

12 Points to navigate the Data Act Amendments

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1. Align Data Act and GDPR: clearly spell out how processing and consent work if personal data is involved, including where Art. 20 GDPR is affected.
2. Full respect of trade secrets and intellectual property must be key. As a last resort, at least make sharing conditional on contractually agreed safeguards.
3. Allow for reasonable compensation to launch the data economy.
4. Clarify definitions incl. data, data holder, product. Focus on core functions instead of any product functions.
5. Adapt Art. 4(4) and Art. 6(2e) to not only prohibit to use the data received from the data holder for competing products but also for development of related competing services.
6. Ensure protection from liability if data must be shared.
7. The rules in Chapters 3 and 4 should be relaxed in a way that allows businesses of any size to comply with them.
8. Focus B2G data sharing on well-defined public emergencies and avoid access obligations for non-emergency situations by deleting Art. 15 c.
9. Clarify terms such as functional equivalence, application, digital asset. Focus on significant obstacles.
10. Allow longer transition periods in very complex projects if the customer (!) wants this and differentiate between the provider of the data processing service and intermediate actors such as resellers.
11. Provide clear guidelines for unlawfulness assessment of international data transfer and access. Ensure safeguards do not conflict with GDPR.
12. Delete Art. 30, because a piece of software to execute a data sharing transaction should not need a CE-mark (yet).



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