

EU Data Act

& the Retail & Consumer Sector

2025



What is the Data Act?

More and more consumer goods, from washing machines to headphones, are becoming connected. During the operation of such connected devices, large amounts of data is generated. This data is used, for example to provide advice on the environmental impact of a washing cycle and to support processes related to repair, maintenance and operational improvements.

The Data Act is a broad new EU Data Regulation designed to enhance the EU's data economy and foster a competitive data market. It aims to make data generated by the Internet of Things (IoT) more accessible and usable, encourage data-driven innovation and increase data availability.

The Data Act seeks to address the dominant position of manufacturers and service providers by putting the owners, renters and lessors in control of the data. Additionally, it also facilitates access to data for consumers, third-party repair and maintenance providers and service providers. This increased access enables new business opportunities, such as value-added services derived from data access and further promotes repair and maintenance services.

What products and services fall under the scope of the data sharing obligations?

Connected products are those that can generate, obtain, or collect data about their use, performance, or environment and can communicate this data via an electronic communications service, a physical connection, or on-device access (i.e., IoT products). Connected products can be found in all aspects of the economy and society. Home equipment and consumer goods are explicitly mentioned as relevant areas in the Data Act.

Related services are digital services that are linked to the operation of a connected product and that affect the functionality of that connected product. For example, an app that adjusts the brightness of lights, regulates the temperature of a fridge, or switches between noise cancelling and ambient sound on headphones.

Who is subject to the Data Act's data sharing obligations?

The Data Act generally applies to manufacturers, suppliers of data-generating components, providers of related services, holders of product data, as well as sellers, renters, and lessors of connected products placed on the EU market, regardless of their place of establishment. In contrast, beneficiaries, such as users (owners, lessees, and renters of vehicles) and third-party recipients appointed by users, including third-party repair and maintenance providers must be established in the EU.

What are the main implications of the data sharing obligations?

Connected products must be designed and manufactured in such a manner that relevant data is, by default, available to users. If data cannot be directly accessed, data holders must make the data readily available without undue delay. Users are granted the right to access a wide range of data generated by their use of IoT products and related services, and they may even request that this data be made available to third parties of their choice. This may also require the **disclosure of data** considered **trade secrets**, provided these are adequately protected.

Manufacturers and data holders must ensure that such access is provided under fair, reasonable and non-discriminatory (**FRAND**) terms. Data holders are only permitted to make available data to non-EU public sector bodies under certain conditions. This necessitates *inter alia*, the **conclusion of data sharing agreements** with users and third parties (including competitors).

The Data Act, however, also offers opportunities, such as obtaining data from third-party products and related services, either as a user or via users. Although the Data Act prohibits using product and related service data to develop competing products, it allows that data to be used for the development of competing related services and other novel services. This may include, for example, a competing companion app, the provision of aftermarket services, such as auxiliary consulting, analytics or financial services, as well as regular repair and maintenance services.

How we can support your business

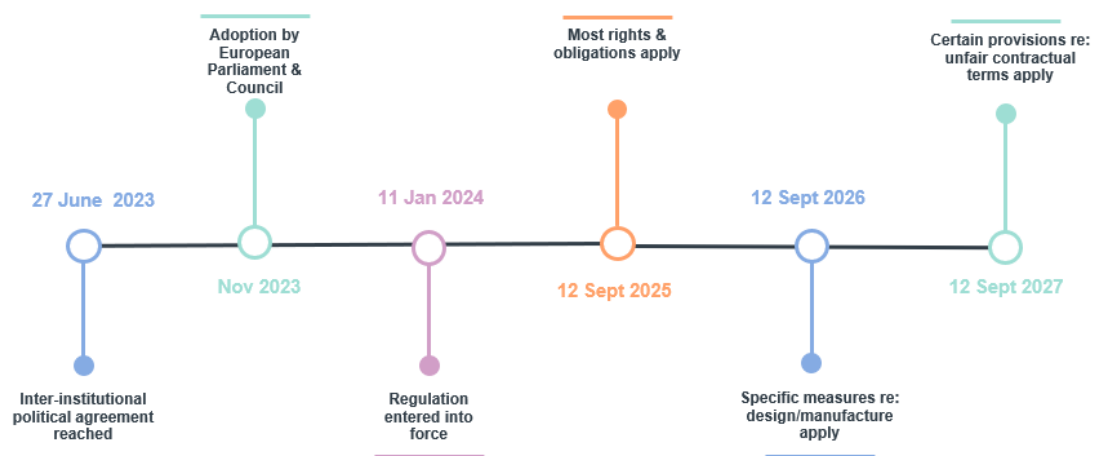
To ensure compliance with the Data Act, we can support you in:

- **Getting an overview** about the existing legal landscape, upcoming legislation, developments and the market practice
- **Undertaking a scoping exercise** to determine the applicability of the Data Act to your products and data
- **Conducting an impact analysis** to identify which (new) rules apply to your organisation and what it means for your business
- **Implementing the Data Act**, including:
 - Advising on **changes to product design, manufacturing and information requirements** to comply with data access obligations and how to protect against unlawful use or disclosure of data
 - Advising on **compliance with existing obligations** (esp. GDPR etc.) when implementing the Data Act
 - **Designing processes and procedures** for handling data access requests from users including:
 - Analysing which data to share with others
 - Balancing the requests against the protection of trade secrets, IP and personal data
 - Managing requests from public sector bodies in cases of exceptional need
 - **Drafting and revising your contracts** and supporting documentation such as:
 - Data sharing agreements

- Cloud computing contracts
- Confidentiality, non-disclosure agreements (NDAs)
- Notices providing users with transparent information
- **Developing template agreements** for making data available to third-party businesses, ensuring the data is made available under FRAND terms
- Adopting a **pricing policy** on how third-party businesses compensate for accessing in-scope data
- Advising on potential FRAND disputes regarding **data access & licensing agreements**
- Advising on **the potential benefits of the Data Act** (e.g. access to third-party data)

What is most urgent?

The Data Act has been in force since **11 January 2024**. Most rights and obligations will apply from **12 September 2025**, while certain measures regarding design & manufacturing will only apply from **12 September 2026**. A staggered approach is provided for regarding certain legacy contracts.



Enforcement

Member States are required to designate the competent authorities and establish effective, proportionate and dissuasive penalties in their local law. If personal data is involved, fines may align with Regulation (EU) 2016/679 (GDPR) up to **20,000,000 EUR** or **4 % of the total worldwide annual turnover** of the preceding financial year, whichever is higher. It is currently unclear how the competence of the authorities and the penalties will be defined at a member state level.



More information



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