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**LIMITE**

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**WORKING PAPER**

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**CONTRIBUTION**

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From: General Secretariat of the Council  
To: Working Party on Telecommunications and Information Society

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Subject: Data Governance Act : FI comments (doc. 9642/21)

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Delegations will find in annex FI comments on the fourth compromise text of Data Governance Act (doc. 9642/21).

23.8.2021

**Data Governance Act, 4th compromise text, FI additional remarks**

Recital 22

**“Public sector bodies that offer data ~~sharing~~ intermediation services ~~facilities~~ on a non-commercial basis ~~are~~ should not be covered by Chapter III of this Regulation. Member States may determine whether public sector bodies can provide data intermediation services on a commercial basis under **union or national law**.”**

It should be clarified what “commercial basis” means in this Recital. Some public sector bodies are required to generate revenue to cover a substantial part of their costs relating to the performance of their public tasks. In some cases, Finnish legislation allows public sector bodies to set the fees deriving from data intermediation services on commercial basis. In these situations, the provisions of Chapter III should not apply to the public sector bodies. We suggest to clarify that Member States may determine whether public sector bodies can provide data intermediation services on a commercial basis under union or national law.

Recital 47

**Since the objectives of this Regulation, namely the re-use, within the Union, of certain categories of data held by public sector bodies as well as establishing a notification and supervisory framework for the provision of data sharing intermediation services and a framework for voluntary registration of entities which make data available for altruistic purposes, cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,**

We do not see the added-value of this Recital and therefore would like to propose to delete this Recital.