup> ***Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), (OJ L 119, 4.5.2016, p.1)***

<sup>28</sup> ***Directive (EU) 2016/680 of the European Parliament and of the Council***

***security, defence and national security***. A horizontal regime for the re-use of certain categories of protected data held by public sector bodies, the provision of data **intermediation** services and of services based on data altruism in the Union should be established. Specific characteristics of different sectors may require the design of sectoral data-based systems, while building on the requirements of this Regulation. Where a sector-specific Union legal act requires public sector bodies, providers of data **intermediation** services or registered entities providing data altruism services to comply with specific additional technical, administrative or organisational requirements, including through an authorisation or certification regime, those provisions of that sector-specific Union legal act should also apply.

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<sup>26</sup> For example, Directive 2011/24/EU in the context of the European Health Data Space, and relevant transport legislation such as Directive 2010/40/EU, Regulation 2019/1239 and Regulation (EU) 2020/1056, in the context of the European Mobility Data Space.



***of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA. (OJ L 119, 4.5.2016, p.89)***

<sup>29</sup> Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure. (OJ L 157, 15.6.2016, p.1)

<sup>30</sup> Regulation (EU) 2018/1807 of the European Parliament and of the Council of 14 November 2018 on a framework for the free flow of non-personal data in the European Union. (OJ L 303, 28.11.2018, p. 59)

<sup>31</sup> Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities. (OJ L 87, 31.03.2009, p. 164)

<sup>32</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000, on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce). (OJ L 178, 17.07.2000, p. 1)

<sup>33</sup> Directive 2001/29/EC of the European Parliament and of the Council of 22 May

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<sup>30</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000, on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce). (OJ L 178, 17.07.2000, p. 1)

<sup>31</sup> Directive 2001/29/EC of the European Parliament and of the Council of 22 May



2001 on the harmonisation of certain aspects of copyright and related rights in the information society. (OJ L 167, 22.6.2001, p. 10)

<sup>34</sup> Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC. (OJ L 130, 17.5.2019, p. 92)

<sup>35</sup> Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights. (OJ L 157, 30.4.2004).

<sup>36</sup> Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information. (OJ L 172, 26.6.2019, p. 56).

<sup>37</sup> Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (OJ L 151, 14.6.2018).

<sup>38</sup> Directive 2010/40/EU of the European Parliament and of the Council of 7 July 2010 on the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other modes of transport. (OJ L 207, 6.8.2010, p. 1)

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<sup>32</sup> Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC. (OJ L 130, 17.5.2019, p. 92)

<sup>33</sup> Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights. (OJ L 157, 30.4.2004).

<sup>34</sup> Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information. (OJ L 172, 26.6.2019, p. 56).

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<sup>36</sup> Directive 2010/40/EU of the European Parliament and of the Council of 7 July 2010 on the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other modes of transport. (OJ L 207, 6.8.2010, p. 1)

### **Amendment 3**

#### **Proposal for a regulation**

#### **Recital 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***(3a) This Regulation is without prejudice to Regulation (EU) 2016/679<sup>1a</sup> of the European Parliament and of the Council and to Directives 2002/58/EC<sup>1b</sup> and (EU) 2016/680<sup>1c</sup> of the European Parliament and of the Council. This Regulation should in particular not be read as creating a new legal basis for the processing of personal data for any of the regulated activities. In the event of conflict between the provisions of this Regulation and Union law on the protection of personal data, the latter should prevail. It should be possible to consider data protection authorities competent authorities for the purpose of this Regulation. Where other entities act as competent authorities under this Regulation, it should be without prejudice to the supervisory powers of data protection authorities under Regulation (EU) 2016/679.***

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***<sup>1a</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), (OJ L 119, 4.5.2016, p.1).***

***<sup>1b</sup> Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).***

***<sup>1c</sup> Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or***

*prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA. (OJ L 119, 4.5.2016, p.89).*

#### **Amendment 4**

##### **Proposal for a regulation Recital 3 b (new)**

*Text proposed by the Commission*

*Amendment*

***(3b) In the case of a data set composed of both personal and non-personal data, where these data are inextricably linked, the data set should be considered personal data.***

#### **Amendment 5**

##### **Proposal for a regulation Recital 4**

*Text proposed by the Commission*

*Amendment*

(4) Action at Union level ***is necessary*** in order to address ***the*** barriers to a well-functioning data-driven economy and to create a Union-wide governance framework for data access and use, in particular regarding the re-use of certain types of data held by the public sector, the provision of services by data sharing providers to business users and to data subjects, as well as the collection and processing of data made available for altruistic purposes by natural and legal persons.

(4) Action at Union level ***can help to increase awareness and foster trust regarding data sharing, in particular by establishing proper mechanisms for data subjects to know and meaningfully exercise their rights, as well as for data holders to exercise control over data,*** in order to address ***different*** barriers to a well-functioning data-driven economy, and to create a Union-wide governance framework for data access and use, in particular regarding the re-use of certain types of data held by the public sector, the provision of services by data sharing providers to business users and to data subjects, as well as the collection and processing of data made available for altruistic purposes by natural and legal persons.

## Amendment 6

### Proposal for a regulation Recital 5

#### *Text proposed by the Commission*

(5) The idea that data that has been generated at the expense of public budgets should benefit society has been part of Union policy for a long time. Directive (EU) 2019/1024 as well as sector-specific legislation ensure that the public sector makes more of the data it produces easily available for use and re-use. However, certain categories of data (commercially confidential data, data subject to statistical confidentiality, data protected by intellectual property rights of third parties, including trade secrets and personal data **not accessible on the basis of specific national or Union legislation, such as Regulation (EU) 2016/679 and Directive (EU) 2016/680**) in public databases is often not made available, not even for research or innovative activities. Due to the sensitivity of this data, certain technical and legal procedural requirements must be met before they are made available, in order to ensure the respect of rights others have over such data. Such requirements are usually time- and knowledge-intensive to fulfil. This has led to the underutilisation of such data. While some Member States are setting up structures, processes and sometimes legislate to facilitate this type of re-use, this is not the case across the Union.

#### *Amendment*

(5) The idea that data that has been generated at the expense of public budgets should benefit society has been part of Union policy for a long time. Directive (EU) 2019/1024 as well as sector-specific legislation ensure that the public sector makes more of the data it produces **or holds** easily available for use and re-use. However, certain categories of data (commercially confidential data, data subject to statistical confidentiality, data protected by intellectual property rights of third parties, including trade secrets and personal data in public databases is often not made available **despite this being possible in accordance with the applicable Union law, notably Regulation (EU) 2016/679, Directive (EU) 2016/680 and Directive (EU) 2002/58**, not even for research or innovative activities **in the public interest**. Due to the sensitivity of this data, certain technical and legal procedural requirements must be met before they are made available, **not least** in order to ensure the respect of rights others have over such data **or limit negative impact on fundamental rights, the principle of non-discrimination and data protection**. Such **technical and legal procedural** requirements are usually time- and knowledge-intensive to fulfil. This has led to the underutilisation of such data **and a lack of public trust, transparency and legal clarity**. While some Member States are setting up structures, processes and sometimes legislate to facilitate this type of re-use, this is not the case across the Union.

## Amendment 7

### Proposal for a regulation Recital 6

#### *Text proposed by the Commission*

(6) There are techniques enabling **privacy-friendly** analyses on databases that contain personal data, such as anonymisation, pseudonymisation, differential privacy, generalisation, or suppression and randomisation.

**Application** of these **privacy-enhancing** technologies, together with comprehensive data protection **approaches should ensure the safe** re-use of personal data and commercially confidential business data for research, innovation and statistical purposes. In many cases this implies that the data use and re-use in this context can only be done in a secure processing environment set in place and **supervised** by the public sector. There is experience at Union level with such secure processing environments that are used for research on statistical microdata on the basis of Commission Regulation (EU) 557/2013 <sup>(39)</sup>. In general, insofar as personal data are concerned, the processing of personal data should rely upon one or more of the grounds for processing provided in Article 6 of Regulation (EU) 2016/679.

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<sup>39</sup> Commission Regulation (EU) 557/2013 of 17 June 2013 implementing Regulation (EC) No 223/2009 of the European Parliament and of the Council on European

#### *Amendment*

(6) There are techniques enabling analyses on databases that contain personal data, such as anonymisation, pseudonymisation, differential privacy, generalisation, or suppression, and randomisation **and other state-of-the-art privacy preserving methods that could contribute to a more privacy-friendly processing of data** Member States should **provide support to public sector bodies to make optimal use of such techniques, thus making as much data as possible available for sharing**. **The application** of these technologies, together with comprehensive data protection **impact assessments and other safeguards, can contribute to more safety in the use and re-use of certain categories of protected data, for example** personal data and commercially confidential business data for research, innovation and statistical purposes. In many cases this implies that the data use and re-use in this context can only be done in a secure processing environment set in place and **subject to supervision** by the public sector. There is experience at Union level with such secure processing environments that are used for research on statistical microdata on the basis of Commission Regulation (EU) 557/2013 <sup>(39)</sup>. In general, insofar as personal data are concerned, the processing of personal data should rely upon one or more of the grounds for processing provided in Article 6 **and 9** of Regulation (EU) 2016/679.

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<sup>39</sup> Commission Regulation (EU) 557/2013 of 17 June 2013 implementing Regulation (EC) No 223/2009 of the European Parliament and of the Council on European

Statistics as regards access to confidential data for scientific purposes and repealing Commission Regulation (EC) No 831/2002 (OJ L 164, 18.6.2013, p. 16).

Statistics as regards access to confidential data for scientific purposes and repealing Commission Regulation (EC) No 831/2002 (OJ L 164, 18.6.2013, p. 16).

## Amendment 8

### Proposal for a regulation Recital 6 a (new)

*Text proposed by the Commission*

*Amendment*

***(6a) In order to facilitate the protection of personal data or confidential data, and to speed up the process of making such data available for re-use under this Regulation, Member States should encourage public authorities to apply the principle of ‘open by design and by default’ as referred to in Recital (16) of Directive (EU) 2019/1024 and promote the creation and the procurement of data in formats and structures that allow for swift anonymisation in this regard.***

## Amendment 9

### Proposal for a regulation Recital 7

*Text proposed by the Commission*

*Amendment*

(7) The categories of data held by public sector bodies which should be subject to re-use under this Regulation fall outside the scope of Directive (EU) 2019/1024 that excludes data which is not accessible due to commercial and statistical confidentiality and data for which third parties have intellectual property rights. Personal data fall outside the scope of Directive (EU) 2019/1024 insofar as the access regime excludes or restricts access to such data for reasons of data protection, privacy and the integrity of the individual, in particular in accordance with data protection rules. The re-use of data, which

(7) The categories of data held by public sector bodies which should be subject to re-use under this Regulation fall outside the scope of Directive (EU) 2019/1024 that excludes data which is not accessible due to commercial and statistical confidentiality and data for which third parties have intellectual property rights. ***This Regulation should apply to*** personal data ***that*** fall outside the scope of Directive (EU) 2019/1024 insofar as the access regime excludes or restricts access to such data for reasons of data protection, privacy and the integrity of the individual, in particular in accordance with data



may contain trade secrets, should take place without prejudice to Directive (EU) 2016/943<sup>40</sup>, which sets the framework for the lawful acquisition, use or disclosure of trade secrets. This Regulation is without prejudice and complementary to more specific obligations on public sector bodies to allow re-use of data laid down in sector-specific Union or national law.

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<sup>40</sup> OJ L 157, 15.6.2016, p. 1–18

## Amendment 10

### Proposal for a regulation

#### Recital 9

##### *Text proposed by the Commission*

(9) Public sector bodies should comply with competition law when establishing the principles for re-use of data they hold, avoiding as far as possible the conclusion of agreements, which might have as their objective or effect the creation of exclusive rights for the re-use of certain data. Such agreement should be only possible when justified and necessary for the provision of a service of **general** interest. This may be the case when exclusive use of the data is the only way to maximise the societal benefits of the data in question, for example where there is only one entity (which has specialised in the processing of a specific dataset) capable of delivering the service or the product which allows the public sector body to provide an advanced digital service in the **general** interest. Such arrangements should, however, be concluded in compliance with public procurement rules and be subject to regular review based on a market analysis in order to ascertain whether such exclusivity continues to be necessary. In addition, such

protection rules. The re-use of data, which may contain trade secrets, should take place without prejudice to Directive (EU) 2016/943<sup>40</sup>, which sets the framework for the lawful acquisition, use or disclosure of trade secrets. This Regulation is without prejudice and complementary to more specific obligations on public sector bodies to allow re-use of data laid down in sector-specific Union or national law. ***This Regulation should not create an obligation to allow re-use of personal data held by public sector bodies.***

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<sup>40</sup> OJ L 157, 15.6.2016, p. 1–18

##### *Amendment*

(9) Public sector bodies should comply with competition law when establishing the principles for re-use of data they hold, avoiding as far as possible the conclusion of agreements, which might have as their objective or effect the creation of exclusive rights for the re-use of certain data. Such agreement should be only possible when justified and necessary for the provision of a service of **public** interest. This may be the case when exclusive use of the data is the only way to maximise the societal benefits of the data in question, for example where there is only one entity (which has specialised in the processing of a specific dataset) capable of delivering the service or the product which allows the public sector body to provide an advanced digital service in the **public** interest. Such arrangements should, however, be concluded in compliance with public procurement rules and be subject to regular review based on a market analysis in order to ascertain whether such exclusivity continues to be necessary. In addition, such



arrangements should comply with the relevant State aid rules, as appropriate, and should be concluded for a limited period, which should not exceed three years. In order to ensure transparency, such exclusive agreements should be published online, regardless of a possible publication of an award of a public procurement contract.

arrangements should comply with the relevant State aid rules, as appropriate, and should be concluded for a limited period, which should not exceed three years. In order to ensure transparency, such exclusive agreements should be published online, regardless of a possible publication of an award of a public procurement contract.

## Amendment 11

### Proposal for a regulation

#### Recital 11

##### *Text proposed by the Commission*

(11) Conditions for re-use of protected data that apply to public sector bodies competent under national law to allow re-use, and which should be without prejudice to rights or obligations concerning access to such data, should be ***laid down***. Those conditions should be non-discriminatory, proportionate and objectively justified, while not restricting competition. ***In particular***, public sector bodies allowing re-use should have in place the technical means necessary to ensure the protection of rights and interests of third parties. Conditions attached to the re-use of data should be limited to what is necessary to preserve the rights and interests of others in the data and the integrity of the information technology and communication systems of the public sector bodies. Public sector bodies should apply conditions which best serve the interests of the re-user without leading to a disproportionate ***effort*** for the public sector. ***Depending on the case at hand, before*** its transmission, personal data should be fully anonymised, so as to definitively not allow the identification of the data subjects, or data containing commercially confidential information modified in such a way that no confidential information is disclosed. Where ***provision of anonymised or modified data would not***

##### *Amendment*

(11) Conditions for re-use of protected data that apply to public sector bodies competent under national law to allow re-use, and which should be without prejudice to rights or obligations concerning access to such data, should be ***provided in Union or Member State law***. Those conditions should be non-discriminatory, proportionate and objectively justified, while not restricting competition. Public sector bodies allowing re-use should have in place the technical means necessary to ensure the protection of rights and interests of third parties. Conditions attached to the re-use of data should be limited to what is necessary to preserve the rights and interests of others in the data and the integrity of the information technology and communication systems of the public sector bodies. Public sector bodies should apply conditions which best serve the interests of the re-user without leading to a disproportionate ***burden*** for the public sector. ***Conditions should be designed to ensure effective safeguards with regard to the protection of personal data. Before*** its transmission, personal data should be fully anonymised, so as to definitively not allow the identification of the data subjects, or data containing commercially confidential information modified in such a way that no

*respond to the needs of the re-user*, on-premise or remote re-use of the data within a secure processing environment could be permitted. Data analyses in such secure processing environments should be supervised by the public sector body, so as to protect the rights and interests of others. In particular, personal data should only be transmitted for re-use to a third party where a legal basis allows such transmission. ***The public sector body could make the use of such secure processing environment conditional on the signature by the re-user of a confidentiality agreement that prohibits the disclosure of any information that jeopardises the rights and interests of third parties that the re-user may have acquired despite the safeguards put in place.*** The public sector bodies, where relevant, should facilitate the re-use of data on the basis of consent of data subjects or permissions of legal persons on the re-use of data pertaining to them through adequate technical means. In this respect, the public sector body *should* support potential re-users in seeking such consent by establishing technical mechanisms that permit transmitting requests for consent from re-users, where practically feasible. No contact information should be given that allows re-users to contact data subjects or companies directly.

confidential information is disclosed. Where *any requirements to complete a data protection impact assessment and consult with the supervisory authority pursuant to Articles 35 and 36 of Regulation (EU) 2016/679 have been fulfilled and the risks for the rights and interests of data subjects are minimal*, on-premise or remote re-use of the data within a secure processing environment could be permitted. Data analyses in such secure processing environments should be supervised by the public sector body, so as to protect the rights and interests of others. In particular, personal data should only be transmitted for re-use to a third party where a legal basis allows such transmission. ***In a context of growing availability and sharing of data, even the re-use of non-personal data could have an impact on the protection of personal data, especially where such data are the result of anonymisation, aggregation and other techniques, as an increase in available data can lead to an increase in the chance of re-identification of data subjects, as also pointed out in the joint paper of the Agencia Española de Protección de Datos and the European Data Protection Supervisor entitled ‘10 misunderstandings related to anonymisation’, published on 27 April 2021. In the event of any re-identification of individuals concerned, the re-users should report the incident to the supervisory authority competent under Regulation (EU) 2016/679 and inform the public sector body.*** The public sector bodies, where relevant, should facilitate the re-use of *personal* data on the basis of consent of data subjects or, *in case of non-personal data, on the basis of* permissions of legal persons on the re-use of data pertaining to them, *or permissions of data holders to allow the use of their non-personal data*, through adequate technical means. In this respect, *it should be possible for the public sector body to* support potential re-users in seeking such consent *or permission* by establishing technical

mechanisms that permit transmitting requests for consent *or permission* from re-users, where *permitted and* practically feasible. No contact information should be given that allows re-users to contact data subjects or companies directly. *When transmitting the request to consent to reuse of their data to data subjects that have previously given their consent, or where there is another legal basis for contacting them, the public sector body should ensure that the data subjects are thoroughly informed of their rights, in particular of the right to refuse such a request and not give their consent. The responsibility for demonstrating that valid consent has been obtained should lie with the re-users.*

## Amendment 12

### Proposal for a regulation Recital 11 a (new)

*Text proposed by the Commission*

*Amendment*

*(11a) The de-anonymisation of datasets should be prohibited unless where data subjects have given their consent or another legal basis permits it. This should be without prejudice to the possibility to conduct research into anonymisation techniques, in particular where finding possible weaknesses in existing anonymisation techniques could lead to the overall strengthening of anonymisation, while duly respecting the fundamental right to the protection of personal data.*

## Amendment 13

### Proposal for a regulation Recital 14

*Text proposed by the Commission*

*Amendment*

(14) Companies and data subjects

(14) Companies and data subjects

should be able to trust that the re-use of certain categories of protected data, which are held by the public sector, will take place in a manner that respects their rights and interests. Additional safeguards should thus be put in place for situations in which the re-use of such public sector data is taking place on the basis of a processing of the data outside the public sector. Such an additional safeguard could be found in the requirement that public sector bodies should **take fully into account** the rights and interests of natural and legal persons (in particular the protection of personal data, commercially sensitive data and the protection of intellectual property rights) in case such data is transferred to third countries.

should be able to trust that the re-use of certain categories of protected data, which are held by the public sector, will take place in a manner that respects their rights and interests. Additional safeguards should thus be put in place for situations in which the re-use of such public sector data is taking place on the basis of a processing of the data outside the public sector. Such an additional safeguard could be found in the requirement that public sector bodies should fully **respect** the rights and interests of natural and legal persons (in particular the protection of personal data, commercially sensitive data and the protection of intellectual property rights) in case such data is transferred to third countries.

## Amendment 14

### Proposal for a regulation

#### Recital 15

##### *Text proposed by the Commission*

(15) Furthermore, it is important to protect **commercially sensitive** data of non-personal nature, notably trade secrets, but also non-personal data representing content protected by intellectual property rights from unlawful access that may lead to IP theft or industrial espionage. In order to ensure the protection of fundamental rights or interests of data holders, non-personal data which is to be protected from unlawful or unauthorised access under Union or national law, and which is held by public sector bodies, should be transferred only to third-countries where appropriate safeguards for the use of data are provided. Such appropriate safeguards should be considered to exist when in that third-country there are equivalent measures in place which ensure that non-personal data benefits from a level of protection similar to that applicable by means of Union or national law in particular as regards the

##### *Amendment*

(15) Furthermore, it is important to protect data of non-personal nature, notably trade secrets, but also non-personal data representing content protected by intellectual property rights from unlawful access that may lead to IP theft or industrial espionage. In order to ensure the protection of fundamental rights or interests of **data subjects and** data holders, non-personal data which is to be protected from unlawful or unauthorised access under Union or national law, and which is held by public sector bodies, should be transferred only to third-countries where appropriate safeguards for the use of data are provided. Such appropriate safeguards should be considered to exist when in that third-country there are equivalent measures in place which ensure that non-personal data benefits from a level of protection similar to that applicable by means of Union or national law in particular as

protection of trade secrets and the protection of intellectual property rights. To that end, the Commission may adopt implementing acts that declare that a third country provides a level of protection that is essentially equivalent to those provided by Union or national law. The assessment of the level of protection afforded in such third-country should, in particular, take into consideration the relevant legislation, both general and sectoral, including concerning public security, defence, national security and criminal law concerning the access to and protection of non-personal data, any access by the public authorities of that third country to the data transferred, the existence and effective functioning of one or more independent supervisory authorities in the third country with responsibility for ensuring and enforcing compliance with the legal regime ensuring access to such data, or the third countries' international commitments regarding the protection of data the third country concerned has entered into, or other obligations arising from legally binding conventions or instruments as well as from its participation in multilateral or regional systems. The existence of effective legal remedies for data holders, public sector bodies or *data sharing* providers in the third country concerned is of particular importance in the context of the transfer of non-personal data to that third country. Such safeguards should therefore include the availability of enforceable rights and of effective legal remedies.

regards the protection of trade secrets and the protection of intellectual property rights. To that end, the Commission may adopt implementing acts that declare that a third country provides a level of protection that is essentially equivalent to those provided by Union or national law. The assessment of the level of protection afforded in such third-country should, in particular, take into consideration the relevant legislation, both general and sectoral, including concerning public security, defence, national security and criminal law concerning the access to and protection of non-personal data, any access by the public authorities of that third country to the data transferred, the existence and effective functioning of one or more independent supervisory authorities in the third country with responsibility for ensuring and enforcing compliance with the legal regime ensuring access to such data, or the third countries' international commitments regarding the protection of data the third country concerned has entered into, or other obligations arising from legally binding conventions or instruments as well as from its participation in multilateral or regional systems. The existence of effective legal remedies for data *subjects and data of data intermediation services* holders, public sector bodies or providers in the third country concerned is of particular importance in the context of the transfer of non-personal data to that third country. Such safeguards should therefore include the availability of enforceable rights and of effective legal remedies.

## Amendment 15

### Proposal for a regulation

#### Recital 18

*Text proposed by the Commission*

(18) In order to prevent unlawful access

PE692.728v03-00

*Amendment*

(18) In order to prevent unlawful access

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to non-personal data, public sector bodies, natural or legal persons to which the right to re-use data was granted, **data sharing** providers and entities entered in the register of **recognised data altruism organisations** should take all reasonable measures to prevent access to the systems where non-personal data is stored, including encryption of data **or corporate policies**.

to non-personal data, public sector bodies, natural or legal persons to which the right to re-use data was granted, providers **of data intermediation services** and entities entered in the register of **Public Interest Data Hubs** should take all reasonable measures **to ensure a high level of cybersecurity that is proportionate to the sensitivity of data they process and** to prevent **unauthorised** access to the systems where non-personal data is stored, including encryption of data.

## Amendment 16

### Proposal for a regulation Recital 19

#### *Text proposed by the Commission*

(19) In order to build trust in re-use mechanisms, it **may** be necessary to attach stricter conditions for certain types of non-personal data that have been identified as highly sensitive, as regards the transfer to third countries, if such transfer could jeopardise public policy objectives, in line with international commitments. For example, in the health domain, certain datasets held by actors in the public health system, such as public hospitals, could be identified as highly sensitive health data. In order to ensure harmonised practices across the Union, such types of highly sensitive non-personal public data should be defined by Union law, for example in the context of the European Health Data Space or other sectoral legislation. The conditions attached to the transfer of such data to third countries should be laid down in delegated acts. Conditions should be proportionate, non-discriminatory and necessary to protect legitimate public policy objectives identified, such as the protection of public health, public order, safety, the environment, public morals, consumer protection, privacy and personal data

#### *Amendment*

(19) In order to build trust in re-use mechanisms, it **is** be necessary to attach stricter conditions for certain types of non-personal data that have been identified as highly sensitive, as regards the transfer to third countries, if such transfer could jeopardise public policy objectives, in line with international commitments. For example, in the health domain, certain datasets held by actors in the public health system, such as public hospitals, could be identified as highly sensitive health data. In order to ensure harmonised practices across the Union, such types of highly sensitive non-personal public data should be defined by Union law, for example in the context of the European Health Data Space or other sectoral legislation. The conditions attached to the transfer of such data to third countries should be laid down in delegated acts. Conditions should be proportionate, non-discriminatory and necessary to protect legitimate public policy objectives identified, such as the protection of public health, public order, safety, the environment, public morals, consumer protection, privacy and personal data



protection. The conditions should correspond to the risks identified in relation to the sensitivity of such data, including in terms of the risk of the re-identification of individuals. These conditions could include terms applicable for the transfer or technical arrangements, such as the requirement of using a secure processing environment, limitations as regards the re-use of data in third-countries or categories of persons which are entitled to transfer such data to third countries or who can access the data in the third country. In exceptional cases they could also include restrictions on transfer of the data to third countries to protect the public interest.

protection. The conditions should correspond to the risks identified in relation to the sensitivity of such data, including in terms of the risk of the re-identification of individuals. These conditions could include terms applicable for the transfer or technical arrangements, such as the requirement of using a secure processing environment, limitations as regards the re-use of data in third-countries or categories of persons which are entitled to transfer such data to third countries or who can access the data in the third country. In exceptional cases they could also include restrictions on transfer of the data to third countries to protect the public interest.

## Amendment 17

### Proposal for a regulation

#### Recital 20

##### *Text proposed by the Commission*

(20) Public sector bodies should be able to charge fees for the re-use of data but should also be able to decide to ***make the data available*** at lower or no cost, for example for certain categories of re-uses such as non-commercial re-use, or re-use by small and medium-sized enterprises, so as to incentivise such re-use in order to stimulate research and innovation and support companies that are an important source of innovation and typically find it more difficult to collect relevant data themselves, in line with State aid rules. Such fees should be reasonable, transparent, published online and non-discriminatory.

##### *Amendment*

(20) Public sector bodies should be able to charge fees for the re-use of data but should also be able to decide to ***allow re-use*** at lower or no cost, for example for certain categories of re-uses such as non-commercial re-use, ***re-use for scientific research purposes***, or re-use by small and medium-sized enterprises, so as to incentivise such re-use in order to stimulate research and innovation and support companies that are an important source of innovation and typically find it more difficult to collect relevant data themselves, in line with State aid rules. Such fees should be reasonable, transparent, published online and non-discriminatory.

## Amendment 18

### Proposal for a regulation



## Recital 21

*Text proposed by the Commission*

(21) In order to incentivise the re-use of these categories of data, Member States should establish a single information point to act as the primary interface for re-users that seek to re-use such data held by the public sector bodies. **It** should have a cross-sector remit, and should complement, if necessary, arrangements at the sectoral level. In addition, Member States should designate, establish or facilitate the establishment of competent bodies to support the activities of public sector bodies allowing re-use of certain categories of protected data. Their tasks may include granting access to data, where mandated in sectoral Union or Member States legislation. Those competent bodies should provide support to public sector bodies with state-of-the-art techniques, including secure data processing environments, which allow data analysis in a manner that preserves the privacy of the information. Such support structure could support the data holders with management of **the consent**, including consent **to** certain areas of scientific research when in keeping with recognised ethical standards for scientific research. **Data** processing should be performed under the responsibility of the public sector body responsible for the register containing the data, who remains a data controller in the sense of Regulation (EU) 2016/679 insofar as personal data are concerned. Member States may have in place one or several competent bodies, which could act in different sectors.

*Amendment*

(21) In order to incentivise the re-use of these categories of data, Member States should establish a single information point to act as the primary interface for re-users that seek to re-use such data held by the public sector bodies. **The Commission should make public in an easily accessible way, and in all official languages of the Union, information about available data resources from all Member States' single information points. The single information point** should have a cross-sector remit, and should complement, if necessary, arrangements at the sectoral level. In addition, Member States should designate, establish or facilitate the establishment of competent bodies to support the activities of public sector bodies allowing re-use of certain categories of protected data. Their tasks may include granting access to data, where mandated in sectoral Union or Member States legislation. Those competent bodies should provide support to public sector bodies with state-of-the-art techniques, including secure data processing environments, which allow data analysis in a manner that preserves the privacy of the information. Such support structure could support the data **subjects and data** holders with management of **consents and permissions**, including consent **or permission to re-use for** certain areas of scientific research when in keeping with recognised ethical standards for scientific research. **The competent bodies should not have any supervisory function which is reserved for supervisory authorities under Regulation (EU) 2016/679. Without prejudice to the supervisory powers of data protection authorities, data** processing should be performed under the responsibility of the public sector body responsible for the register containing the data, who remains a data controller in the sense of Regulation

(EU) 2016/679 insofar as personal data are concerned. Member States may have in place one or several competent bodies, which could act in different sectors, **while fully respecting the powers of supervisory authorities under Regulation (EU) 2016/679.**

## Amendment 19

### Proposal for a regulation

#### Recital 22

*Text proposed by the Commission*

(22) Providers of data **sharing** services (data intermediaries) are expected to play a key role in the data economy, **as** a tool to facilitate the aggregation and exchange of substantial amounts of relevant data. Data intermediaries offering services that connect the different actors have the potential to contribute to the efficient pooling of data as well as to the facilitation of bilateral data sharing. Specialised data intermediaries that are independent from both data holders and data users can have a facilitating role in the emergence of new data-driven ecosystems independent from any player with a significant degree of market power. This Regulation should only cover providers of data sharing services that have as a main objective the establishment of a business, a legal and **potentially also** technical relation between data **holders, including data** subjects, on the one hand, and potential users on the other hand, and assist both parties in a transaction of data assets between the two. It should only cover services aiming at intermediating between an **indefinite** number of data holders and data users, excluding data **sharing** services that are meant to be used by a closed group of data holders and users. Providers of cloud services should be excluded, as well as service providers that obtain data from data holders, aggregate, enrich or transform the

*Amendment*

(22) Providers of data **intermediation** services (data intermediaries) are expected to play a key role in the data economy, **in particular in supporting data intermediation practises between data holders and data users, based on voluntary agreements or Union or Member State law, as well as the provision of data by data subjects to data users based on consent. They could become** a tool to facilitate the aggregation and exchange of substantial amounts of relevant data. Data intermediaries offering services that connect the different actors have the potential to contribute to the efficient pooling of data as well as to the facilitation of bilateral data sharing. Specialised data intermediaries that are independent from both data **subjects and data** holders and **from** data users can have a facilitating role in the emergence of new data-driven ecosystems independent from any player with a significant degree of market power. This Regulation should only cover providers of data **intermediation** services that have as a main objective the establishment of a business, a legal and technical relation between data subjects **and data holders**, on the one hand, and potential users on the other hand, and assist both parties in a transaction of data assets between the two. It should only cover services aiming at intermediating between

data and licence the use of the resulting data to data users, without establishing a direct relationship between data holders and data users, for example advertisement or data brokers, data consultancies, providers of data products resulting from value added to the data by the service provider. At the same time, data *sharing* service providers should be allowed to make adaptations to the data exchanged, to the extent that this improves the usability of the data by the data user, where the data user desires this, such as to convert it into specific formats. In addition, services that focus on the intermediation of content, in particular on copyright-protected content, should not be covered by this Regulation. Data exchange platforms that are exclusively used by one data holder in order to enable the use of data they hold as well as platforms developed in the context of objects and devices connected to the Internet-of-Things that have as their main objective to ensure functionalities of the connected object or device and allow value added services, should not be covered by this Regulation. ‘Consolidated tape providers’ in the sense of Article 4 (1) point 53 of Directive 2014/65/EU of the European Parliament and of the Council<sup>42</sup> as well as ‘account information service providers’ in the sense of Article 4 point 19 of Directive (EU) 2015/2366 of the European Parliament and of the Council<sup>43</sup> should not be considered as data *sharing* service providers for the purposes of this Regulation. Entities which restrict their activities to facilitating use of data made available on the basis of data altruism and that operate on a not-for-profit basis should not be covered by Chapter III of this Regulation, as this activity serves objectives of *general* interest by increasing the volume of data available for such purposes.

an *undefined* number of data *subjects and data* holders, *on the one hand*, and data users, *on the other hand*, excluding data *intermediation* services that are meant to be used by a closed group of data *subjects and data* holders, and users. Providers of cloud services should be excluded, as well as service providers that obtain data from *data subjects and* data holders, aggregate, enrich or transform the data and licence the use of the resulting data to data users, without establishing a direct relationship between data *subjects and data* holders, *on the one hand*, and data users, *on the other hand*, for example advertisement or data brokers, data consultancies, providers of data products resulting from value added to the data by the service provider. At the same time, data *intermediation* service providers should be allowed to make adaptations to the data exchanged, to the extent that this improves the usability of the data by the data user, where the data user desires this, such as to convert it into specific formats. In addition, services that focus on the intermediation of content, in particular on copyright-protected content, should not be covered by this Regulation. Data exchange platforms that are exclusively used by one data holder in order to enable the use of data they hold as well as platforms developed in the context of objects and devices connected to the Internet-of-Things that have as their main objective to ensure functionalities of the connected object or device and allow value added services, should not be covered by this Regulation. ‘Consolidated tape providers’ in the sense of Article 4 (1) point 53 of Directive 2014/65/EU of the European Parliament and of the Council<sup>42</sup> as well as ‘account information service providers’ in the sense of Article 4 point 19 of Directive (EU) 2015/2366 of the European Parliament and of the Council<sup>43</sup> should not be considered as data *intermediation* service providers for the purposes of this Regulation. Entities which restrict their activities to facilitating use of

data made available on the basis of data altruism and that operate on a not-for-profit basis should not be covered by Chapter III of this Regulation, as this activity serves objectives of **public** interest by increasing the volume of data available for such purposes.

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<sup>42</sup> Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, OJ L 173/349.

<sup>43</sup> Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC.

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<sup>42</sup> Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, OJ L 173/349.

<sup>43</sup> Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC.

## Amendment 20

### Proposal for a regulation

#### Recital 23

##### *Text proposed by the Commission*

(23) A specific category of data intermediaries includes providers of data **sharing** services that offer their services to data subjects in the sense of Regulation (EU) 2016/679. Such providers **focus exclusively on personal data and** seek to enhance individual agency and the individuals' control over the data **pertaining** to them. They would assist individuals in exercising their rights under Regulation (EU) 2016/679, in particular **managing** their consent to data processing, the right of access to their own data, the right to the rectification of inaccurate personal data, the right of erasure or right 'to be forgotten', the right to restrict processing and the data portability right,

##### *Amendment*

(23) A specific category of data intermediaries includes providers of data **intermediation** services that offer their services to data subjects in the sense of Regulation (EU) 2016/679. Such providers seek to enhance individual agency and **in particular** the individuals' control over the data **relating** to them. They would assist individuals in exercising their rights under Regulation (EU) 2016/679, in particular **giving and withdrawing** their consent to data processing, the right of access to their own data, the right to the rectification of inaccurate personal data, the right of erasure or right 'to be forgotten', the right to restrict processing and the data portability right, which allows data

which allows data subjects to move their personal data from one controller to the other. In this context, it is important that their business model ensures that there are no misaligned incentives that encourage individuals to make more data available for processing than what is in the individuals' own interest. This could include advising individuals on uses of their data they could allow and making due diligence checks on data users before allowing them to contact data subjects, in order to avoid fraudulent practices. In certain situations, it could be desirable to collate actual data within a personal data storage space, or 'personal data space' so that processing can happen within that space without personal data being transmitted to third parties in order to maximise the protection of personal data and privacy.

## Amendment 21

### Proposal for a regulation

#### Recital 24

*Text proposed by the Commission*

(24) Data cooperatives seek to strengthen the position of individuals in making informed choices before consenting to data use, influencing the terms and conditions of data user organisations attached to data use or potentially ***solving disputes between*** members of a group on how data can be used when such data ***pertain*** to several data subjects within that group. In this context it is important to acknowledge that the rights under Regulation (EU) 2016/679 can only be exercised by each individual and cannot be conferred or delegated to a data cooperative. Data cooperatives could also provide a useful means for one-person companies, micro, small and medium-sized enterprises that in terms of knowledge of data sharing, are often comparable to individuals.

subjects to move their personal data from one controller to the other. In this context, it is important that their business model ensures that there are no misaligned incentives that encourage individuals to make more data available for processing than what is in the individuals' own interest. This could include advising individuals on uses of their data they could allow and making due diligence checks on data users before allowing them to contact data subjects, in order to avoid fraudulent practices. In certain situations, it could be desirable to collate actual data within a personal data storage space, or 'personal data space' so that processing can happen within that space without personal data being transmitted to third parties in order to maximise the protection of personal data and privacy.

*Amendment*

(24) Data cooperatives seek to ***achieve a number of objectives, in particular to*** strengthen the position of individuals in making informed choices before consenting to data use, influencing the terms and conditions of data user organisations attached to data use ***in a manner that gives better choices to the individual members of the group*** or potentially ***finding solutions to conflicting positions of individual*** members of a group on how data can be used when such data ***relates*** to several data subjects within that group. In this context it is important to acknowledge that the rights under Regulation (EU) 2016/679 can only be exercised by each individual and cannot be conferred or delegated to a data cooperative. Data cooperatives could also provide a useful means for one-person companies, micro, small and medium-sized

enterprises that in terms of knowledge of data sharing, are often comparable to individuals.

## Amendment 22

### Proposal for a regulation

#### Recital 25

##### *Text proposed by the Commission*

(25) In order to increase trust in such data **sharing** services, in particular related to the use of data and the compliance with the conditions imposed by data holders, it is necessary to create a Union-level regulatory framework, which would set out highly harmonised requirements related to the trustworthy provision of such data sharing services. This will contribute to ensuring that data holders **and** data users have better control over the access to and use of their data, in accordance with Union law. Both in situations where data sharing occurs in a business-to-business context and where it occurs in a business-to-consumer context, **data sharing** providers should offer a novel, ‘European’ way of data governance, by providing a separation in the data economy between data provision, intermediation and use. Providers of data **sharing** services may also make available specific technical infrastructure for the interconnection of data holders **and** data users.

##### *Amendment*

(25) In order to increase trust in such data **intermediation** services, in particular related to the use of data and the compliance with the conditions imposed by **data subjects and** data holders, it is necessary to create a Union-level regulatory framework, which would set out highly harmonised requirements related to the trustworthy provision of such data sharing services. This will contribute to ensuring that data **subjects and data** holders, **as well as** data users, have better control over the access to and use of their data, in accordance with Union law. Both in situations where data sharing occurs in a business-to-business context and where it occurs in a business-to-consumer context, providers **of data intermediation services** should offer a novel, ‘European’ way of data governance, by providing a separation in the data economy between data provision, intermediation and use. Providers of data **intermediation** services may also make available specific technical infrastructure for the interconnection of data **subjects and data** holders **with** data users.

## Amendment 23

### Proposal for a regulation

#### Recital 26

##### *Text proposed by the Commission*

(26) A key element to bring trust and

##### *Amendment*

(26) A key element to bring trust and



more control for data **holder and** data users in data **sharing** services is the neutrality of **data sharing service** providers as regards the data exchanged between data holders and data users. It is therefore necessary that **data sharing service** providers act only as intermediaries in the transactions, and do not use the data exchanged for any other purpose. This will also require structural separation between the data **sharing** service and any other services provided, so as to avoid issues of conflict of interest. This means that the data **sharing** service should be provided through a legal entity that is separate from the other activities of that **data sharing** provider. **Data sharing** providers that intermediate the exchange of data between individuals as data **holders** and legal persons should, in addition, bear fiduciary duty towards the individuals, to ensure that they act in the best interest of the data **holders**.

more control for data **subjects and data holders, as well as** data users, in data **intermediation** services is the neutrality of providers **of data intermediation services** as regards the data exchanged between data **subjects and data** holders, **on the one hand**, and data users, **on the other hand**. It is therefore necessary that providers **of data intermediation services** act only as intermediaries in the transactions, and do not use the data exchanged for any other purpose, **with the exception of where it is used strictly to improve their services**. This will also require structural separation between the data **intermediation** service and any other services provided, so as to avoid issues of conflict of interest. This means that the data **intermediation** service should be provided through a legal entity that is separate from the other activities of that provider **of data intermediation services**. **Providers of data intermediation services** that intermediate the exchange of data between individuals as data **subjects** and legal persons **as data users** should, in addition, bear fiduciary duty towards the individuals, to ensure that they act in the best interest of the data **subjects**. **Data intermediation services should be able to offer additional specific tools and services to data subjects and data holders to facilitate the exercise of the data subjects' rights, on the one hand, and the exchange of data, on the other hand. Those tools and services should only be used at the request of, or following the consent of, data subjects, and at the explicit request or with the explicit approval of the data holder. Such tools and services can include analysis, temporary storage, aggregation, curation, conversion, anonymisation, and pseudonymisation. Third-party tools offered in that context should not use data for other purposes.**

## Amendment 24

### Proposal for a regulation



## Recital 27

### *Text proposed by the Commission*

(27) In order to ensure the compliance of the providers of data **sharing** services with the conditions set out in this Regulation, such providers should have a place of establishment in the Union. Alternatively, where a provider of data **sharing** services not established in the Union offers services within the Union, it should designate a representative. Designation of a representative is necessary, given that such providers of data **sharing** services handle personal data as well as commercially confidential data, which necessitates the close monitoring of the compliance of such service providers with the conditions laid out in this Regulation. In order to determine whether such a provider of data **sharing** services is offering services within the Union, it should be ascertained whether it is apparent that the provider of data **sharing** services is planning to offer services to persons in one or more Member States. The mere accessibility in the Union of the website or of an email address and of other contact details of the provider of data **sharing** services, or the use of a language generally used in the third country where the provider of data **sharing** services is established, should be considered insufficient to ascertain such an intention. However, factors such as the use of a language or a currency generally used in one or more Member States with the possibility of ordering services in that other language, or the mentioning of users who are in the Union, may make it apparent that the provider of data **sharing** services is planning to offer services within the Union. The representative should act on behalf of the provider of data **sharing** services and it should be possible for competent authorities to contact the representative. The representative should be designated by a written mandate of the provider of data

### *Amendment*

(27) In order to ensure the compliance of the providers of data **intermediation** services with the conditions set out in this Regulation, such providers should have a place of establishment in the Union. Alternatively, where a provider of data **intermediation** services not established in the Union offers services within the Union, it should designate a representative. Designation of a representative is necessary, given that such providers of data **intermediation** services handle personal data as well as commercially confidential data, which necessitates the close monitoring of the compliance of such service providers with the conditions laid out in this Regulation. In order to determine whether such a provider of data **intermediation** services is offering services within the Union, it should be ascertained whether it is apparent that the provider of data **intermediation** services is planning to offer services to persons in one or more Member States. The mere accessibility in the Union of the website or of an email address and of other contact details of the provider of data **intermediation** services, or the use of a language generally used in the third country where the provider of data **intermediation** services is established, should be considered insufficient to ascertain such an intention. However, factors such as the use of a language or a currency generally used in one or more Member States with the possibility of ordering services in that other language, or the mentioning of users who are in the Union, may make it apparent that the provider of data **intermediation** services is planning to offer services within the Union. The representative should act on behalf of the provider of data **intermediation** services and it should be possible for competent authorities to contact the representative. The representative should

**sharing** services to act on the latter's behalf with regard to the latter's obligations under this Regulation.

be designated by a written mandate of the provider of data **intermediation** services to act on the latter's behalf with regard to the latter's obligations under this Regulation.

## Amendment 25

### Proposal for a regulation

#### Recital 28

*Text proposed by the Commission*

(28) This Regulation should be without prejudice to the obligation of providers of data **sharing** services to comply with Regulation (EU) 2016/679 and the responsibility of supervisory authorities to ensure compliance with that Regulation. Where the **data sharing service** providers are data controllers or processors in the sense of Regulation (EU) 2016/679 they are bound by the rules of that Regulation. This Regulation should be also without prejudice to the application of competition law.

*Amendment*

(28) This Regulation should be without prejudice to the obligation of providers of data **intermediation** services to comply with Regulation (EU) 2016/679 and the responsibility of supervisory authorities to ensure compliance with that Regulation. **When providers of data intermediation services process personal data, this Regulation should not affect the protection of personal data.** Where the providers of **data intermediation services** are data controllers or processors in the sense of Regulation (EU) 2016/679 they are bound by the rules of that Regulation. This Regulation should be also without prejudice to the application of competition law.

## Amendment 26

### Proposal for a regulation

#### Recital 29

*Text proposed by the Commission*

(29) Providers of data **sharing** services should also take measures to ensure compliance with competition law. Data sharing may generate various types of efficiencies but may also lead to restrictions of competition, in particular where it includes the sharing of competitively sensitive information. This applies in particular in situations where data sharing enables businesses to become

*Amendment*

(29) Providers of data **intermediation** services should also take measures to ensure compliance with competition law. Data sharing may generate various types of efficiencies but may also lead to restrictions of competition, in particular where it includes the sharing of competitively sensitive information. This applies in particular in situations where data sharing enables businesses to become

aware of market strategies of their actual or potential competitors. Competitively sensitive information typically includes information on future prices, production costs, quantities, turnovers, sales or capacities.

aware of market strategies of their actual or potential competitors. Competitively sensitive information typically includes information on future prices, production costs, quantities, turnovers, sales or capacities.

## Amendment 27

### Proposal for a regulation Recital 30

#### *Text proposed by the Commission*

(30) A notification procedure for data **sharing** services should be established in order to ensure a data governance within the Union based on trustworthy exchange of data. The benefits of a trustworthy environment would be best achieved by imposing a number of requirements for the provision of data **sharing** services, but without requiring any explicit decision or administrative act by the competent authority for the provision of such services.

#### *Amendment*

(30) A notification procedure for data **intermediation** services should be established in order to ensure a data governance within the Union based on trustworthy exchange of data. The benefits of a trustworthy environment would be best achieved by imposing a number of requirements for the provision of data **intermediation** services, but without requiring any explicit decision or administrative act by the competent authority for the provision of such services.

## Amendment 28

### Proposal for a regulation Recital 31

#### *Text proposed by the Commission*

(31) In order to support effective cross-border provision of services, the **data sharing** provider should be requested to send a notification only to the designated competent authority from the Member State where its main establishment is located or where its legal representative is located. Such a notification should not entail more than a mere declaration of the intention to provide such services and should be completed only by the information set out in this Regulation.

#### *Amendment*

(31) In order to support effective cross-border provision of services, the provider **of data intermediation services** should be requested to send a notification only to the designated competent authority from the Member State where its main establishment is located or where its legal representative is located. Such a notification should not entail more than a mere declaration of the intention to provide such services and should be completed only by the information set out in this

Regulation.

## **Amendment 29**

### **Proposal for a regulation**

#### **Recital 32**

*Text proposed by the Commission*

(32) The main establishment of a provider of data **sharing** services in the Union should be the Member State with the place of its central administration in the Union. The main establishment of a provider of data **sharing** services in the Union should be determined according to objective criteria and should imply the effective and real exercise of management activities.

*Amendment*

(32) The main establishment of a provider of data **intermediation** services in the Union should be the Member State with the place of its central administration in the Union. The main establishment of a provider of data **intermediation** services in the Union should be determined according to objective criteria and should imply the effective and real exercise of management activities.

## **Amendment 30**

### **Proposal for a regulation**

#### **Recital 33**

*Text proposed by the Commission*

(33) The competent authorities designated to monitor compliance of data **sharing** services with the requirements in this Regulation should be chosen on the basis of their capacity and expertise regarding horizontal or sectoral data sharing, and they should be independent as well as transparent and impartial in the exercise of their tasks. Member States should notify the Commission of the identity of the designated competent authorities.

*Amendment*

(33) The competent authorities designated to monitor compliance of data **intermediation** services with the requirements in this Regulation should be chosen on the basis of their capacity and expertise regarding horizontal or sectoral data sharing, and they should be independent as well as transparent and impartial in the exercise of their tasks. Member States should notify the Commission of the identity of the designated competent authorities.

## **Amendment 31**

### **Proposal for a regulation**

#### **Recital 34**

*Text proposed by the Commission*

(34) The notification framework laid down in this Regulation should be without prejudice to specific additional rules for the provision of data **sharing** services applicable by means of sector-specific legislation.

*Amendment*

(34) The notification framework laid down in this Regulation should be without prejudice to specific additional rules for the provision of data **intermediation** services applicable by means of sector-specific legislation.

**Amendment 32**

**Proposal for a regulation**  
**Recital 35**

*Text proposed by the Commission*

(35) There is a strong potential in the use of data made available voluntarily by data subjects based on their consent or, where it concerns non-personal data, made available by legal persons, for purposes of **general** interest. Such purposes would include healthcare, combating climate change, improving mobility, facilitating the establishment of official statistics or improving the provision of public services. Support to scientific research, including for example technological development and demonstration, fundamental research, applied research and privately funded research, **should be considered as well** purposes of **general** interest. This Regulation aims at contributing to the emergence of pools of data made available on the basis of data altruism that have a sufficient size in order to enable data analytics and machine learning, including across borders in the Union.

*Amendment*

(35) There is a strong potential in the use of data made available voluntarily by data subjects based on their consent or, where it concerns non-personal data, made available by legal persons, for purposes of **public** interest. Such purposes would include healthcare, combating climate change, improving mobility, **improving education**, facilitating the establishment of official statistics or improving the provision of public services. Support to scientific research, including for example technological development and demonstration, fundamental research, applied research and privately funded research, **can also fulfil** purposes of **public** interest. This Regulation aims at contributing to the emergence of pools of **interoperable** data made available on the basis of data altruism that have a sufficient size in order to enable data analytics and machine learning, including across borders in the Union.

**Amendment 33**

**Proposal for a regulation**  
**Recital 36**

*Text proposed by the Commission*

*Amendment*

(36) Legal entities that seek to support purposes of *general* interest by making available relevant data based on data altruism at scale and meet certain requirements, should be able to *register as ‘Data Altruism Organisations recognised in the Union’*. This could lead to the establishment of data repositories. As registration in a Member State would be valid across the Union, and this should facilitate cross-border data use within the Union and the emergence of data pools covering several Member States. *Data subjects in this respect would consent to specific purposes of data processing, but could also consent to data processing in certain areas of research or parts of research projects as it is often not possible to fully identify the purpose of personal data processing for scientific research purposes at the time of data collection.* Legal persons could give permission to the processing of their non-personal data for a range of purposes not defined at the moment of giving the permission. The *voluntary* compliance of such registered entities with a set of requirements should bring trust that the data made available on altruistic purposes is serving a general interest purpose. Such trust should result in particular from a place of establishment within the Union, as well as from the requirement that registered entities have a not-for-profit character, from transparency requirements and from specific safeguards in place to protect rights and interests of data subjects and companies. Further safeguards should include making it possible to process relevant data within a secure processing environment operated by the registered entity, oversight mechanisms such as ethics councils or boards to ensure that the data controller maintains high standards of scientific ethics, effective technical means to withdraw or modify consent at any moment, based on the information obligations of data processors under Regulation (EU) 2016/679 as well as means for data subjects to stay informed

(36) Legal entities that seek to support purposes of *public* interest by making available relevant data based on data altruism at scale and meet certain requirements, should be able to *apply for registration as ‘Public Interest Data Hub’*. This could lead to the establishment of data repositories. As registration in a Member State would be valid across the Union, and this should facilitate cross-border data use within the Union and the emergence of data pools covering several Member States. Legal persons could give permission to the processing of their non-personal data for a range of purposes not defined at the moment of giving the permission. The compliance of such registered entities with a set of requirements should bring trust that the data made available on altruistic purposes is serving a general interest purpose. Such trust should result in particular from a place of establishment *or a legal representative* within the Union, as well as from the requirement that registered entities have a not-for-profit character, from transparency requirements and from specific safeguards in place to protect rights and interests of data subjects and companies. Further safeguards should include making it possible to process relevant data within a secure processing environment operated by the registered entity, oversight mechanisms such as ethics councils or boards, *including representatives from civil society and relevant affected communities*, to ensure that the data controller maintains high standards of scientific ethics *and protection of fundamental rights*, effective technical means to withdraw or modify consent at any moment, based on the information obligations of data processors under Regulation (EU) 2016/679 as well as means for data subjects to stay informed about the use of data they made available.



about the use of data they made available.

#### **Amendment 34**

##### **Proposal for a regulation**

###### **Recital 37**

*Text proposed by the Commission*

(37) This Regulation is without prejudice to the establishment, organisation and functioning of entities that seek to engage in data altruism pursuant to national law. It builds on national law requirements to operate lawfully in a Member State as a not-for-profit organisation. Entities which meet the requirements in this Regulation should be able to use the title of '**Data Altruism Organisations recognised in the Union**'.

*Amendment*

(37) This Regulation is without prejudice to the establishment, organisation and functioning of entities that seek to engage in data altruism pursuant to national law. It builds on national law requirements to operate lawfully in a Member State as a not-for-profit organisation. Entities which meet the requirements in this Regulation should be able to use the title of '**Public Interest Data Hub**'.

#### **Amendment 35**

##### **Proposal for a regulation**

###### **Recital 38**

*Text proposed by the Commission*

(38) **Data Altruism Organisations recognised in the Union** should be able to collect relevant data directly from natural and legal persons or to process data collected by others. Typically, data altruism would rely on consent of data subjects in the sense of Article 6(1)(a) and 9(2)(a) and in compliance with requirements for lawful consent in accordance with Article 7 of Regulation (EU) 2016/679. In accordance with Regulation (EU) 2016/679, scientific research purposes can be supported by consent to certain areas of scientific research when in keeping with recognised ethical standards for scientific research or only to certain areas of research or parts of research projects. Article 5(1)(b) of Regulation (EU) 2016/679 specifies that

*Amendment*

(38) **Public Interest Data Hubs** should be able to collect relevant data directly from natural and legal persons or to process data collected by others. **Where they are data controllers or processors in the meaning of Regulation (EU) 2016/679, they are bound by that Regulation.** Typically, data altruism would rely on consent of data subjects in the sense of Article 6(1)(a) and 9(2)(a) and in compliance with requirements for lawful consent in accordance with Article 7 **and 8** of Regulation (EU) 2016/679. In accordance with Regulation (EU) 2016/679, scientific research purposes can be supported by consent to certain areas of scientific research when in keeping with recognised ethical standards for scientific research or only to certain areas of research



further processing for scientific or historical research purposes or statistical purposes should, in accordance with Article 89(1) of Regulation (EU) 2016/679, not be considered to be incompatible with the initial purposes.

or parts of research projects. Article 5(1)(b) of Regulation (EU) 2016/679 specifies that further processing for scientific or historical research purposes or statistical purposes should, in accordance with Article 89(1) of Regulation (EU) 2016/679, not be considered to be incompatible with the initial purposes. ***For non-personal data, the usage limitations should be found in the permission given by the data holder.***

## Amendment 36

### Proposal for a regulation Recital 40

#### *Text proposed by the Commission*

(40) In order to successfully implement the data governance framework, a European Data Innovation Board should be established, in the form of an expert group. The Board should consist of representatives of the Member States, the Commission and representatives of relevant data spaces and specific sectors (such as health, agriculture, transport and statistics). The European Data Protection Board should be invited to appoint a representative to the European Data Innovation Board.

#### *Amendment*

(40) In order to successfully implement the data governance framework, a European Data Innovation Board should be established, in the form of an expert group. The Board should consist of representatives of the Member States, the Commission and representatives of relevant data spaces and specific sectors (such as health, agriculture, transport and statistics), ***as well as representatives from civil society, academia, research and standard setting organisations, as relevant.*** The European Data Protection Board, ***the Union-level coordination board of [supervisory authorities for artificial intelligence as proposed in the Proposal for an Artificial Intelligence Act]<sup>1a</sup>, and the cybersecurity Cooperation Group, established by Directive (EU) 2016/1148 of the European Parliament and of the Council<sup>1b</sup>,*** should be invited to appoint a representative to the European Data Innovation Board.

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<sup>1a</sup> ***“European Artificial Intelligence Board” in the Proposal for a regulation of the European Parliament and of the Council laying down harmonised rules on***

*artificial intelligence (Artificial Intelligence Act) and amending certain union legislative acts*

*<sup>1b</sup> Directive (EU) 2016/1148 of the European Parliament and of the Council concerning measures for a high common level of security of network and information systems across the Union (OJ L 194, 19.7.2016, p. 1)*

### **Amendment 37**

#### **Proposal for a regulation**

##### **Recital 44**

*Text proposed by the Commission*

(44) This Regulation should not affect the application of the rules on competition, and in particular Articles 101 and 102 of the Treaty on the Functioning of the European Union. The measures provided for in this Regulation should not be used to restrict competition in a manner contrary to the Treaty on the Functioning of the European Union. This concerns in particular the rules on the exchange of competitively sensitive information between actual or potential competitors through data *sharing* services.

*Amendment*

(44) This Regulation should not affect the application of the rules on competition, and in particular Articles 101 and 102 of the Treaty on the Functioning of the European Union. The measures provided for in this Regulation should not be used to restrict competition in a manner contrary to the Treaty on the Functioning of the European Union. This concerns in particular the rules on the exchange of competitively sensitive information between actual or potential competitors through data *intermediation* services.

### **Amendment 38**

#### **Proposal for a regulation**

##### **Recital 45**

*Text proposed by the Commission*

(45) The European Data Protection Supervisor and the European Data Protection Board were consulted in accordance with Article 42 of Regulation (EU) 2018/1725 of the European Parliament and of the Council <sup>(47)</sup> and delivered an opinion on [...].

*Amendment*

(45) The European Data Protection Supervisor and the European Data Protection Board were consulted in accordance with Article 42 of Regulation (EU) 2018/1725 of the European Parliament and of the Council <sup>(47)</sup> and delivered an opinion on **10 March 2021**.

<sup>47</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

<sup>47</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

### **Amendment 39**

#### **Proposal for a regulation**

##### **Article 1 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) a notification and supervisory framework for the provision of data *sharing* services;

*Amendment*

(b) a notification and supervisory framework for the provision of data *intermediation* services

### **Amendment 40**

#### **Proposal for a regulation**

##### **Article 1 – paragraph 1 – point c**

*Text proposed by the Commission*

(c) a framework for *voluntary* registration of entities which collect and process data made available for altruistic purposes.

*Amendment*

(c) a framework for registration of entities which collect and process data made available for altruistic purposes.

### **Amendment 41**

#### **Proposal for a regulation**

##### **Article 1 – paragraph 2**

*Text proposed by the Commission*

(2) This Regulation is without prejudice to specific provisions in other Union legal acts regarding access to or re-use of certain categories of data, or requirements related to processing of personal or non-personal data. Where a sector-specific Union legal act requires

*Amendment*

(2) This Regulation is without prejudice to specific provisions in other Union legal acts regarding access to or re-use of certain categories of data, or requirements related to processing of personal or non-personal data. Where a sector-specific Union legal act requires

public sector bodies, providers of data **sharing** services or registered entities providing data altruism services to comply with specific additional technical, administrative or organisational requirements, including through an authorisation or certification regime, those provisions of that sector-specific Union legal act shall also apply.

public sector bodies, providers of data **intermediation** services or registered entities providing data altruism services to comply with specific additional technical, administrative or organisational requirements, including through an authorisation or certification regime, those provisions of that sector-specific Union legal act shall also apply.

## Amendment 42

### Proposal for a regulation

#### Article 1 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***(2a) Union and Member State law on the protection of personal data apply to any personal data processed in connection with this Regulation. In particular, this Regulation is without prejudice to Regulations (EU) 2016/679<sup>1a</sup> and (EU) 2018/1725<sup>1b</sup> of the European Parliament and of the Council and Directive 2002/58/EC of the European Parliament and of the Council<sup>1c</sup>, and the corresponding provisions in Member State law, including the competences and powers of supervisory authorities. In the event of conflict between the provisions of this Regulation and Union law on the protection of personal data, the latter prevails. This Regulation does not create a legal basis for the processing of personal data.***

***<sup>1a</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), (OJ L 119, 4.5.2016, p.1)***

***<sup>1b</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council***

*of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, (OJ L 295, 21.11.2018)*

*<sup>1c</sup> Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37)*

#### **Amendment 43**

##### **Proposal for a regulation**

##### **Article 1 – paragraph 2 b (new)**

*Text proposed by the Commission*

*Amendment*

*(2b) Where data can be reasonably assumed to lead to the identification or identifiability of natural persons when combined with other datasets, or where personal and non-personal data in a data set are inextricably linked in mixed data sets, the data shall be treated as personal data.*

#### **Amendment 44**

##### **Proposal for a regulation**

##### **Article 2 – paragraph 1 – point 2 a (new)**

*Text proposed by the Commission*

*Amendment*

*(2a) 'personal data' means personal data as defined in Article 4, point (1), of Regulation (EU) 2016/679;*

#### **Amendment 45**

**Proposal for a regulation**  
**Article 2 – paragraph 1 – point 3 a (new)**

*Text proposed by the Commission*

*Amendment*

**(3a) ‘consent’ means consent as defined in Article 4, point (11), of Regulation (EU) 2016/679 and subject to the conditions set out in Article 7 and Article 8 of that Regulation;**

**Amendment 46**

**Proposal for a regulation**  
**Article 2 – paragraph 1 – point 3 b (new)**

*Text proposed by the Commission*

*Amendment*

**(3b) ‘data subject’ means data subject as defined in Article 4, point (1), of Regulation (EU) 2016/679;**

**Amendment 47**

**Proposal for a regulation**  
**Article 2 – paragraph 1 – point 4**

*Text proposed by the Commission*

*Amendment*

**(4) ‘metadata’ means data collected on any activity of a natural or legal person for the purposes of the provision of a data sharing service, including the date, time and geolocation data, duration of activity, connections to other natural or legal persons established by the person who uses the service;**

**deleted**

**Amendment 48**

**Proposal for a regulation**  
**Article 2 – paragraph 1 – point 5**

*Text proposed by the Commission*

*Amendment*

**(5) ‘data holder’ means a legal person**

**(5) ‘data holder’ means a *natural or***



**or data subject who**, in accordance with applicable Union or national law, has the right to grant access to or to share certain **personal or** non-personal data under its control;

legal person **that**, in accordance with applicable Union or national law, has the right to grant access to or to share certain non-personal data under its control;

#### Amendment 49

##### Proposal for a regulation Article 2 – paragraph 1 – point 6

*Text proposed by the Commission*

(6) ‘data user’ means a natural or legal person who has lawful access to certain personal or non-personal data and **is authorised** to use that data for commercial or non-commercial purposes;

*Amendment*

(6) ‘data user’ means a natural or legal person who has lawful access to certain personal or non-personal data and **has the right, including under Regulation (EU) 2016/679 in the case of personal data**, to use that data for commercial or non-commercial purposes;

#### Amendment 50

##### Proposal for a regulation Article 2 – paragraph 1 – point 6 a (new)

*Text proposed by the Commission*

*Amendment*

**(6a) ‘data re-user’ means a natural or legal person who re-uses data;**

#### Amendment 51

##### Proposal for a regulation Article 2 – paragraph 1 – point 7

*Text proposed by the Commission*

(7) ‘data sharing’ means the provision by a data holder **of data** to a data user for the purpose of joint or individual use of **the shared** data, based on voluntary agreements, directly or through an intermediary;

*Amendment*

(7) ‘data sharing’ means the provision **of data** by a data holder to a data user for the purpose of joint or individual use of **that** data, based on voluntary agreements **or Union law, as well as the provision of data by a data subject to a data user based on consent**, directly or through an intermediary;

## Amendment 52

### Proposal for a regulation Article 2 – paragraph 1 – point 7 a (new)

*Text proposed by the Commission*

*Amendment*

**(7a)** ‘*data intermediation service*’ means a service, that, through the provision of technical, legal and other means establishes relationships between an undefined number of data subjects or data holders, on the one hand, and data users, on the other hand;

## Amendment 53

### Proposal for a regulation Article 2 – paragraph 1 – point 7 b (new)

*Text proposed by the Commission*

*Amendment*

**(7b)** ‘*processing*’ means processing as defined in Article 4, point (2), of Regulation (EU) 2016/679;

## Amendment 54

### Proposal for a regulation Article 2 – paragraph 1 – point 8

*Text proposed by the Commission*

*Amendment*

(8) ‘access’ means ***processing by a data user of data that has been provided by a data holder***, in accordance with specific technical, legal, or organisational requirements, without necessarily implying the transmission or downloading of such data;

(8) ‘access’ means ***data use***, in accordance with specific technical, legal, or organisational requirements, without necessarily implying the transmission or downloading of such data;

## Amendment 55

### Proposal for a regulation

## Article 2 – paragraph 1 – point 10

*Text proposed by the Commission*

(10) ‘data altruism’ means ***the consent by data subjects to process personal data pertaining to them, or permissions of other data holders to allow the use of their non-personal data*** without seeking a reward, for purposes of ***general*** interest, such as scientific research purposes ***or improving public services***;

*Amendment*

(10) ‘data altruism’ means ***voluntary data sharing by data holders, or the consent to data sharing by a data subject***, without seeking ***or receiving*** a reward, for purposes of ***public*** interest, such as ***healthcare, combating climate change, improving mobility, facilitating the establishment of official statistics, improving public services, or*** scientific research purposes ***in the public interest***;

## Amendment 56

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 10 a (new)

*Text proposed by the Commission*

*Amendment*

***(10a) ‘Public Interest Data Hub’ means an entity controlling, facilitating the processing, or processing itself, data pursuant to paragraph 10 for objectives of public interest such as healthcare, combating climate change, improving mobility, facilitating the establishment of official statistics, improving public services, or scientific research purposes in the public interest;***

## Amendment 57

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 12 – point a

*Text proposed by the Commission*

*Amendment*

(a) they are established for the specific purpose of meeting needs in the ***general*** interest, and do not have an industrial or commercial character;

(a) they are established for the specific purpose of meeting needs in the ***public*** interest, and do not have an industrial or commercial character;

## Amendment 58

**Proposal for a regulation**  
**Article 2 – paragraph 1 – point 14**

*Text proposed by the Commission*

(14) ‘secure processing environment’ means the physical or virtual environment and organisational means to provide the opportunity to re-use data in a manner that allows **for the operator of** the secure processing environment to determine and supervise all data processing actions, including **to** display, storage, download, export of the data and calculation of derivative data **through computational algorithms**.

*Amendment*

(14) ‘secure processing environment’ means the physical or virtual environment and organisational means to provide the opportunity to re-use data in a manner that **ensures compliance with applicable law, in particular the preservation of the rights of data subjects under Regulation (EU) 2016/679, and commercial and statistical confidentiality as appropriate, and** that allows **the entity providing** the secure processing environment to determine and supervise all data processing actions, including **the** display, storage, download, export of the data, and calculation of derivative data.

**Amendment 59**

**Proposal for a regulation**  
**Article 2 – paragraph 1 – point 15**

*Text proposed by the Commission*

(15) ‘representative’ means any natural or legal person established in the Union explicitly designated to act on behalf of a provider of data **sharing** services or an entity that collects data for objectives of **general** interest made available by natural or legal persons on the basis of data altruism not established in the Union, which may be addressed by a national competent authority instead of the provider of data **sharing** services or entity with regard to the obligations of that provider of data **sharing** services or entity set up by this Regulation.

*Amendment*

(15) ‘representative’ means any natural or legal person established in the Union explicitly designated to act on behalf of a provider of data **intermediation** services or an entity that collects data for objectives of **public** interest made available by natural or legal persons on the basis of data altruism not established in the Union, which may be addressed by a national competent authority instead of the provider of data **intermediation** services or entity with regard to the obligations of that provider of data **intermediation** services or entity set up by this Regulation.

**Amendment 60**

**Proposal for a regulation**  
**Article 3 – paragraph 2 – point e a (new)**

*Text proposed by the Commission*

*Amendment*

**(ea) personal data processed in the context of employment.**

## **Amendment 61**

### **Proposal for a regulation Article 3 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

(3) The provisions of this Chapter do not create any obligation on public sector bodies to allow re-use of data nor do they release public sector bodies from their confidentiality obligations. This Chapter is without prejudice to Union and national law or international agreements to which the Union or Member States are parties on the protection of categories of data provided in paragraph 1. This Chapter is without prejudice to Union and national law on access to documents and to obligations of public sector bodies under Union and national law to allow the re-use of data.

(3) The provisions of this Chapter do not create any obligation on public sector bodies to allow re-use of data nor do they release public sector bodies from their confidentiality obligations ***under Union or Member State law***. This Chapter is without prejudice to Union and national law or international agreements to which the Union or Member States are parties on the protection of categories of data provided in paragraph 1. This Chapter is without prejudice to Union and national law on access to documents and to obligations of public sector bodies under Union and national law to allow the re-use of data.

## **Amendment 62**

### **Proposal for a regulation Article 3 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

**(3a) Where anonymisation, aggregation or other techniques can be applied so that the protections under paragraph 1 no longer apply, Directive (EU) 2019/1024 applies, without prejudice to the provisions of Article 5 of this Directive.**

## **Amendment 63**

### **Proposal for a regulation Article 4 – paragraph 1**

*Text proposed by the Commission*

(1) Agreements or other practices pertaining to the re-use of data held by public sector bodies containing categories of data referred to in Article 3 (1) which grant exclusive rights or which have as their object or effect to grant such exclusive rights or to restrict the availability of data for re-use by entities other than the parties to such agreements or other practices shall be prohibited.

*Amendment*

(1) Agreements or other practices pertaining to the re-use of data held by public sector bodies containing categories of data referred to in Article 3 (1) which grant exclusive rights or which have as their object or effect to grant such exclusive rights or to restrict the availability of data for re-use by entities other than the parties to such agreements or other practices shall be prohibited. ***Such agreements or practices and the exclusive rights granted pursuant to them shall be void.***

**Amendment 64**

**Proposal for a regulation  
Article 4 – paragraph 2**

*Text proposed by the Commission*

(2) By way of derogation from paragraph 1, an exclusive right to re-use data referred to in that paragraph may be granted to the extent necessary for the provision of a service or a product ***in the general*** interest.

*Amendment*

(2) By way of derogation from paragraph 1, an exclusive right to re-use data referred to in that paragraph may be granted ***only*** to the extent necessary for the provision of a service or a product ***with a defined public*** interest.

**Amendment 65**

**Proposal for a regulation  
Article 4 – paragraph 4**

*Text proposed by the Commission*

(4) In all cases not covered by paragraph 3 and where the ***general*** interest purpose cannot be fulfilled without granting an exclusive right, the principles of transparency, equal treatment and non-discrimination on grounds of nationality shall apply.

*Amendment*

(4) In all cases not covered by paragraph 3 and where the ***public*** interest purpose cannot be fulfilled without granting an exclusive right, the principles of transparency, equal treatment and non-discrimination on grounds of nationality shall apply.

**Amendment 66**



**Proposal for a regulation**  
**Article 5 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**(3) Public sector bodies may impose an obligation to re-use only pre-processed data where such pre-processing aims to anonymize or pseudonymise personal data or delete commercially confidential information, including trade secrets.**

*deleted*

**Amendment 67**

**Proposal for a regulation**  
**Article 5 – paragraph 4 – introductory part**

*Text proposed by the Commission*

*Amendment*

**(4) Public sector bodies *may* impose obligations**

**(4) Public sector bodies *shall, in accordance with Union law, impose conditions necessary to preserve protection on the grounds listed in Article 3(1) to enable re-use. These conditions shall consist of one or more of the following requirements:***

**Amendment 68**

**Proposal for a regulation**  
**Article 5 – paragraph 4 – point -a (new)**

*Text proposed by the Commission*

*Amendment*

**(-a) *in the case of personal data to only allow access to pre-processed data that has been anonymised, and in the case of commercially confidential information, including trade secrets, confidential statistical data, and content protected by intellectual property rights to only allow access to data that has been modified, aggregated, or treated by any other method to prevent unwanted disclosure;***

**Amendment 69**

**Proposal for a regulation**  
**Article 5 – paragraph 4 – point a**

*Text proposed by the Commission*

(a) to access and re-use the data within a secure processing environment provided and controlled by the public sector ;

*Amendment*

(a) to access and re-use the data **remotely** within a secure processing environment provided and controlled by the public sector; **or**

**Amendment 70**

**Proposal for a regulation**  
**Article 5 – paragraph 5**

*Text proposed by the Commission*

(5) The public sector bodies shall impose conditions that preserve the integrity of the functioning of the technical systems of the secure processing environment used. The public sector body shall **be able** to verify any results of processing of data undertaken by the re-user and reserve the right to prohibit the use of results that contain information jeopardising the rights and interests of third parties.

*Amendment*

(5) ***In cases where re-use has been allowed in accordance with paragraph 4, points (a) and (b),*** the public sector bodies shall impose conditions that preserve the integrity of the functioning of the technical systems of the secure processing environment used. The public sector body shall ***reserve the right*** to verify ***the process, the means and*** any results of processing of data undertaken by the re-user ***to preserve the integrity of the protection of the data,*** and shall reserve the right to prohibit the use of results that contain information jeopardising the rights and interests of third parties. ***In order to use such a secure processing environment, the re-user shall enter into a confidentiality agreement that prohibits the disclosure of any information jeopardising the rights and interests of third parties that the re-user may have acquired despite the safeguards and conditions put in place pursuant to paragraph 4.***

**Amendment 71**

**Proposal for a regulation**  
**Article 5 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***(5a) Public sector bodies shall apply technical means that prevent the re-users from identifying any data subject as a result of the processing outside the secure processing environment and shall hold the re-users responsible for continuously assessing the risk of identification and de-anonymisation of the results of the processing and for reporting to the public sector body concerned any breaches of the confidentiality, the integrity or the security of the data, in particular where a data breach has resulted in identification of an individual, notwithstanding any reporting obligations under Union law.***

## **Amendment 72**

### **Proposal for a regulation Article 5 – paragraph 5 b (new)**

*Text proposed by the Commission*

*Amendment*

***(5b) Where it can be reasonably assumed, or where an impact assessment indicates that there is a specific risk, that the processing or subsequent combination of data could lead to identification or de-anonymisation, the public sector body shall not allow access to, or re-use of, the data before any requirements of completing a data protection impact assessment and consulting with the supervisory authority pursuant to Articles 35 and 36 of Regulation (EU) 2016/679 have been fulfilled.***

## **Amendment 73**

### **Proposal for a regulation Article 5 – paragraph 5 c (new)**

*Text proposed by the Commission*

*Amendment*

***(5c) Re-use with the purpose of***

*identifying data subjects or otherwise de-anonymising datasets shall be prohibited, unless the data subjects have given their consent.*

#### Amendment 74

##### Proposal for a regulation Article 5 – paragraph 5 d (new)

*Text proposed by the Commission*

*Amendment*

***(5d) The public sector bodies shall publish a list of categories of anonymised data made available for re-use, the methods used for anonymisation and other pre-processing, as well as methods of transmission, covering a period of at least the preceding two calendar years or the shorter period anonymised data was made available for re-use.***

#### Amendment 75

##### Proposal for a regulation Article 5 – paragraph 6

*Text proposed by the Commission*

*Amendment*

(6) Where the re-use of data cannot be granted in accordance with the obligations laid down in paragraphs 3 to 5 and there is no other legal basis for transmitting the data under Regulation (EU) 2016/679, the public sector body shall support ***re-users*** in seeking consent of the data subjects and/or permission from the ***legal entities*** whose rights and interests may be affected by such re-use, where it is feasible without disproportionate cost for the public sector. In that task they may be assisted by the competent bodies referred to in Article 7 (1).

(6) Where the re-use of ***personal*** data cannot be granted in accordance with the obligations laid down in paragraphs 3 to 5 ***d*** and there is no other legal basis for transmitting the data under Regulation (EU) 2016/679, the public sector body shall support ***entities requesting re-use*** in seeking ***valid*** consent of the data subjects, ***insofar as a legal basis exists for the public sector body to collect their consent,*** and/or permission from the ***data holders*** whose rights and interests may be affected by such re-use, where it is feasible without disproportionate cost for the public sector, ***and where there is no reason to believe that the combination of non-personal data sets would lead to the identification of data subjects.*** In that task they may be assisted by the competent

bodies referred to in Article 7 (1). ***Re-use of data shall be conditional on the re-user entering into a confidentiality agreement.***

## **Amendment 76**

### **Proposal for a regulation Article 5 – paragraph 6 a (new)**

*Text proposed by the Commission*

*Amendment*

***(6a) Where public sector bodies make available personal data for re-use pursuant to this Article, the public sector bodies shall support data subjects in exercising their rights, including in relation to any re-users. In that task they may be assisted by the competent bodies referred to in Article 7(1).***

## **Amendment 77**

### **Proposal for a regulation Article 5 – paragraph 6 b (new)**

*Text proposed by the Commission*

*Amendment*

***(6b) Where appropriate, public sector bodies shall invite individuals and civil society, including consumer protection organisations, in an open and collaborative manner, to participate in setting up processes for allowing the re-use of personal data.***

## **Amendment 78**

### **Proposal for a regulation Article 5 – paragraph 6 c (new)**

*Text proposed by the Commission*

*Amendment*

***(6c) Re-use of personal data shall take into account the outcome of prior data protection impact assessments, where such data protection impact assessments***

*are required by Union law, in particular where special categories of data and sensitive sectors, such as the health sector, are concerned.*

## Amendment 79

### Proposal for a regulation Article 5 – paragraph 9 – introductory part

*Text proposed by the Commission*

(9) The Commission may adopt implementing acts declaring that the legal, supervisory and enforcement arrangements of a third country:

*Amendment*

(9) ***When this is justified by a high volume of cases pursuant to paragraph 10 in specific third countries,*** the Commission may adopt implementing acts declaring that the legal, supervisory and enforcement arrangements of a third country:

## Amendment 80

### Proposal for a regulation Article 5 – paragraph 10 – introductory part

*Text proposed by the Commission*

(10) Public sector bodies shall ***only transmit confidential*** data or data protected ***by intellectual property rights to a re-user which intends to transfer the data*** to a third country other than a country designated in accordance with paragraph 9 ***if*** the re-user undertakes:

*Amendment*

(10) Public sector bodies shall ***impose an obligation upon the re-user not to transfer non-personal*** data or data protected ***on grounds set out in Article 3 (1), points (a), (b) or (c)*** to a third country other than a country designated in accordance with paragraph 9 ***unless*** the re-user undertakes:

## Amendment 81

### Proposal for a regulation Article 5 – paragraph 11

*Text proposed by the Commission*

(11) Where specific Union acts adopted in accordance with a legislative procedure establish that certain non-personal data

*Amendment*

(11) Where specific Union acts adopted in accordance with a legislative procedure establish that certain non-personal data



categories held by public sector bodies shall be deemed to be highly sensitive for the purposes of this Article, the Commission shall be empowered to adopt delegated acts in accordance with Article 28 supplementing this Regulation by laying down special conditions applicable for transfers to third-countries. **The conditions for the transfer to third-countries** shall be based on the nature of data categories identified in the Union act and on the grounds for deeming them highly sensitive, non-discriminatory and limited to what is necessary to achieve the public policy objectives identified in the Union law act, such as safety and public health, as well as risks of **re-identification of anonymized data for** data subjects, in accordance with the Union's international obligations. **They** may include terms applicable for the transfer or technical arrangements in this regard, limitations as regards the re-use of data in third-countries or categories of persons which are entitled to transfer such data to third countries or, in exceptional cases, restrictions as regards transfers to third-countries.

categories held by public sector bodies shall be deemed to be highly sensitive for the purposes of this Article **and where their transfer to third countries may put at risk Union policy objectives, including with respect to safety and public health**, the Commission shall be empowered to adopt delegated acts in accordance with Article 28 supplementing this Regulation by laying down special conditions applicable for transfers to third-countries. **Those** conditions shall be based on the nature of data categories identified in the Union act and on the grounds for deeming them highly sensitive, non-discriminatory and limited to what is necessary to achieve the public policy objectives identified in the Union law act, such as safety and public health, as well as risks of **identification of** data subjects, in accordance with the Union's international obligations. **The conditions** may include terms applicable for the transfer or technical arrangements in this regard, limitations as regards the re-use of data in third-countries or categories of persons which are entitled to transfer such data to third countries or, in exceptional cases, restrictions as regards transfers to third-countries.

## Amendment 82

### Proposal for a regulation Article 5 – paragraph 13

#### *Text proposed by the Commission*

(13) Where the re-user intends to transfer non-personal data to a third country, the public sector body shall inform the data holder about the transfer **of** data to that third country.

#### *Amendment*

(13) Where the re-user intends to transfer non-personal data to a third country, the public sector body shall inform the data holder about the **intention to transfer that** data to that third country **and the purpose for the transfer**.

## Amendment 83

**Proposal for a regulation**  
**Article 6 – paragraph 2**

*Text proposed by the Commission*

(2) Any fees shall be non-discriminatory, proportionate and objectively justified and shall not restrict competition.

*Amendment*

(2) Any fees ***pursuant to paragraph 1*** shall be non-discriminatory, proportionate and objectively justified and shall not restrict competition, ***create incentives to lower the protection of sensitive data, or inhibit the re-use of data for purposes in the public interest.***

**Amendment 84**

**Proposal for a regulation**  
**Article 6 – paragraph 4**

*Text proposed by the Commission*

(4) Where they apply fees, public sector bodies shall take measures to incentivise the re-use of the categories of data referred to in Article 3 (1) for non-commercial purposes and by small and medium-sized enterprises in line with State aid rules.

*Amendment*

(4) Where they apply fees, public sector bodies shall take measures to incentivise the re-use of the categories of data referred to in Article 3 (1) ***by non-profit organisations and*** for non-commercial purposes ***such as scientific research***, and by small and medium-sized enterprises in line with State aid rules. ***Where possible, this should allow the re-use at lower or no cost.***

**Amendment 85**

**Proposal for a regulation**  
**Article 6 – paragraph 5**

*Text proposed by the Commission*

(5) Fees shall be derived from the costs related to the processing of requests for re-use of the categories of data referred to in Article 3 (1). ***The*** methodology for calculating fees shall be published in advance.

*Amendment*

(5) Fees shall be derived from the costs related to the processing of requests for re-use of the categories of data referred to in Article 3 (1). ***Any fees shall be limited to covering the costs incurred, such as for the preparation of data to uphold protection on the grounds listed in Article 3(1), for maintaining the secure processing environment and further costs***

*incurred by Article 5(3), incurred in relation to supporting re-users seeking consent and permission as provided in Article 5(6), and incurred by monitoring and enforcement. The criteria and methodology for calculating fees shall be published in advance.*

## Amendment 86

### Proposal for a regulation

#### Article 7 – paragraph 1

*Text proposed by the Commission*

(1) Member States shall designate one or more competent bodies, which may be sectoral, to support the public sector bodies which grant access to the re-use of the categories of data referred to in Article 3 (1) in the exercise of that task.

*Amendment*

(1) ***For the tasks mentioned in this Article,*** Member States shall designate ***or establish*** one or more competent bodies, which may be sectoral, to support the public sector bodies which grant access to the re-use of the categories of data referred to in Article 3 (1) in the exercise of that task.

## Amendment 87

### Proposal for a regulation

#### Article 7 – paragraph 2 – point b

*Text proposed by the Commission*

(b) providing technical support ***in the application of tested techniques*** ensuring data processing in a manner that preserves privacy of the information contained in the data for which re-use is allowed, ***including techniques for pseudonymisation, anonymisation, generalisation, suppression and randomisation of personal data;***

*Amendment*

(b) providing technical support ***for*** ensuring data processing in a manner that preserves privacy of the information contained in the data for which re-use is allowed;

## Amendment 88

### Proposal for a regulation

#### Article 7 – paragraph 2 – point c

*Text proposed by the Commission*

(c) assisting the public sector bodies, **where relevant**, in obtaining consent or permission **by re-users for re-use for altruistic and other purposes** in line with specific decisions **of data holders**, including on the jurisdiction or jurisdictions in which the data processing is intended to take place;

#### **Amendment 89**

##### **Proposal for a regulation**

##### **Article 7 – paragraph 2 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

(c) assisting the public sector bodies **to support re-users** in obtaining consent **for re-use of personal data** or permission **from data holders** in line with **their** specific decisions, including on the jurisdiction or jurisdictions in which the data processing is intended to take place;

*Text proposed by the Commission*

*Amendment*

**(ca) assisting public sector bodies, where relevant, with formatting data for ensuring a higher level of interoperability with other data available for re-use, according to Union interoperability standards and without prejudice to the data itself or to Union law;**

#### **Amendment 90**

##### **Proposal for a regulation**

##### **Article 8 – paragraph 1**

*Text proposed by the Commission*

(1) Member **States** shall ensure that all relevant information concerning the application of Articles 5 and 6 is available through a single information point.

*Amendment*

(1) **Each** Member **State** shall ensure that all relevant information concerning the application of Articles 5 and 6 is available through a single information point. **They shall inform the Commission of the single information points.**

#### **Amendment 91**

##### **Proposal for a regulation**

##### **Article 8 – paragraph 2**

*Text proposed by the Commission*

(2) The single information point shall receive requests for the re-use of the

*Amendment*

(2) The single information point shall receive requests for the re-use of the

categories of data referred to in Article 3 (1) and shall transmit them to the competent public sector bodies, or the competent bodies referred to in Article 7 (1), where relevant. **The** single information point shall make available by electronic means a register of available data resources containing relevant information describing the nature of available data.

categories of data referred to in Article 3 (1) and shall transmit them to the competent public sector bodies, or the competent bodies referred to in Article 7 (1), where relevant. **Each** single information point shall make available by electronic means a register of available data resources containing relevant information describing the nature of available data.

## **Amendment 92**

### **Proposal for a regulation**

#### **Article 8 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**(2a) The Commission shall make public in an easily accessible way, and in all official languages of the Union, information about available data resources from all Member States' single information points.**

## **Amendment 93**

### **Proposal for a regulation**

#### **Article 8 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

(3) Requests for the re-use of the categories of data referred to in Article 3 (1) shall be granted or refused by the competent public sector bodies or the competent bodies referred to in Article 7 (1) within a reasonable time, and in any case within **two** months from the date of the request.

(3) Requests for the re-use of the categories of data referred to in Article 3 (1) shall be granted or refused by the competent public sector bodies or the competent bodies referred to in Article 7 (1) within a reasonable time, and in any case within **three** months from the date of the request.

## **Amendment 94**

### **Proposal for a regulation**

#### **Article 9 – paragraph 1 – introductory part**

*Text proposed by the Commission*

(1) The provision of the following data **sharing** services shall be subject to a notification procedure:

*Amendment*

(1) The provision of the following data **intermediation** services shall be subject to a notification procedure:

**Amendment 95**

**Proposal for a regulation  
Article 9 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) intermediation services between data holders **which are legal persons** and potential data users, including making available the technical or other means to enable such services; those services may include bilateral or multilateral exchanges of data or the creation of platforms or databases enabling the exchange or joint exploitation of data, as well as the establishment of a specific infrastructure for the interconnection of data holders and data users;

*Amendment*

(a) intermediation services between data holders and potential data users **of non-personal data**, including making available the technical or other means to enable such services; those services may include bilateral or multilateral exchanges of **non-personal** data or the creation of platforms or databases enabling the exchange or joint exploitation of **non-personal** data, as well as the establishment of a specific infrastructure for the interconnection of data holders and data users;

**Amendment 96**

**Proposal for a regulation  
Article 9 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) intermediation services between data subjects that seek to make their personal data available and potential data users, including making available the technical or other means to enable such services, **in** the exercise of the rights provided in Regulation (EU) 2016/679;

*Amendment*

(b) intermediation services between data subjects that seek to make their personal data available and potential data users, including making available the technical or other means to enable such services, **and in particular enabling** the exercise of the **data subjects'** rights provided in Regulation (EU) 2016/679;

**Amendment 97**

**Proposal for a regulation**



## Article 9 – paragraph 1 – point c

*Text proposed by the Commission*

(c) **services** of data cooperatives, that is to say services **supporting data subjects or one-person companies or micro, small and medium-sized enterprises, who are members of the cooperative or who confer the power to the cooperative to negotiate terms and conditions for data processing before they consent, in making informed choices before consenting to data processing, and allowing for mechanisms to exchange views on data processing purposes and conditions that would best represent the interests of data subjects or legal persons.**

*Amendment*

(c) **activities** of data cooperatives, that is to say **organisations or services, which:**

## Amendment 98

### Proposal for a regulation

#### Article 9 – paragraph 1 – point c – point i (new)

*Text proposed by the Commission*

*Amendment*

**i) support members who are data subjects to exercise the rights provided in Regulation (EU) 2016/679, by offering services including, but not limited to, collectively negotiating terms and conditions for data processing, and allowing for mechanisms to exchange views on data processing purposes and conditions, thereby representing their interests; this may be paired with making available data storage services to members; or**

## Amendment 99

### Proposal for a regulation

#### Article 9 – paragraph 1 – point c – point ii (new)

*Text proposed by the Commission*

*Amendment*

**ii) enable small and medium-sized**

*enterprises and not-for-profit or academic institutions who are members of the cooperative or who confer the power to the cooperative to collectively negotiate terms for sharing non-personal data.*

## **Amendment 100**

### **Proposal for a regulation Article 9 – paragraph 2**

*Text proposed by the Commission*

(2) This **Chapter** shall be without prejudice to the application of other Union and national law to providers of data **sharing** services, including powers of supervisory authorities to ensure compliance with applicable law, in particular as regard the protection of personal data and competition law.

*Amendment*

(2) This **Regulation** shall be without prejudice to the application of other Union and national law to providers of data **intermediation** services, including powers of supervisory authorities to ensure compliance with applicable law, in particular as regard the protection of personal data and competition law.

## **Amendment 101**

### **Proposal for a regulation Article 10 – title**

*Text proposed by the Commission*

*Notification of **data sharing service** providers*

*Amendment*

*Notification of providers **of data intermediation services***

## **Amendment 102**

### **Proposal for a regulation Article 10 – paragraph 1**

*Text proposed by the Commission*

(1) Any provider of data **sharing** services who intends to provide the services referred to in Article 9 (1) shall submit a notification to the competent authority referred to in Article 12.

*Amendment*

(1) Any provider of data **intermediation** services who intends to provide the services referred to in Article 9 (1) shall submit a notification to the competent authority referred to in Article 12.

## Amendment 103

### Proposal for a regulation Article 10 – paragraph 2

*Text proposed by the Commission*

(2) For the purposes of this Regulation, a provider of data **sharing** services with establishments in more than one Member State, shall be deemed to be under the jurisdiction of the Member State in which it has its main establishment.

*Amendment*

(2) For the purposes of this Regulation, a provider of data **intermediation** services with establishments in more than one Member State, shall be deemed to be under the jurisdiction of the Member State in which it has its main establishment.

## Amendment 104

### Proposal for a regulation Article 10 – paragraph 3

*Text proposed by the Commission*

(3) A provider of data **sharing** services that is not established in the Union, but offers the services referred to in Article 9 (1) within the Union, shall appoint a legal representative in one of the Member States in which those services are offered. The provider shall be deemed to be under the jurisdiction of the Member State in which the legal representative is established.

*Amendment*

(3) A provider of data **intermediation** services that is not established in the Union, but offers the services referred to in Article 9 (1) within the Union, shall appoint a legal representative in one of the Member States in which those services are offered. The provider shall be deemed to be under the jurisdiction of the Member State in which the legal representative is established. ***The representative shall be mandated by the provider of data intermediation services to be addressed in addition to or instead of it by, in particular, competent authorities and data subjects and data holders on all issues related to the data intermediation services for the purposes of ensuring compliance with this Regulation. The fact that a given Member State will have jurisdiction over a provider of a data intermediation service on the basis of that provider's representative being established in that Member State shall not prevent the initiation of legal action against that provider in any other jurisdiction or forum.***

## Amendment 105

### Proposal for a regulation Article 10 – paragraph 4

*Text proposed by the Commission*

(4) *Upon notification*, the provider of data *sharing* services may start the activity subject to the conditions laid down in this Chapter.

*Amendment*

(4) *A provider of data intermediation services shall not start the activity before any measures required under applicable law have been taken, in particular completing a data protection impact assessment and consulting the supervisory authority pursuant to Articles 35 and 36 of Regulation (EU) 2016/679. Without prejudice to any such obligations, the provider of data intermediation services may start the activity subject to the conditions laid down in this Chapter upon notification of the competent authority.*

## Amendment 106

### Proposal for a regulation Article 10 – paragraph 5

*Text proposed by the Commission*

(5) The notification shall entitle the provider to provide data *sharing* services in all Member States.

*Amendment*

(5) The notification shall entitle the provider to provide data *intermediation* services in all Member States.;

## Amendment 107

### Proposal for a regulation Article 10 – paragraph 6 – point a

*Text proposed by the Commission*

(a) the name of the provider of data *sharing* services;

*Amendment*

(a) the name of the provider of data *intermediation* services;

## Amendment 108

### Proposal for a regulation Article 10 – paragraph 6 – point d

*Text proposed by the Commission*

(d) a website where information on the provider and the activities can be found, *where applicable*;

*Amendment*

(d) a **publicly accessible** website where information on the provider and the activities can be found, **including as a minimum the information referred to in this paragraph, points (a), (b), (c), (e), (f), and (fa)**;

**Amendment 109**

**Proposal for a regulation  
Article 10 – paragraph 6 – point f**

*Text proposed by the Commission*

(f) a description of the **service** the provider intends to provide;

*Amendment*

(f) a description of the **services** the provider intends to provide **and a declaration of compliance with the conditions set out in Article 11 and with Regulation (EU) 2016/679 when the data intermediation service involves personal data**;

**Amendment 110**

**Proposal for a regulation  
Article 10 – paragraph 6 – point f a (new)**

*Text proposed by the Commission*

*Amendment*

**(fa) the nature of data to be controlled, processed, or re-used by the provider, including information, where applicable, on whether the provider intends to provide services on the basis of, or can reasonably assume to process, any of the following: personal data or anonymised data that was derived from personal data; in the case of personal data, an indication of the categories of personal data and the categories of recipients of personal data;**

**Amendment 111**

**Proposal for a regulation**  
**Article 10 – paragraph 6 – point f b (new)**

*Text proposed by the Commission*

*Amendment*

**(fb) an indication in the case of processing of personal data or where the provider can reasonably assume that the combination of non-personal data under the service it provides could lead to the identification or identifiability of natural persons;**

**Amendment 112**

**Proposal for a regulation**  
**Article 10 – paragraph 6 – point g**

*Text proposed by the Commission*

*Amendment*

(g) the *estimated* date for starting the activity;

(g) the *intended* date for starting the activity **and, where applicable, the duration foreseen.**

**Amendment 113**

**Proposal for a regulation**  
**Article 10 – paragraph 6 – point h**

*Text proposed by the Commission*

*Amendment*

**(h) the Member States where the provider intends to provide services.**

**deleted**

**Amendment 114**

**Proposal for a regulation**  
**Article 10 – paragraph 7**

*Text proposed by the Commission*

*Amendment*

(7) At the request of the provider, the competent authority shall, within **one week**, issue a standardised declaration, confirming that the provider has submitted the notification referred to in paragraph 4.

(7) At the request of the provider, the competent authority shall, within **two weeks**, issue a standardised declaration, confirming that the provider has submitted the notification referred to in paragraph 4.

## Amendment 115

### Proposal for a regulation Article 10 – paragraph 9

*Text proposed by the Commission*

(9) The competent authority shall notify the Commission of each new notification. The Commission shall keep a register of providers of data *sharing* services.

*Amendment*

(9) The competent authority shall notify the Commission of each new notification. The Commission shall keep a **public** register of **all** providers of data **intermediation** services **in the Union and shall make available in that register the information referred to in paragraph 6, points (a), (b), (c), (d),(f), (fa) and (fb).**

## Amendment 116

### Proposal for a regulation Article 10 – paragraph 10

*Text proposed by the Commission*

(10) The competent authority may charge fees. Such fees shall be proportionate and objective and be based on the administrative costs related to the monitoring of compliance and other market control activities of the competent authorities in relation to notifications of data *sharing* services.

*Amendment*

(10) The competent authority may charge fees. Such fees shall be proportionate and objective and be based on the administrative costs related to the monitoring of compliance and other market control activities of the competent authorities in relation to notifications of data **intermediation** services.

## Amendment 117

### Proposal for a regulation Article 10 – paragraph 11

*Text proposed by the Commission*

(11) Where a provider of data *sharing* services ceases its activities, it shall notify the relevant competent authority determined pursuant to paragraphs 1, 2 and 3 within 15 days. The competent authority shall forward without delay each such

*Amendment*

(11) Where a provider of data **intermediation** services ceases its activities, it shall notify the relevant competent authority determined pursuant to paragraphs 1, 2 and 3 within 15 days. The competent authority shall forward



notification to the national competent authorities in the Member States and to the Commission by electronic means.

without delay each such notification to the national competent authorities in the Member States and to the Commission by electronic means.

## Amendment 118

### Proposal for a regulation

#### Article 11 – title

*Text proposed by the Commission*

Conditions for providing data **sharing** services

*Amendment*

Conditions for providing data **intermediation** services

## Amendment 119

### Proposal for a regulation

#### Article 11 – paragraph 1 – introductory part

*Text proposed by the Commission*

The provision of data **sharing** services referred in Article 9 (1) shall be subject to the following conditions:

*Amendment*

The provision of data **intermediation** services referred in Article 9 (1) shall be subject to the following conditions:

## Amendment 120

### Proposal for a regulation

#### Article 11 – paragraph 1 – point 1

*Text proposed by the Commission*

(1) the provider may not use the data for which it provides services for other purposes than to put them at the disposal of data users, and data **sharing** services shall be placed in a separate legal entity;

*Amendment*

(1) the provider may not use the data for which it provides services for other purposes than to put them at the disposal of data users, and data **intermediation** services shall be placed in a separate legal entity;

## Amendment 121

### Proposal for a regulation

#### Article 11 – paragraph 1 – point 2

*Text proposed by the Commission*

(2) the **metadata** collected **from** the provision of **the** data **sharing** service may be used only for the development of that service;

*Amendment*

(2) the **data** collected **with respect to any activity of a natural or legal person for the purposes of** the provision of **a data intermediation service, including the date, time and geolocation data, duration of activity and connections to other natural or legal persons established by the person who uses the** service, may be used only for the development of that service;

## **Amendment 122**

### **Proposal for a regulation**

#### **Article 11 – paragraph 1 – point 3**

*Text proposed by the Commission*

(3) the provider shall ensure that the procedure for access to its service is fair, transparent and non-discriminatory for both data holders **and** data users, including as regards prices;

*Amendment*

(3) the provider shall ensure that the procedure for access to its service is fair, transparent and non-discriminatory for both data **subjects and data** holders, **as well as for** data users, including as regards prices **and terms and conditions of the provision of the services**;

## **Amendment 123**

### **Proposal for a regulation**

#### **Article 11 – paragraph 1 – point 4**

*Text proposed by the Commission*

(4) the provider shall facilitate the exchange of the data in the format in which it receives it from **the** data holder and shall convert the data into specific formats only to enhance interoperability within and across sectors or if requested by the data user or where mandated by Union law or to ensure harmonisation with international or European data standards;

*Amendment*

(4) the provider shall facilitate the exchange of the data in the format in which it receives it from **a data subject or a** data holder and shall convert the data into specific formats only to enhance interoperability within and across sectors or if requested by the data user or where mandated by Union law or to ensure harmonisation with international or European data standards;

## **Amendment 124**

**Proposal for a regulation**  
**Article 11 – paragraph 1 – point 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***(4a) data intermediation services may include offering additional specific tools and services to data subjects and data holders to facilitate the exercise of the data subjects' rights, on the one hand, and the exchange of data, on the other hand, those tools and services to be used only at the request, or following the consent, of data subjects and at the explicit request or approval of the data holder with third-party tools offered in that context not to use data for other purposes;***

**Amendment 125**

**Proposal for a regulation**  
**Article 11 – paragraph 1 – point 5**

*Text proposed by the Commission*

*Amendment*

(5) the provider shall have procedures in place to prevent fraudulent or abusive practices in relation to ***access to data from*** parties seeking access through their services;

(5) the provider shall have procedures in place to ***to monitor and*** prevent fraudulent or abusive practices in relation to parties seeking access through their services;

**Amendment 126**

**Proposal for a regulation**  
**Article 11 – paragraph 1 – point 6**

*Text proposed by the Commission*

*Amendment*

(6) the provider shall ensure a reasonable continuity of provision of its services and, in the case of services which ensure storage of data, shall have sufficient guarantees in place that allow data holders and data users to obtain access to their data in case of insolvency;

(6) the provider shall ensure a reasonable continuity of provision of its services and, in the case of services which ensure storage of data, shall have sufficient ***and effective*** guarantees in place that allow data holders and data users to obtain access to, ***to transfer or to retrieve***, their data, ***or, in the case of providing intermediation***

*services between data subjects and data users pursuant to Article 9(1), point b, that allow data subjects to exercise their rights in case of the provider's insolvency;*

#### **Amendment 127**

##### **Proposal for a regulation Article 11 – paragraph 1 – point 6 a (new)**

*Text proposed by the Commission*

*Amendment*

***(6a) the provider shall take reasonable measures to ensure interoperability with other data intermediation services by means of accessible application programming interfaces (APIs), making use of commonly used formats and commonly used, formal or informal, open standards in the sector in which the providers of data sharing intermediation services operate;***

#### **Amendment 128**

##### **Proposal for a regulation Article 11 – paragraph 1 – point 9**

*Text proposed by the Commission*

*Amendment*

(9) the provider shall have procedures in place to ensure compliance with the Union and national rules on competition;

(9) the provider shall have procedures in place to ensure compliance with the Union and national rules on competition ***and consumer protection;***

#### **Amendment 129**

##### **Proposal for a regulation Article 11 – paragraph 1 – point 9 a (new)**

*Text proposed by the Commission*

*Amendment*

***(9a) the provider may in particular provide the data subjects with easily accessible tools, allowing them a comprehensive view of how, with whom,***

*and for which specific purpose their personal data are shared by the provider;*

## Amendment 130

### Proposal for a regulation

#### Article 11 – paragraph 1 – point 11

*Text proposed by the Commission*

(11) where a provider provides tools for obtaining consent from data subjects or permissions to process data made available by **legal persons**, it shall specify the jurisdiction or jurisdictions in which the data use is intended to take place.

*Amendment*

(11) where a provider provides tools for obtaining consent from data subjects or permissions to process data made available by **data holders**, it shall specify the jurisdiction or jurisdictions in which the data use is intended to take place **and provide data subjects with tools to withdraw consent and data holders with tools to withdraw permissions to process data at any point in time.**

## Amendment 131

### Proposal for a regulation

#### Article 12 – paragraph 3

*Text proposed by the Commission*

(3) The designated competent authorities, the data protection authorities, the national competition authorities, the authorities in charge of cybersecurity, and other relevant sectorial authorities shall exchange the information which is necessary for the exercise of their tasks in relation to data **sharing** providers.

*Amendment*

(3) **The powers of** the designated competent authorities **are without prejudice to the powers of** the data protection authorities, the national **supervisory authorities for artificial intelligence, the national** competition authorities, the authorities in charge of cybersecurity, and other relevant sectorial authorities. **In accordance with their respective competences under Union and Member State law, those authorities** shall exchange the information which is necessary for the exercise of their tasks in relation to data **intermediation** providers. **On any question regarding compliance with Regulation (EU) 2016/679, the competent supervisory authorities established pursuant to that Regulation**

*are fully competent.*

## Amendment 132

### Proposal for a regulation

#### Article 13 – paragraph 2

*Text proposed by the Commission*

(2) The competent authority shall have the power to **request** from providers of data **sharing** services all the information that is necessary to verify compliance with the requirements **laid down in Articles 10 and 11. Any request for information shall be proportionate to the performance of the task and shall be reasoned.**

*Amendment*

(2) The competent authority shall have the power to **make reasoned requests** from providers of data **intermediation** services all the information that is necessary to verify compliance with the requirements **of this Chapter.**

## Amendment 133

### Proposal for a regulation

#### Article 13 – paragraph 3

*Text proposed by the Commission*

(3) Where the competent authority finds that a provider of data **sharing** services does not comply with one or more of the requirements laid down in **Article 10 or 11**, it shall notify that provider of those findings and give it the opportunity to state its views, within a reasonable time limit.

*Amendment*

(3) Where the competent authority finds that a provider of data **intermediation** services does not comply with one or more of the requirements laid down in **this Chapter**, it shall notify that provider of those findings and give it the opportunity to state its views, within a reasonable time limit.

## Amendment 134

### Proposal for a regulation

#### Article 13 – paragraph 4

*Text proposed by the Commission*

(4) The competent authority shall have the power to require the cessation of the breach referred to in paragraph 3 either immediately or within a reasonable time limit and shall take appropriate and

*Amendment*

(4) The competent authority shall have the power to require the cessation of the breach referred to in paragraph 3 either immediately or within a reasonable time limit and shall take appropriate and

proportionate measures aimed at ensuring compliance. In this regard, the competent authorities shall be able, *where appropriate*:

proportionate measures aimed at ensuring compliance. In this regard, the competent authorities shall be able:

#### Amendment 135

##### Proposal for a regulation Article 13 – paragraph 4 – point a

*Text proposed by the Commission*

(a) to impose dissuasive financial penalties which may include periodic penalties with retroactive effect;

*Amendment*

(a) to impose dissuasive financial penalties which may include periodic penalties **and penalties** with retroactive effect;

#### Amendment 136

##### Proposal for a regulation Article 13 – paragraph 4 – point b

*Text proposed by the Commission*

(b) to require cessation *or postponement* of the provision of the data *sharing* service.

*Amendment*

(b) to require cessation of the provision of the data **intermediation** service **in cases where intentional, repeated, serious or substantial breaches have not been corrected even after the competent authority gave prior notification, issued a warning or requested postponement of the provision of such a service until after modifications of the conditions of service; the competent authority shall request the Commission to remove the provider of the data intermediation service from the register of providers of data intermediation services, once it has ordered the cessation of the service.**

#### Amendment 137

##### Proposal for a regulation Article 13 – paragraph 6



*Text proposed by the Commission*

(6) If a provider of data **sharing** services has its main establishment or legal representative in a Member State, but provides services in other Member States, the competent authority of the Member State of the main establishment or where the legal representative is located and the competent authorities of those other Member States shall cooperate and assist each other. Such assistance and cooperation may cover information exchanges between the competent authorities concerned and requests to take the measures referred to in this Article.

*Amendment*

(6) If a provider of data **intermediation** services has its main establishment or legal representative in a Member State, but provides services in other Member States, the competent authority of the Member State of the main establishment or where the legal representative is located and the competent authorities of those other Member States shall cooperate and assist each other. Such assistance and cooperation may cover information exchanges between the competent authorities concerned **for the purpose of their tasks under this Regulation** and requests to take the measures referred to in this Article. **Where a competent authority for data intermediation services in one Member State requests assistance from a competent authority in another Member State, it shall submit a duly justified request. The competent authority for data intermediation services in that other Member State shall respond within two weeks of receipt of the request. Any information exchanged in the context of assistance requested and provided under this paragraph shall be used only in respect of the matter for which it was requested.**

**Amendment 138**

**Proposal for a regulation  
Article 14 – paragraph 1**

*Text proposed by the Commission*

This Chapter shall not apply to not-for-profit entities whose activities consist only in seeking to collect data for objectives of general interest, made available by natural or legal persons on the basis of data altruism.

*Amendment*

This Chapter shall not apply to:

**(a) public sector bodies that offer data sharing facilities on a non-commercial**

*basis;*

*(b) not-for-profit entities whose activities consist only in seeking to collect data for objectives of public interest, made available by natural or legal persons on the basis of data altruism.*

## **Amendment 139**

### **Proposal for a regulation Article 14 a (new)**

*Text proposed by the Commission*

*Amendment*

#### *Article 14a (new)*

##### *Policies for data altruism in Member States*

*(1) Member States shall define policies for data altruism and shall put in place organisational or technical arrangements, in particular, to enable public sector bodies to provide secure processing environments that can be made available to Public Interest Data Hubs by the public sector to allow supervision, to ensure the protection of personal data and confidentiality, and to further facilitate data altruism. These policies shall in particular support data subjects in making use of their rights, and in making personal data related to them held by public sector bodies available voluntarily for data altruism.*

*(2) The European Data Innovation Board shall advise and assist in developing a consistent practice with regard to data altruism throughout the Union.*

## **Amendment 140**

### **Proposal for a regulation Article 15 – title**

*Text proposed by the Commission*

Register of **recognised data altruism organisations**

#### **Amendment 141**

##### **Proposal for a regulation Article 15 – paragraph 1**

*Text proposed by the Commission*

(1) Each competent authority designated pursuant to Article 20 shall keep a register of **recognised data altruism organisations**.

*Amendment*

Register of **Public Interest Data Hubs**

*Amendment*

(1) Each competent authority **for the registration of Public Interest Data Hubs** designated pursuant to Article 20 shall keep a **public** register of **Public Interest Data Hubs**.

#### **Amendment 142**

##### **Proposal for a regulation Article 15 – paragraph 2**

*Text proposed by the Commission*

(2) The Commission shall maintain a Union register of **recognised data altruism organisations**.

*Amendment*

(2) The Commission shall maintain a **publicly accessible** Union register of **Public Interest Data Hubs**.

#### **Amendment 143**

##### **Proposal for a regulation Article 15 – paragraph 3**

*Text proposed by the Commission*

(3) An entity registered in the register in accordance with Article 16 may refer to itself as a '**data altruism organisation recognised in the Union**' in its written and spoken communication.

*Amendment*

(3) An entity registered in the register in accordance with Article 16 may refer to itself as a '**Public Interest Data Hub**' in its written and spoken communication.

#### **Amendment 144**

##### **Proposal for a regulation**

## Article 16 – title

*Text proposed by the Commission*

*Amendment*

General requirements for **registration**

General requirements for **Public Interest Data Hubs**

## Amendment 145

### Proposal for a regulation

#### Article 16 – paragraph 1 – introductory part

*Text proposed by the Commission*

*Amendment*

***In order to qualify for registration, the data altruism organisation shall:***

***(1)*** In order to qualify for registration as a **Public Interest Data Hub, an entity shall:**

## Amendment 146

### Proposal for a regulation

#### Article 16 – paragraph 1 – point a

*Text proposed by the Commission*

*Amendment*

(a) be a legal **entity** constituted to meet objectives of **general** interest;

(a) be a legal **person** constituted to meet objectives of **public** interest **which shall be demonstrated in the application pursuant to Article 17(4);**

## Amendment 147

### Proposal for a regulation

#### Article 16 – paragraph 1 – point b

*Text proposed by the Commission*

*Amendment*

(b) operate on a not-for-profit basis and be independent from any entity that operates on a for-profit basis;

(b) operate on a not-for-profit basis and be **fully** independent from any entity that operates on a for-profit basis;

## Amendment 148

### Proposal for a regulation

#### Article 16 – paragraph 1 – point b a (new)

*Text proposed by the Commission*

*Amendment*

**(ba) provide oversight mechanisms, such as ethics boards or councils;**

#### **Amendment 149**

##### **Proposal for a regulation Article 16 – paragraph 1 – point c**

*Text proposed by the Commission*

*Amendment*

(c) perform the activities related to data altruism **take place** through a legally independent structure, separate from other activities it has undertaken.

(c) perform the activities related to data altruism through a legally independent structure, separate from other activities it has undertaken;

#### **Amendment 150**

##### **Proposal for a regulation Article 16 – paragraph 1 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

**(ca) have procedures in place to ensure compliance with Union and national law on the protection of personal data, including procedures for ensuring the exercise of data subjects' rights;**

#### **Amendment 151**

##### **Proposal for a regulation Article 16 – paragraph 1 – point c b (new)**

*Text proposed by the Commission*

*Amendment*

**(cb) have adequate technical, legal and organisational measures in place to prevent transfer or disclosure to non-personal data that is unlawful under Union law;**

#### **Amendment 152**

**Proposal for a regulation**  
**Article 16 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***(1a) Public Interest Data Hubs shall only make data available to data users from the following categories:***

***(a) data users that pursue objectives of public interest;***

***(b) data users that pursue scientific research in the public interest.***

**Amendment 153**

**Proposal for a regulation**  
**Article 16 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***(1b) Public Interest Data Hubs shall not use the data for which they provide services for other purposes than placing them at the disposal of data users, including where data is made available through a secure processing environment;***

**Amendment 154**

**Proposal for a regulation**  
**Article 16 – paragraph 1 c (new)**

*Text proposed by the Commission*

*Amendment*

***(1c) Public Interest Data Hubs shall take measures to ensure a high level of security for the storage and transmission of non-personal data;***

**Amendment 155**

**Proposal for a regulation**  
**Article 16 – paragraph 1 d (new)**

*Text proposed by the Commission*

*Amendment*

**(1d) Public Interest Data Hubs shall act in the data subjects' best interest when facilitating the exercise of their rights, in particular by advising data subjects on potential data uses and standard terms and conditions attached to such uses;**

#### **Amendment 156**

##### **Proposal for a regulation Article 17 – title**

*Text proposed by the Commission*

*Amendment*

Registration

Registration **of Public Interest Data Hubs**

#### **Amendment 157**

##### **Proposal for a regulation Article 17 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

(1) Any entity which meets the requirements of Article 16 may request to be entered in the register of **recognised data altruism organisations** referred to in Article 15 (1).

(1) Any entity which meets the requirements of Article 16 may request to be entered in the register of **Public Interest Data Hubs** referred to in Article 15 (1).

#### **Amendment 158**

##### **Proposal for a regulation Article 17 – paragraph 4 – introductory part**

*Text proposed by the Commission*

*Amendment*

(4) Applications for registration shall contain the following information:

(4) Applications for registration shall contain **all of** the following information:

#### **Amendment 159**

##### **Proposal for a regulation Article 17 – paragraph 4 – point d**



*Text proposed by the Commission*

(d) the entity's **main** sources of income;

*Amendment*

(d) the entity's sources of income;

#### **Amendment 160**

##### **Proposal for a regulation**

##### **Article 17 – paragraph 4 – point f**

*Text proposed by the Commission*

(f) a website where information on the entity and the activities can be found;

*Amendment*

(f) a **publicly accessible** website where information on the entity and the activities can be found, **including as a minimum the information referred to in points (a), (b), (d), (e), (g), (h) and (ha)**;

#### **Amendment 161**

##### **Proposal for a regulation**

##### **Article 17 – paragraph 4 – point h**

*Text proposed by the Commission*

(h) the purposes of **general** interest it intends to promote when collecting data;;

*Amendment*

(h) the purposes of **public** interest it intends to promote when collecting data;

#### **Amendment 162**

##### **Proposal for a regulation**

##### **Article 17 – paragraph 4 – point h a (new)**

*Text proposed by the Commission*

*Amendment*

**(ha) the nature of data to be controlled, processed or re-used by the provider, and, in case of personal data, an indication of the categories of personal data and the categories of recipients of personal data;**

#### **Amendment 163**

##### **Proposal for a regulation**

## Article 17 – paragraph 4 – point h b (new)

*Text proposed by the Commission*

*Amendment*

***(hb) an indication in case of processing of personal data or where the provider can reasonably assume that the combination of non-personal data under the service it provides could lead to the identification or identifiability of natural persons;***

## Amendment 164

### Proposal for a regulation

## Article 17 – paragraph 4 – point h c (new)

*Text proposed by the Commission*

*Amendment*

***(hc) whether the entity provides the data subjects with easily accessible and effective tools allowing the data subjects a comprehensive view of how and for which specific purpose their personal data are shared or used by the entity and by data users, and whether consent can be withdrawn or modified at any time;***

## Amendment 165

### Proposal for a regulation

## Article 17 – paragraph 5

*Text proposed by the Commission*

*Amendment*

(5) Where the entity has submitted all necessary information pursuant to paragraph 4 and the competent authority considers that the entity complies with the requirements of Article 16, it shall register the entity in the register of ***recognised data altruism organisations*** within twelve weeks from the date of application. The registration shall be valid in all Member States. Any registration shall be communicated to the Commission, for inclusion in the Union register of

(5) Where the entity has submitted all necessary information pursuant to paragraph 4 and the competent authority ***for the registration of Public Interest Data Hubs*** considers that the entity complies with the requirements of Article 16, it shall register the entity in the register of ***Public Interest Data Hubs*** within twelve weeks from the date of application. The registration shall be valid in all Member States. Any registration shall be communicated to the Commission, for

*recognised data altruism organisations.*

inclusion in the Union register of **Public Interest Data Hubs**.

#### **Amendment 166**

##### **Proposal for a regulation Article 17 – paragraph 6**

*Text proposed by the Commission*

(6) The information referred to in paragraph 4, points (a), (b), (f), (g), **and (h)** shall be published in the national register of **recognised data altruism organisations**.

*Amendment*

(6) The information referred to in paragraph 4, points (a), (b), (f), (g), **(h), (ha), and (hb)**, shall be published in the national register of **Public Interest Data Hubs**.

#### **Amendment 167**

##### **Proposal for a regulation Article 17 – paragraph 7**

*Text proposed by the Commission*

(7) Any entity entered in the register of **recognised data altruism organisations** shall **submit** any changes of the information provided pursuant to paragraph 4 **to the competent authority** within 14 calendar days from the day on which the change takes place.

*Amendment*

(7) Any entity entered in the register of **Public Interest Data Hubs** shall **notify the competent authority for the registration of Public Interest Data Hubs** of any changes of the information provided pursuant to paragraph 4 within 14 calendar days from the day on which the change takes place. **The competent authority shall within 14 calendar days inform the Commission by electronic means of such notification.**

#### **Amendment 168**

##### **Proposal for a regulation Article 17 – paragraph 7 a (new)**

*Text proposed by the Commission*

*Amendment*

**(7a) Where the information provided in the application indicates that sensitive data categories could be controlled, processed or re-used, the Public Interest Data Hubs shall conduct a data protection**

*impact assessment pursuant to Article 35, and, where applicable, Article 36, of Regulation (EU) 2016/679, taking into account the possibility of using a secure processing environment as referred to in Article 14a of this Regulation, or deny the application.*

## Amendment 169

### Proposal for a regulation

#### Article 18 – paragraph 1 – introductory part

*Text proposed by the Commission*

(1) Any entity entered in the national register of *recognised data altruism organisations* shall keep full and accurate records concerning:

*Amendment*

(1) Any entity entered in the national register of *Public Interest Data Hubs* shall keep full and accurate records concerning:

## Amendment 170

### Proposal for a regulation

#### Article 18 – paragraph 1 – point a

*Text proposed by the Commission*

(a) all natural or legal persons that were given the possibility to process data held by that entity;

*Amendment*

(a) all natural or legal persons that were given the possibility to process data held by that entity, *and their contact details*;

## Amendment 171

### Proposal for a regulation

#### Article 18 – paragraph 1 – point b

*Text proposed by the Commission*

(b) the date or duration of such processing;

*Amendment*

(b) the date or duration of such processing, *and the data sets processed*;

## Amendment 172

### Proposal for a regulation

## Article 18 – paragraph 2 – introductory part

*Text proposed by the Commission*

(2) Any entity entered in the register of **recognised data altruism organisations** shall draw up and transmit to the competent national authority an annual activity report which shall contain at least the following:

*Amendment*

(2) Any entity entered in the register of **Public Interest Data Hubs** shall draw up and transmit to the competent national authority **for the registration of Public Interest Data Hubs** an annual activity report which shall contain at least the following:

### Amendment 173

#### Proposal for a regulation

##### Article 18 – paragraph 2 – point b

*Text proposed by the Commission*

(b) a description of the way in which the **general** interest purposes for which data was collected have been promoted during the given financial year;

*Amendment*

(b) a description of the way in which the **public** interest purposes for which data was collected have been promoted during the given financial year;

### Amendment 174

#### Proposal for a regulation

##### Article 18 – paragraph 2 – point c

*Text proposed by the Commission*

(c) a list of all natural and legal persons that were allowed to use data it holds, including a **summary** description of the **general** interest purposes pursued by such data use and the description of the technical means used for it, including a description of the techniques used to preserve privacy and data protection;

*Amendment*

(c) a list of all natural and legal persons that were allowed to **process or otherwise** use data it holds, including a **comprehensive** description of the **public** interest purposes pursued by such data use and the description of the technical means used for it, including a description of the techniques used to preserve privacy and data protection;

### Amendment 175

#### Proposal for a regulation

##### Article 19 – title

*Text proposed by the Commission*

*Amendment*

Specific requirements to safeguard rights and interests of data subjects and **legal entities** as regards their data

Specific requirements to safeguard rights and interests of data subjects and **data holders** as regards their data

**Amendment 176**

**Proposal for a regulation**

**Article 19 – paragraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

(1) Any entity entered in the register of **recognised data altruism organisations** shall inform data holders:

(1) Any entity entered in the register of **Public Interest Data Hubs** shall inform data **subjects and data** holders **in a clear and comprehensible manner prior to any processing of their data**:

**Amendment 177**

**Proposal for a regulation**

**Article 19 – paragraph 1 – point – a (new)**

*Text proposed by the Commission*

*Amendment*

**(-a) in case of personal data, about the legal basis pursuant to Regulation (EU) 2016/679 on which it processes data;**

**Amendment 178**

**Proposal for a regulation**

**Article 19 – paragraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

(a) about the purposes of **general** interest for which **it** permits the processing of their data by a data user **in an easy-to-understand manner**;

(a) about the **specified** purposes of **public** interest for which **the data subject provides consent and for which the entity** permits the processing of their data by a data user;

**Amendment 179**

**Proposal for a regulation**  
**Article 19 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) about any processing outside the Union.

*Amendment*

(b) about ***the location of*** any processing ***performed*** outside the Union ***and the purposes for which it permits the processing of data.***

**Amendment 180**

**Proposal for a regulation**  
**Article 19 – paragraph 2**

*Text proposed by the Commission*

(2) The entity shall also ensure that the data is not used for other purposes than those of ***general*** interest for which it permits the processing.

*Amendment*

(2) The entity shall also ensure that the data is not used for other purposes than those of ***public*** interest for which it permits the processing.

**Amendment 181**

**Proposal for a regulation**  
**Article 19 – paragraph 3**

*Text proposed by the Commission*

(3) Where an entity entered in the register of ***recognised data altruism organisations*** provides tools for obtaining consent from data subjects or permissions to process data made available by ***legal persons***, it shall specify the jurisdiction or jurisdictions in which the data use is intended to take place.

*Amendment*

(3) Where an entity entered in the register of ***Public Interest Data Hubs*** provides tools for obtaining consent from data subjects or permissions to process data made available by ***data holders***, it shall specify the jurisdiction or jurisdictions in which the data use is intended to take place.

**Amendment 182**

**Proposal for a regulation**  
**Article 20 – title**

*Text proposed by the Commission*

Competent authorities for registration

*Amendment*

Competent authorities for ***the*** registration



### **Amendment 183**

#### **Proposal for a regulation Article 20 – paragraph 1**

*Text proposed by the Commission*

(1) Each Member State shall designate one or more competent authorities responsible for the register of ***recognised data altruism organisations*** and for the monitoring of compliance with the requirements of this Chapter. The designated competent authorities shall meet the requirements of Article 23.

*Amendment*

(1) Each Member State shall designate one or more competent authorities responsible for the register of ***Public Interest Data Hubs*** and for the monitoring of compliance with the requirements of this Chapter. The designated competent authorities ***for the registration of Public Interest Data Hubs*** shall meet the requirements of Article 23.

### **Amendment 184**

#### **Proposal for a regulation Article 20 – paragraph 3**

*Text proposed by the Commission*

(3) The competent authority shall undertake its tasks in cooperation with the data protection authority, where such tasks are related to processing of personal data, and with relevant sectoral bodies of the same Member State. For any question requiring an assessment of compliance with Regulation (EU) 2016/679, the competent authority shall first seek an opinion or decision by the competent supervisory authority established pursuant to that Regulation and ***comply with that opinion or decision.***

*Amendment*

(3) The competent authority ***for the registration of Public Interest Data Hubs*** shall undertake its tasks in cooperation with the data protection authority, where such tasks are related to processing of personal data, and with relevant sectoral bodies of the same Member State. For any question requiring an assessment of compliance with Regulation (EU) 2016/679, the competent authority shall first seek an opinion or decision by the competent supervisory authority established pursuant to that Regulation ***which shall be legally binding for the competent authority.***

### **Amendment 185**

#### **Proposal for a regulation Article 21 – paragraph 1**

*Text proposed by the Commission*

(1) The competent authority shall monitor and supervise compliance of entities entered in the register of **recognised data altruism organisations** with the conditions laid down in this Chapter.

**Amendment 186**

**Proposal for a regulation  
Article 21 – paragraph 2**

*Text proposed by the Commission*

(2) The competent authority shall have the power to request information from entities included in the register of **recognised data altruism organisations** that is necessary to verify compliance with the provisions of this Chapter. Any request for information shall be proportionate to the performance of the task and shall be reasoned.

**Amendment 187**

**Proposal for a regulation  
Article 21 – paragraph 5 – point a**

*Text proposed by the Commission*

(a) lose its right to refer to itself as a **‘data altruism organisation recognised in the Union’** in any written and spoken communication;

**Amendment 188**

**Proposal for a regulation  
Article 21 – paragraph 5 – point b**

*Text proposed by the Commission*

*Amendment*

(1) The competent authority shall monitor and supervise compliance of entities entered in the register of **Public Interest Data Hubs** with the conditions laid down in this Chapter.

*Amendment*

(2) The competent authority shall have the power to request information from entities included in the register of **Public Interest Data Hubs** that is necessary to verify compliance with the provisions of this Chapter. Any request for information shall be proportionate to the performance of the task and shall be reasoned.

*Amendment*

(a) lose its right to refer to itself as a **‘Public Interest Data Hub’** in any written and spoken communication;

*Amendment*

(b) be removed from the register of *recognised data altruism organisations*.

(b) be removed from the register of *Public Interest Data Hubs*.

## Amendment 189

### Proposal for a regulation Article 21 – paragraph 6

#### *Text proposed by the Commission*

(6) If an entity included in the register of *recognised data altruism organisations* has its main establishment or legal representative in a Member State but is active in other Member States, the competent authority of the Member State of the main establishment or where the legal representative is located and the competent authorities of those other Member States shall cooperate and assist each other as necessary. Such assistance and cooperation may cover information exchanges between the competent authorities concerned and requests to take the supervisory measures referred to in this Article.

#### *Amendment*

(6) If an entity included in the register of *Public Interest Data Hubs* has its main establishment or legal representative in a Member State but is active in other Member States, the competent authority of the Member State of the main establishment or where the legal representative is located and the competent authorities of those other Member States shall cooperate and assist each other as necessary. Such assistance and cooperation may cover information exchanges between the competent authorities concerned and requests to take the supervisory measures referred to in this Article.

## Amendment 190

### Proposal for a regulation Article 22 – paragraph 1

#### *Text proposed by the Commission*

(1) In order to facilitate the collection of data based on data altruism, the Commission may adopt implementing acts developing a European data altruism consent form. The form shall allow the collection of consent across Member States in a uniform format. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 29 (2).

#### *Amendment*

(1) In order to facilitate the collection of data based on data altruism, the Commission may adopt implementing acts developing a European data altruism consent form *after consultation of the European Data Protection Board*. The form shall allow the collection of consent across Member States in a uniform format. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 29 (2).

## Amendment 191

### Proposal for a regulation Article 22 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**(2a) The European data altruism consent form shall detail the specific purpose or purposes of the intended use or uses.**

## Amendment 192

### Proposal for a regulation Article 22 – paragraph 4

*Text proposed by the Commission*

*Amendment*

(4) The form shall be available in a manner that can be printed on paper and read by humans as well as in an electronic, machine-readable form.

(4) The form shall be available ***in all the official languages of the Union*** in a manner that can be printed on paper and read by humans as well as in an electronic, machine-readable form.

## Amendment 193

### Proposal for a regulation Article 23 – paragraph 1

*Text proposed by the Commission*

*Amendment*

(1) The competent authorities designated pursuant to Article 12 and Article 20 shall be legally distinct from, and functionally independent of any provider of data ***sharing*** services or entity included in the register of ***recognised data altruism organisations***.

(1) The competent authorities designated pursuant to Article 12 and Article 20 shall be legally distinct from, and functionally independent of any provider of data ***intermediation*** services or entity included in the register of ***Public Interest Data Hubs***. ***The functions of the competent authorities designated pursuant to Articles 12 and 20 may be performed by the same entity. Member States shall be allowed either to establish one or more new entities or to rely on existing entities. Member States may decide to assign the competences under this Regulation to the supervisory***

## **Amendment 194**

### **Proposal for a regulation Article 23 – paragraph 6**

*Text proposed by the Commission*

(6) The competent authorities of a Member State shall provide the Commission and competent authorities from other Member States, on reasoned request, with the information necessary to carry out their tasks under this Regulation. Where a national competent authority considers the information requested to be confidential in accordance with Union and national rules on commercial and professional confidentiality, the Commission and any other competent authorities concerned shall ensure such confidentiality.

*Amendment*

(6) The competent authorities of a Member State shall provide the Commission and competent authorities from other Member States, on reasoned request ***and without undue delay***, with the information necessary to carry out their tasks under this Regulation. Where a national competent authority considers the information requested to be confidential in accordance with Union and national rules on commercial and professional confidentiality, the Commission and any other competent authorities concerned shall ensure such confidentiality.

## **Amendment 195**

### **Proposal for a regulation Article 24 – paragraph 1**

*Text proposed by the Commission*

(1) Natural and legal persons shall have the right to lodge a complaint with the relevant national competent authority against a provider of data ***sharing*** services or an entity entered in the register of ***recognised data altruism organisations***.

*Amendment*

(1) Natural and legal persons shall have the right to lodge a complaint with the relevant national competent authority against a provider of data ***intermediation*** services or an entity entered in the register of ***Public Interest Data Hubs in relation to any matter pertaining to this Regulation***.

## **Amendment 196**

### **Proposal for a regulation Article 25 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) decisions of the competent authorities referred to in Articles 13, 17 and 21 taken in the management, control and enforcement of the notification regime for providers of data **sharing** services and the monitoring of entities entered into the register of **recognised data altruism organisations**.

*Amendment*

(b) decisions of the competent authorities referred to in Articles 13, 17 and 21 taken in the management, control and enforcement of the notification regime for providers of data **intermediation** services and the monitoring of entities entered into the register of **Public Interest Data Hub**.

**Amendment 197**

**Proposal for a regulation**  
**Article 26 – paragraph 1**

*Text proposed by the Commission*

(1) The Commission shall establish a European Data Innovation Board (“the Board”) in the form of an Expert Group, consisting of the representatives of competent authorities of all the Member States, the European Data Protection Board, the Commission, **relevant data spaces** and other representatives **of competent authorities** in specific sectors.

*Amendment*

(1) The Commission shall establish a European Data Innovation Board (“the Board”) in the form of an Expert Group, consisting of the representatives of competent authorities of all the Member States **pursuant to Articles 12 and 20**, the European Data Protection Board, the **EU-level coordination board of [supervisory authorities for artificial intelligence as proposed in the Proposal for an Artificial Intelligence Act], the cybersecurity Cooperation Group, the** Commission and other representatives **relevant bodies** in specific sectors **as well as bodies with specific expertise such as national statistical offices**.

**Amendment 198**

**Proposal for a regulation**  
**Article 26 – paragraph 2**

*Text proposed by the Commission*

(2) Stakeholders and relevant third parties may be invited to attend meetings of the Board and to participate in its work.

*Amendment*

(2) Stakeholders and relevant third parties, **in particular from civil society, including consumer protection groups**, may be invited to attend meetings of the Board and to participate in its work, **on a**

*case by case basis or permanently, as relevant. Where stakeholders are invited, different groups, such as industry, academia, consumer protection groups and other parts of civil society shall be equally represented. Only stakeholders registered in the Transparency Register, established by the Interinstitutional Agreement of 20 May 2021 between the European Parliament, the Council of the European Union and the European Commission on a mandatory transparency register<sup>1a</sup>, shall be invited, with the exception of academia.*

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<sup>1a</sup> OJ L 207, 11.6.2021, p. 1.

## **Amendment 199**

### **Proposal for a regulation Article 26 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

**(4a)** *The Board shall publish an agenda for each meeting in due time before it takes place. After each meeting, minutes shall be published without undue delay, containing a list of the representatives that were present and the stakeholders that were represented, where applicable.*

## **Amendment 200**

### **Proposal for a regulation Article 27 – title**

*Text proposed by the Commission*

*Amendment*

Tasks of the Board

Tasks of the *European Data Innovation*  
Board

## **Amendment 201**



**Proposal for a regulation**  
**Article 27 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) to advise and assist the Commission in developing a consistent practice of the competent authorities in the application of requirements applicable to **data sharing** providers;

*Amendment*

(b) to advise and assist the Commission in developing a consistent practice of the competent authorities in the application of requirements applicable to providers of **data intermediation services and entities performing activities related to data altruism**;

**Amendment 202**

**Proposal for a regulation**  
**Article 27 – paragraph 1 – point d**

*Text proposed by the Commission*

(d) to assist the Commission in enhancing the interoperability of data as well as data **sharing** services between different sectors and domains, building on existing European, international or national standards;

*Amendment*

(d) to assist the Commission in enhancing the interoperability of data as well as data **intermediation** services between different sectors and domains, building on existing European, international or national standards;

**Amendment 203**

**Proposal for a regulation**  
**Article 27 – paragraph 1 – point e**

*Text proposed by the Commission*

(e) to facilitate the cooperation between national competent authorities under this Regulation through capacity-building and the exchange of information, in particular by establishing methods for the efficient exchange of information relating to the notification procedure for **data sharing service** providers and the registration and monitoring of **recognised data altruism organisations**.

*Amendment*

(e) to facilitate the cooperation between national competent authorities under this Regulation through capacity-building and the exchange of information, in particular by establishing methods for the efficient exchange of information relating to the notification procedure for providers of **data intermediation services** and the registration and monitoring of **Public Interest Data Hubs**;

**Amendment 204**

**Proposal for a regulation**  
**Article 27 – paragraph 1 – point e a (new)**

*Text proposed by the Commission*

*Amendment*

***(ea) to facilitate the cooperation between national competent authorities on the application of Article 30 and in relation to the rules on penalties laid down pursuant to Article 31.***

**Amendment 205**

**Proposal for a regulation**  
**Article 30 – title**

*Text proposed by the Commission*

*Amendment*

International access

International access ***and transfer of non-personal data***

**Amendment 206**

**Proposal for a regulation**  
**Article 30 – paragraph -1 (new)**

*Text proposed by the Commission*

*Amendment*

***(-1) This Article shall apply to the transfer of non-personal data only.***

**Amendment 207**

**Proposal for a regulation**  
**Article 30 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

(1) The public sector body, the natural or legal person to which the right to re-use data was granted under Chapter 2, the ***data sharing*** provider or the entity entered in the register of ***recognised data altruism organisations***, as the case may be, shall take all reasonable technical, legal and organisational measures in order to prevent

(1) The public sector body, the natural or legal person to which the right to re-use data was granted under Chapter 2, the provider ***of data intermediation services*** or the entity entered in the register of ***Public Interest Data Hubs***, as the case may be, shall take all reasonable technical, legal and organisational measures in order to

transfer or access to non-personal data held in the Union where such transfer or access would create a conflict with Union law or the law of the relevant Member State, ***unless the transfer or access are in line with paragraph 2 or 3.***

prevent transfer or access to non-personal data held in the Union where such transfer or access would create a conflict with Union law or the law of the relevant Member State, ***without prejudice to paragraphs 2 or 3.***

## Amendment 208

### Proposal for a regulation Article 30 – paragraph 2

#### *Text proposed by the Commission*

(2) Any judgment of a court or tribunal and any decision of an administrative authority of a third country requiring a public sector body, a natural or legal person to which the right to re-use data was granted under Chapter 2, a ***data sharing*** provider or entity entered in the register of ***recognised data altruism organisations*** to transfer from or give access to non-personal data subject to this Regulation in the Union may only be recognised or enforceable in any manner if based on an international agreement, such as a mutual legal assistance treaty, in force between the requesting third country and the Union or any such agreement between the requesting third country and a Member State concluded before [the entry into force of this Regulation].

#### *Amendment*

(2) Any judgment of a court or tribunal and any decision of an administrative authority of a third country requiring a public sector body, a natural or legal person to which the right to re-use data was granted under Chapter 2, a provider ***of data intermediation services*** or entity entered in the register of ***Public Interest Data Hubs*** to transfer from or give access to non-personal data subject to this Regulation in the Union may only be recognised or enforceable in any manner if based on an international agreement, such as a mutual legal assistance treaty, in force between the requesting third country and the Union or any such agreement between the requesting third country and a Member State concluded before [the entry into force of this Regulation].

## Amendment 209

### Proposal for a regulation Article 30 – paragraph 3 – subparagraph 1 – introductory part

#### *Text proposed by the Commission*

(3) Where a public sector body, a natural or legal person to which the right to re-use data was granted under Chapter 2, a ***data sharing*** provider or entity entered in the register of ***recognised data altruism organisations*** is the addressee of a

#### *Amendment*

(3) ***In the absence of an international agreement referred to in paragraph 2,*** where a public sector body, a natural or legal person to which the right to re-use data was granted under Chapter 2, a provider ***of data intermediation services*** or

decision of a court or of an administrative authority of a third country to transfer from or give access to non-personal data held in the Union and compliance with such a decision would risk putting the addressee in conflict with Union law or with the law of the relevant Member State, transfer to or access to such data by that third-country authority shall take place only:

entity entered in the register of **Public Interest Data Hubs** is the addressee of a decision of a court or of an administrative authority of a third country to transfer from or give access to non-personal data held in the Union and compliance with such a decision would risk putting the addressee in conflict with Union law or with the law of the relevant Member State, transfer to or access to such data by that third-country authority shall take place only:

## Amendment 210

### Proposal for a regulation Article 30 – paragraph 3 – subparagraph 2

*Text proposed by the Commission*

The addressee of the decision shall ask the opinion of the relevant competent bodies or authorities, pursuant to this Regulation, in order to determine if these conditions are met.

*Amendment*

The addressee of the decision shall ask the opinion of the relevant competent bodies or authorities, pursuant to this Regulation, in order to determine if these conditions are met. ***The relevant competent bodies or authorities shall exchange information on international access requests within the framework of the European Data Innovation Board.***

## Amendment 211

### Proposal for a regulation Article 30 – paragraph 4

*Text proposed by the Commission*

(4) If the conditions in paragraph 2, or 3 are met, the public sector body, the natural or legal person to which the right to re-use data was granted under Chapter 2, the *data sharing* provider or the entity entered in the register of ***recognised data altruism organisations***, as the case may be, shall, provide the minimum amount of data permissible in response to a request, based on a reasonable interpretation of the

*Amendment*

(4) If the conditions in paragraph 2, or 3 are met, the public sector body, the natural or legal person to which the right to re-use data was granted under Chapter 2, the provider ***of data intermediation services*** or the entity entered in the register of ***Public Interest Data Hubs***, as the case may be, shall, provide the minimum amount of data permissible in response to a request, based on a reasonable

request.

interpretation of the request.

## Amendment 212

### Proposal for a regulation Article 30 – paragraph 5

*Text proposed by the Commission*

(5) The public sector body, the natural or legal person to which the right to re-use data was granted under Chapter 2, the ***data sharing*** provider and the entity providing data altruism shall inform the data holder about the existence of a request of an administrative authority in a third-country to access its data, except in cases where the request serves law enforcement purposes and for as long as this is necessary to preserve the effectiveness of the law enforcement activity.

*Amendment*

(5) The public sector body, the natural or legal person to which the right to re-use data was granted under Chapter 2, the provider ***of data intermediation services*** and the entity providing data altruism shall inform ***the data subject or*** the data holder about the existence of a request of an administrative authority in a third-country to access its data ***before complying with the request***, except in cases where the request serves law enforcement purposes and for as long as this is necessary to preserve the effectiveness of the law enforcement activity.

## Amendment 213

### Proposal for a regulation Article 31 – paragraph 1

*Text proposed by the Commission*

***Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall notify the Commission of those rules and measures by [date of application of the Regulation] and shall notify the Commission without delay of any subsequent amendment affecting them.***

*Amendment*

***deleted***

## Amendment 214

### Proposal for a regulation

## **Article 31 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***(1a) Each competent authority shall ensure that the imposition of administrative fines pursuant to this Article in respect of infringements of this Regulation shall in each individual case be effective, proportionate and dissuasive.***

## **Amendment 215**

### **Proposal for a regulation**

#### **Article 31 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***(1b) When deciding whether to impose an administrative fine and deciding on the amount of the administrative fine in each individual case due regard shall be given to the following:***

***(a) Infringements of the following provisions shall be subject to administrative fines up to 20 000 000 EUR, or in the case of an undertaking, up to 4 % of the total worldwide annual turnover of the preceding financial year, whichever is higher:***

***(1)) the obligations regarding transfers of non-personal data to third countries pursuant to Article 5 (12) and Article 30,***

***(2)) the obligation of data intermediation service providers to notify pursuant to Article 10,***

***(3)) the conditions for providing services pursuant to Article 11,***

***(4)) conditions for the registration as a recognised data altruism organisation pursuant to Articles 18 and 19.***

## **Amendment 216**

### **Proposal for a regulation**

#### **Article 31 – paragraph 1 c (new)**

*Text proposed by the Commission*

*Amendment*

**(1c) *The exercise by the competent authority of its powers under this Article shall be subject to appropriate procedural safeguards in accordance with Union and Member State law, including effective judicial remedy and due process.***

#### **Amendment 217**

##### **Proposal for a regulation Article 31 – paragraph 1 d (new)**

*Text proposed by the Commission*

*Amendment*

**(1d) *Where the legal system of the Member State does not provide for administrative fines, this Article may be applied in such a manner that the fine is initiated by the competent authority and imposed by competent national courts, while ensuring that those legal remedies are effective and have an equivalent effect to the administrative fines imposed by competent authorities.***

#### **Amendment 218**

##### **Proposal for a regulation Article 32 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

By [***four*** years after the ***data*** of application of this Regulation], the Commission shall carry out an evaluation of this Regulation, ***and submit a report on its main findings to the European Parliament and to the Council as well as to the European Economic and Social Committee. Member States shall provide the Commission with the information necessary for the preparation of that report.***

By [***three*** years after the ***date*** of application of this Regulation], the Commission shall carry out an evaluation of this Regulation, ***assessing, inter alia:***

**(a) *the conditions for re-use of data under Chapter II in view of their further harmonisation and the potential need for definition of highly sensitive data;***



*(b) the level of compliance with the requirements set out in this Regulation, as well as the quality and security of services provided by data intermediaries under Chapter III;*

*(c) the type of altruistic organisations registered under Chapter IV and overview of the objectives of public interests for which data are shared in view of establishing clear criteria in this respect;*

*(d) the functioning of the European Data Innovation Board;*

*(e) the conditions for international access under Article 30.*

*The Commission shall submit a report on its main findings to the European Parliament and to the Council as well as to the European Economic and Social Committee, which report shall be made publicly available. Member States and the EDPB shall provide the Commission with the information necessary for the preparation of that report. The report shall contain a quantitative and qualitative analysis on the impact of this Regulation on the fundamental rights to privacy and on the protection of personal data.*

## Amendment 219

### Proposal for a regulation

#### Article 33 – paragraph 1 – table

##### *Text proposed by the Commission*

Starting, running and closing a business

Notification as a provider of data **sharing** services

Confirmation of the receipt of notification

Registration as a **European Data Altruism Organisation**

Confirmation of the registration

##### *Amendment*

Starting, running and closing a business

Notification as a provider of data **intermediation**

Confirmation of the receipt of notification

services

Registration as a **Public  
Interest Data Hub**

Confirmation of the  
registration

## Amendment 220

### Proposal for a regulation Article 34 – paragraph 1

*Text proposed by the Commission*

Entities providing the data **sharing** services provided in Article 9(1) on the date of entry into force of this Regulation shall comply with the obligations set out in Chapter III by [date - 2 years after the start date of the application of the Regulation] at the latest.

*Amendment*

Entities providing the data **intermediation** services provided in Article 9(1) on the date of entry into force of this Regulation shall comply with the obligations set out in Chapter III by [date - 2 years after the start date of the application of the Regulation] at the latest.

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	European data governance (Data Governance Act)		
<b>References</b>	COM(2020)0767 – C9-0377/2020 – 2020/0340(COD)		
<b>Committee responsible</b> Date announced in plenary	ITRE 14.12.2020		
<b>Opinion by</b> Date announced in plenary	LIBE 14.12.2020		
<b>Associated committees - date announced in plenary</b>	10.6.2021		
<b>Rapporteur for the opinion</b> Date appointed	Sergey Lagodinsky 11.1.2021		
<b>Discussed in committee</b>	16.3.2021	26.5.2021	28.6.2021
<b>Date adopted</b>	29.6.2021		
<b>Result of final vote</b>	+: –: 0:	53 2 11	
<b>Members present for the final vote</b>	Magdalena Adamowicz, Konstantinos Arvanitis, Malik Azmani, Katarina Barley, Fernando Barrena Arza, Pietro Bartolo, Nicolas Bay, Vladimír Bilčík, Vasile Blaga, Ioan-Rareș Bogdan, Patrick Breyer, Saskia Bricmont, Joachim Stanisław Brudziński, Jorge Buxadé Villalba, Damien Carême, Caterina Chinnici, Marcel de Graaff, Anna Júlia Donáth, Lena Düpont, Cornelia Ernst, Laura Ferrara, Nicolaus Fest, Jean-Paul Garraud, Maria Grapini, Sylvie Guillaume, Andrzej Halicki, Evin Incir, Sophia in 't Veld, Patryk Jaki, Marina Kaljurand, Fabienne Keller, Peter Kofod, Łukasz Kohut, Moritz Körner, Alice Kuhnke, Jeroen Lenaers, Juan Fernando López Aguilar, Lukas Mandl, Roberta Metsola, Nadine Morano, Javier Moreno Sánchez, Maite Pagazaurtundúa, Nicola Procaccini, Emil Radev, Paulo Rangel, Terry Reintke, Diana Riba i Giner, Ralf Seekatz, Michal Šimečka, Birgit Sippel, Sara Skytvedal, Martin Sonneborn, Tineke Strik, Ramona Strugariu, Annalisa Tardino, Tomas Tobé, Dragoș Tudorache, Milan Uhrík, Tom Vandendriessche, Bettina Vollath, Elissavet Vozemberg-Vrionidi, Jadwiga Wiśniewska, Elena Yoncheva, Javier Zarzalejos		
<b>Substitutes present for the final vote</b>	Tanja Fajon, Miguel Urbán Crespo		

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

53	+
NI	Laura Ferrara, Martin Sonneborn
PPE	Magdalena Adamowicz, Vladimír Bilčík, Vasile Blaga, Ioan-Rareş Bogdan, Lena Düpont, Andrzej Halicki, Jeroen Lenaers, Lukas Mandl, Roberta Metsola, Nadine Morano, Emil Radev, Paulo Rangel, Ralf Seekatz, Sara Skytvedal, Tomas Tobé, Elissavet Vozemberg-Vrionidi, Javier Zarzalejos
Renew	Malik Azmani, Anna Júlia Donáth, Sophia in 't Veld, Fabienne Keller, Moritz Körner, Maite Pagazaurtundúa, Michal Šimečka, Ramona Strugariu, Dragoş Tudorache
S&D	Katarina Barley, Pietro Bartolo, Caterina Chinnici, Tanja Fajon, Maria Grapini, Sylvie Guillaume, Evin Incir, Marina Kaljurand, Łukasz Kohut, Juan Fernando López Aguilar, Javier Moreno Sánchez, Birgit Sippel, Bettina Vollath, Elena Yoncheva
The Left	Konstantinos Arvanitis, Pernando Barrena Arza, Cornelia Ernst, Miguel Urbán Crespo
Verts/ALE	Patrick Breyer, Saskia Bricmont, Damien Carême, Alice Kuhnke, Terry Reintke, Diana Riba i Giner, Tineke Strik

2	-
ID	Marcel de Graaff
NI	Milan Uhrík

11	0
ECR	Joachim Stanisław Brudziński, Jorge Buxadé Villalba, Patryk Jaki, Nicola Procaccini, Jadwiga Wiśniewska
ID	Nicolas Bay, Nicolaus Fest, Jean-Paul Garraud, Peter Kofod, Annalisa Tardino, Tom Vandendriessche

Key to symbols:

+ : in favour

- : against

0 : abstention