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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Subject:	COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT REPORT Accompanying the document Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on European data governance (Data Governance Act)

Delegations will find attached document SWD(2020) 296 final.

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COMMISSION STAFF WORKING DOCUMENT

EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT REPORT

Accompanying the document

Proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on European data governance
(Data Governance Act)

{COM(2020) 767 final} - {SEC(2020) 405 final} - {SWD(2020) 295 final}

A. Need for action

What is the problem and why is it a problem at EU level?

The problem that this initiative addresses is that data sharing in the EU remains limited, in spite of the potential benefits of such sharing for the economy and for society. Three main reasons for this have been identified:

- low trust in data sharing;
- difficulties in reusing certain public-sector data and collecting data on altruistic grounds;
- technical obstacles to reusing data.

What should be achieved?

The objective is to increase trust in data sharing, strengthen mechanisms that increase data availability and overcome technical obstacles to reusing data. This will support the availability of data for use in the economy (to develop new products and services, higher efficiency) and society (to address societal challenges). The initiative aims to create the basis for a new, European way of data governance as an alternative to the platform model currently led by Big Tech companies.

What is the value added of action at the EU level (subsidiarity)?

By having common rules in all Member States, the initiative would ensure that companies can benefit from the scale of the internal market, and deploy their products and services across the EU. Companies and research organisations would be able to access data from different Member States under similar conditions.

B. Solutions

What are the various options to achieve the objectives? Is there a preferred option or not? If not, why?

The impact assessment focused on four intervention areas: mechanisms for an enhanced reuse of public sector data, measures to create trust in data intermediaries, measures to facilitate data altruism and the creation of a European mechanism to coordinate and steer horizontal aspects of governance. For each area, the impact assessment considered soft options such as guidance or recommendations, and two hard law options that differ in terms of their degree of intensity.

The analysis concluded that soft law measures cannot be expected to create the necessary trust in data sharing in the different intervention areas. For example, data altruism has a strong consumer protection component whose objectives are difficult to achieve based on soft measures only.

As for an enhanced reuse of public-sector data, both a centralised and a decentralised model for handling data reuse were considered. For measures aiming to create trust in data intermediaries, the options differed in terms of the voluntary or compulsory nature of the labelling/ certification scheme. For data altruism, the options of a voluntary certification scheme and a compulsory authorisation scheme were assessed. Options for the creation of a European mechanism to coordinate and steer horizontal aspects of governance were the creation of a self-standing legal body and entrusting the Commission with setting up an expert group.

The assessment concluded that for three intervention areas, the lower intensity option was preferable. However, for data altruism the higher intensity option was more favourable: a compulsory authorisation issued by a public authority would create the required trust in data altruism mechanisms. For the labelling or certification of data intermediaries, the higher intensity compulsory scheme would also be a feasible alternative, as it would set clear rules for operating within the European data market and would create higher trust in the services of such intermediaries.

What are different stakeholders' views? Who supports which option?

Public authorities welcome efforts to facilitate the participation of the public sector in common European data spaces. They support a one-stop shop mechanism for data reuse, as well as a stronger role of EU bodies in the prioritisation of standards. Industry organisations, including SMEs and business associations, highlight the importance of standardisation and interoperability, and advocate for the adoption of a voluntary certification/labelling mechanism for data intermediaries. Academic and research institutions support the enhancement of the reuse of certain public-sector data and data altruism. The general public supports an overall data strategy and altruistic sharing of data, as well as the roll-out of technical tools allowing people to actively participate in the data economy.

C. Impacts of the preferred option

What are the benefits of the preferred option (if any, otherwise of main ones)?

The preferred package would have a direct impact on the EU data economy of between EUR 7.2 and EUR 10.9 billion in 2028. In addition, the initiative would act as a catalyst for creating more efficient services and new products based on data, including artificial intelligence This would benefit not only the data economy but also the EU economy and society as a whole. For example, it help gain the potential EUR 1.3 trillion in increased productivity in manufacturing by 2027 through Internet-of-Things data, and help to save around EUR 120 billion a year in the EU health sector.

What are the costs of the preferred option (if any, otherwise of main ones)?

The report details the different costs of each measure for the stakeholders concerned, including both data producers and reusers. For instance, a voluntary labelling scheme would produce a one-off cost of EUR 20 000-50 000 for data intermediaries to obtain a label.

What are the impacts on SMEs and competitiveness?

SMEs will benefit from simplified access to public-sector data. For new data intermediaries, the potential gains in client base and revenue will by far exceed the costs incurred for certification/labelling.

Will there be significant impacts on national budgets and administrations?

Member States that do not already have in place structures for making publicly held data available would incur costs. This could amount to a one-off cost of EUR 10.6 million on average per Member State and to a recurrent annual cost of EUR 610 000 for maintenance. However, the economic gains from fees and savings due to higher efficiency (the latter estimated at EUR 684 million a year) would by far outweigh these costs.

Will there be other significant impacts?

A better use of data can lead to improvements in health and well-being, a better environment, strengthened climate action and more efficient public services. In the health sector, data can help develop better and more personalised treatments. In the mobility sector, in addition to saving more than 27 million hours of public transport users' time, up to EUR 20 billion a year could be saved in labour costs of car drivers thanks to real-time navigation. This reduces time stuck in traffic and has benefits for the environment, due to reduced CO_2 emissions and air pollution.

Proportionality?

The initiative is an enabling framework for data sharing in the EU. It is proportionate to the objectives sought and leaves flexibility for additional measures at national and sector-specific levels.

D. Follow up

When will the policy be reviewed?

The policy will be reviewed after 4 years.