

Response to EC consultation on proposals for a Data Governance Act

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General comments

Insurance Europe welcomes the overall objective of the European Commission to create a single market for data, where data from public bodies, businesses and citizens can be used safely and fairly for the common good.

The creation of an EU-wide governance framework for data access and use, in particular for the re-use of certain types of data held by the public sector, for the provision of services by data-sharing providers to business users and to data subjects, as well as for allowing individuals to consent to greater access to their data for the common good, will help to improve data sharing and should be seen as a positive step. This, together with the development of common European data spaces, will contribute to ensuring a future-proof, innovation-friendly framework that supports data-driven business and enables the digital transformation of society, while ensuring appropriate protection for consumers. However, much depends on the exact form that such a framework will take.

For insurers, greater availability of data could lead to improved risk monitoring and assessment, better customer experience and increased fraud detection. The more data that is available for the common good, the better the digital solutions and analytical models will be.

Insurance Europe agrees that individuals should be able to allow access to their personal data to a much greater extent than is possible today, ensuring that they can exercise control over their own data and with appropriate consideration given to the security of sensitive data. Individuals should be able to grant other parties access to the data generated by them: eg if a customer decides that an insurance undertaking may access their driving data, the vehicle manufacturer should grant access on reasonable terms. In this respect, Insurance Europe welcomes the acknowledgement by the Commission that sector-specific legislation can add new and complementary elements to this data framework, such as the envisaged legislation on the European health data space and on access to vehicle data.



At the same time, the insurance industry supports the overall approach set out in the EC data strategy, which recognises that sector-specific legislation on data sharing should only be introduced where there are identified market failures; the focus should otherwise be on strengthening the conditions for data collaboration and data partnerships.

It is important that the development of common European data spaces creates a common understanding between industries with regard to data specification, update frequencies, governance, data quality, enforcement, etc. The alternative may result in a patchwork of unrelated, non-interoperable databases that offer no real benefit.

Data intermediaries

Insurance Europe believes first and foremost that there should be greater clarity regarding the nature of the data-sharing services that fall within the scope of Article 9 of the proposed Regulation. While recital 22 offers some important clarifications in this regard, this could be made more explicit through the provision of concrete examples.

As noted in the proposal, a key element to ensure trust in data-sharing services is the neutrality of data intermediaries with regard to the data exchanged between data holders and data users. Such data-sharing service providers should only act as intermediaries in the transactions and should be prohibited from re-using the data for any purpose other than that on which consent was based.

The proposed rules need to be designed in a way that fully complies with all data protection requirements and ensures that data subjects remain fully in control of their data and can freely choose between different providers. In this respect, it is also important to ensure that the proposed framework does not allow data intermediaries to unduly influence consumer choice.

Insurance Europe would also welcome clarification of the exact role to be played by data intermediaries with regard to any data-sharing services carried out in the context of a contractual relationship between insurer and consumer that involves obligations on both parties. It is not clear, for example, how insurers would be informed of the involvement of data intermediaries or whether all the data is expected to flow exclusively via the data intermediary — in any case, it should always remain possible for the insurer to maintain a direct relationship with the consumer.

Recital 23 refers to certain situations in which it could be desirable to collate data within a personal data storage space without that data being transmitted to third parties, in order to maximise the protection of personal data and privacy. It is not clear, however, in what circumstances or situations this may take place in practice.

With regard to the conditions for the provision of data-sharing services, the conditions for the security and confidentiality of data spaces should be formally established for both personal and commercial data, as well as how these conditions should be implemented operationally between companies and the intermediaries.

In the event of data loss or corruption, it would be useful to consider whether there should be an obligation on data intermediaries to notify companies and vice versa.

The proposal could be further enhanced by considering the implications for liability, eg for the accuracy of the shared data, in the sections on open data, data intermediaries and data altruism. This would provide additional clarity for data holders and data users, enabling them to decide whether liability insurance is needed. However, a requirement for mandatory liability insurance would not be expedient. Due to the nature of mandatory insurance schemes, they lead in most cases to disincentives, which in turn result in elevated costs. Voluntary insurance, where it is necessary, is therefore the preferred approach.



In addition, it would be both useful and necessary to specify the information that competent authorities may have at their disposal under Article 12(3).

Data altruism

Individuals and companies alike should have the choice to make their data available to others. The data economy can only be successful if the different players involved have suitable means available to them for sharing and exchanging data. Otherwise, important data will remain inaccessible, despite having the potential to reveal valuable new insights if re-used and recombined. The introduction of data altruism as an additional data-sharing mechanism therefore deserves support.

In the insurance sector, risk assessment, accident prevention, enhanced disaster management and risk mitigation in general are topics of high importance, which are subject to extensive research and analysis. The insights gained from this type of research protect people and equipment and ultimately lower damages and enhance social risk management. With data altruism, a new source of information could become available from which the above-mentioned activities might benefit.

Article 16 of the proposal specifies that registered data-altruistic organisations need to be not-for-profit and be independent from any entity that operates on a for-profit basis. This would exclude many companies as well as trade associations with legitimate use cases, including large parts of the insurance sector. For this reason, we would encourage the Commission to reconsider the designated scope for those permitted to register as data-altruistic organisations and possibly extend it.

Due to the potentially fragmented and heterogenous nature of the data at hand, it will be important to establish a standardised framework for the data exchange. The consent form described in Article 22 could be a step in the right direction, conditional on it being easy to understand and capable of being embedded in digital communication channels such as websites or smartphone applications. It should be clear from the consent form whether the data donation is being made to an organisation that is for-profit or not-for-profit.

From the point of view of a data processor, some degree of certainty and stability is needed with regard to the data set. If donated data is withdrawn, as foreseen under Article 22(3), it will be very difficult to conduct statistical analysis or other types of data exploration. Therefore, mechanisms should be discussed that could help overcome this issue.

European Data Innovation Board

Governance of the data economy is an evolving topic that requires modes for exchange between the relevant stakeholders to address new and emerging issues. The establishment of a European Data Innovation Board as per Article 26 is therefore a welcome measure. Given the complexity of the topic at hand, it needs to be ensured that the Board covers a broad range of expertise, including for example representatives from civil society, IT, trade associations, businesses, etc. We believe that this would be best achieved by establishing a permanent stakeholder or advisory group to the Board that participates in all Board meetings and decisions.

Concerning the tasks of the Board as defined in Article 27, it could be clarified in paragraphs (c) and (d) that this is limited to the scope of the data governance act. Such a clarification would ensure that the wording in paragraphs (c) and (d) is in line with the other paragraphs in Article 27.