EUROPEAN POLICY ON DATA ECONOMY

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Hamburg, 29 September 2017

Outline

The potential of data

Framework: Digital Single Market Strategy

European policies on data

- Personal data regulation
- Government data
- Research data
- Industry-held data

Next steps: bringing it all together

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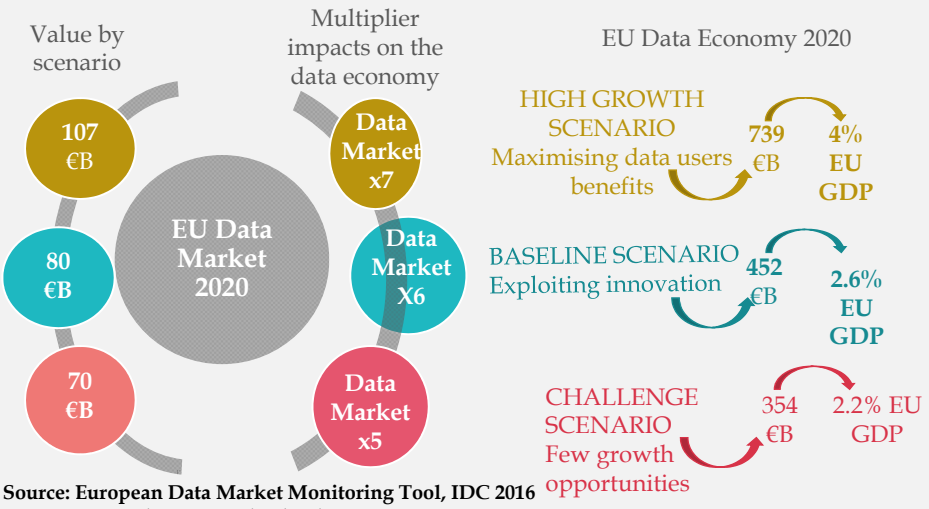
The potential of data

Societal benefits in many areas such as health, environment, agriculture, mobility, research, etc.

Economic growth …

By 2020 the European Data Economy in the most favourable scenario could contribute up to 4% of EU GDP



Source: European Data Market Monitoring Tool, IDC 2016
data: www.datalandscape.eu

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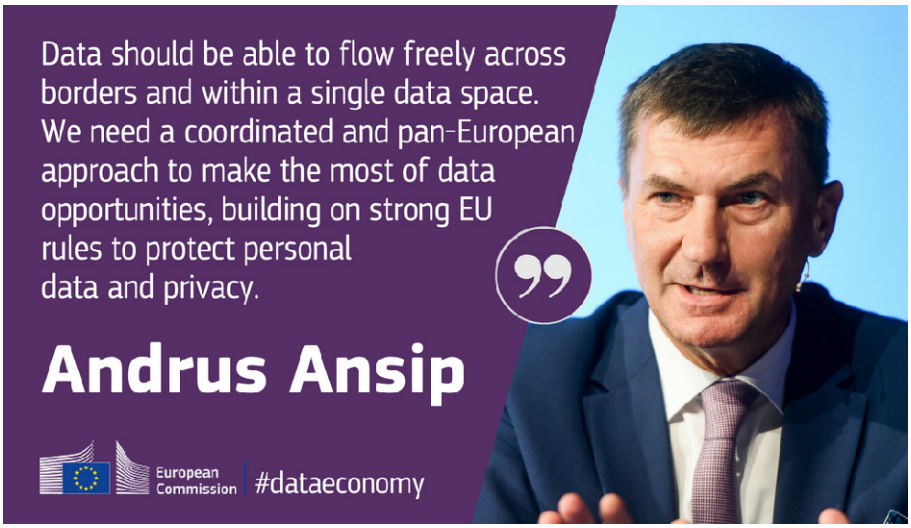
Digital Single Market Strategy (2015)

Ensuring that Europe's economy, industry and employment take full advantage of what digitalisation offers

- Digitising industry ✓
- Cloud ✓
- Inclusive digital economy and society ✓
- e-government ✓
- Standardisation & interoperability ✓
- Digital skills ✓
- **Data economy** ✓

European Commission

Vice-President Digital Single Market



European Commission

Commissioner for Digital Economy and Society

"Data lies at the core of the 4th Industrial Revolution. This is an essential resource for economic growth, competitiveness, innovation, creation and society's progress in general."

Mariya Gabriel

European Commission

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Data protection rules: The foundation of EU data policy

- From May 2018: single pan-European set of rules for the protection of personal data (esp. **General Data Protection Regulation, GDPR**)
- Anonymised personal data: treated like non-personal data
- Consent mechanism
- Any transfer of personal data outside the EU is subject to the same level of protection as inside
- Data subjects have a right to personal data portability

→ **Data protection logic**

→ **Free flow of personal data**

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Public sector information / open data
PSI Directive 2003/98/EC, amended by 2013/37/EU

Competition instrument

Public Sector Information Directive

Open Data instrument

- Minimal set of rules on fair competition and transparency
- Requirements to ensure that public sector information can be re-used across sectors
- Re-use for commercial or non-commercial purposes.

Innovative products & services

Better policy-making

Public bodies are obliged to:

- be transparent on conditions for re-use
- avoid discrimination between re-users
- address re-use applications within a time limit
- limit use of exclusive arrangements
- limit charges (marginal cost of reproduction)

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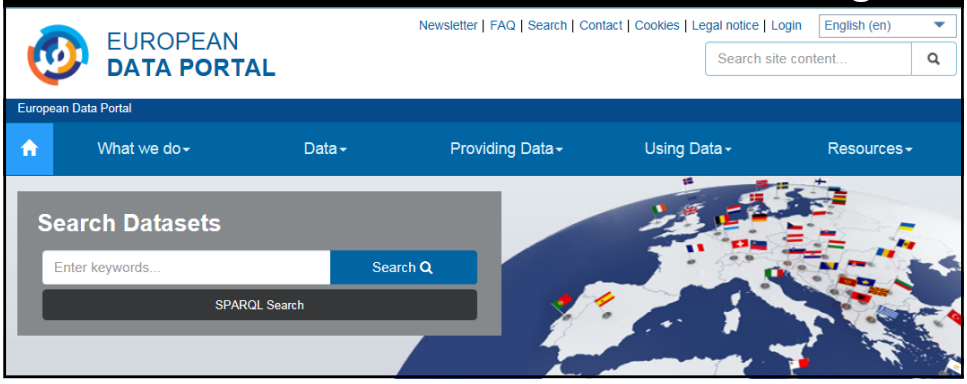
The European Data Portal
- facts & figures -

630,000 datasets | Metadata in **24** Languages | **34** countries **77** catalogues



Review of the PSI Directive

- Review clause (art. 13): to be done by July 2018
- DSM Mid-Term review: announces Spring 2018 initiative
- Public Online Consultation (Sept. – Dec. 2017)
- The review will look at:
  - Re-use of cultural heritage materials
  - Functioning of charging provisions
  - Interplay of personal data protection and re-use
  - Re-use of data held by semi-public undertakings
  - Re-use of research data
  - Improving data discoverability, machine readability
  - Better use of dynamic data
  - Clarification of the interplay with INSPIRE

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Open Science

Good for science: limit research duplication, ensure verifiability, ensure replicability

Good for the economy: uptake of results by businesses, esp. SMEs → innovation potential

Good for society: higher level of citizen and civil society trust in science, open and collaborative research practices lead to high degree of responsiveness and adaptability to societal challenges (→ citizen science)

Research data policies

2012 EC Recommendation to Member States on access to an preservation of scientific information

Open Research Data Pilot Horizon 2020: grantees deposit research data into a repository; take measures to grant open access to data

Principle of FAIR research data: Findable + Accessible + Interoperable + Re-usable; obligatory Data Management Plan (DMP)

European Open Science Cloud: data infrastructure for research and (later) other data; service catalogue

Text and datamining provisions - copyright framework

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Building a European Data Economy - COM(2017)9

- Need to exploit industry-held data better
- Focus on non-personal, machine-generated data
- Contracts are main vehicles to share and re-use
- Data silos → innovation hampered
- Objective: facilitate B2B data sharing and trading
- Topics:
  - Free Flow of Data (national data localisation restrictions)
  - Access to data, data sharing
  - Portability, interoperability and standards
  - Liability
  - Experimentation
- Industrial Data Platforms as possible infrastructure

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Data Economy
Addressing current barriers

Data access and transfer

OBJECTIVE
Making machine-generated data more accessible for businesses to boost innovation and the digital economy

POSSIBLE ACTIONS

- **Guidance on data sharing**
- **Foster technical solutions to identify and exchange data**
- **Default contract rules**
- **Access for public interest and scientific purposes**
- **Data producer's right**
- **Access against remuneration**

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Data Economy
Addressing current barriers

Data portability, interoperability and standards

- GDPR rules on portability do not apply to **non-personal data**
- Portability of non-personal data could **foster innovation and new services,** and **stimulate competition**
- Data portability should be made **easier and less costly** in B2B contexts
- Importance of **interoperability** of services, and of appropriate technical **standards**

POSSIBLE ACTIONS

- **Recommended contract terms** to facilitate switching costs of service providers
- Developing further **rights to data portability**
- **Improving technical interoperability and sector-specific standards**

Liability in the context of IoT and autonomous systems

- Internet of Things (IoT) and autonomous systems combine **hardware, software & data** from many market players, making it **difficult to identify who is responsible**
- Legally difficult to qualify as either **products** or **services**
- **Established concepts & principles** possibly not fit for purpose

POSSIBLE ACTIONS

- **Defining responsibilities** according to **how a risk is generated** or how it is **managed**
- Considering voluntary or mandatory **insurance schemes**

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Stakeholder dialogue 01-04/2017

Free flow of data: existence of concrete data location measures; lack of legal certainty

Access / data sharing: majority of respondents say that access to data is difficult for business and access is good for economy; Non-legislative solutions favoured, e.g. technical solutions, development of model contracts

Liability: extra-contractual liability is a concern for IoT and robotics suppliers, so far few accounts of damages

Portability: Services allowing portability of non-personal data are in demand, but rarely offered by businesses

Details: Synopsis report (published on 19 September)

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Access to privately held data of public interest ("reverse PSI")

- Access to **commercially-held data of public/general interest** (such as health risk alerts, statistical surveys or multimodal transport services etc.)
- Could concern data that is **necessary to accomplish important public goals** (e.g. Smart Cities, diseases)
- **One-to-one scenario** ('reverse PSI') - privately held data is used by the public sector (e.g. for the purpose of official **statistics**) or **one-to-many -** data becomes re-usable openly or against a price (e.g. for companies in competitive markets).
- Access to privately held data is also useful for **science**
- **Workshop 26/6/17**
- **Loi Lemaire (FR)** serves as inspiration

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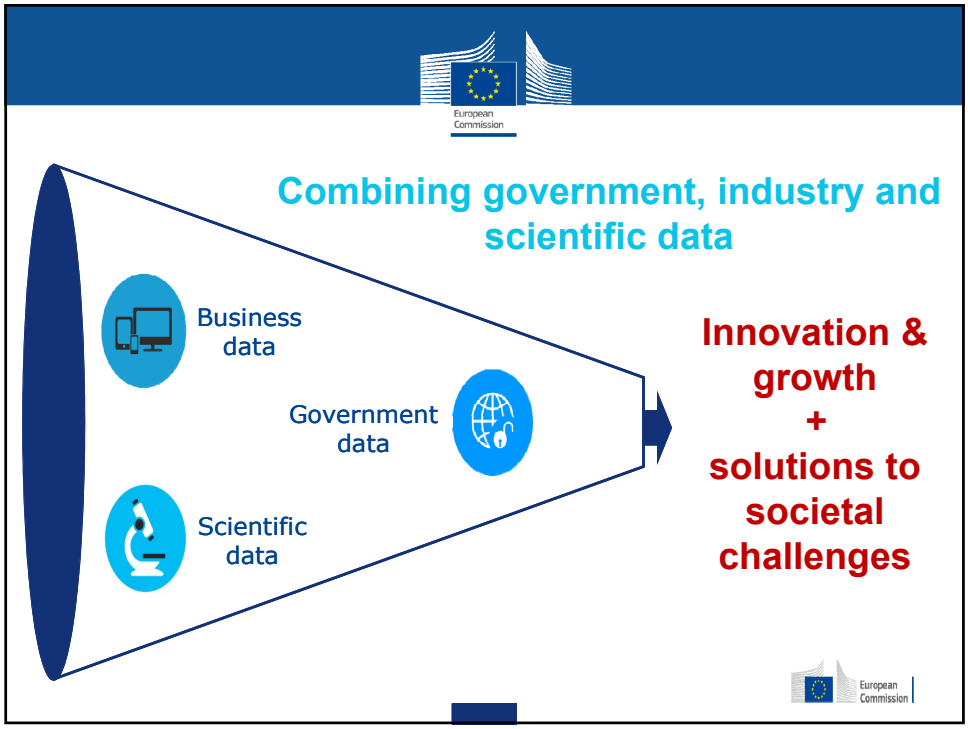

Bringing it all together

The data economy will flourish *if* data is accessible & re-useable:

- across borders
- for & by different types of organisations (private, public, research)
- for & by different sectors (e.g. energy, manufacturing, health…).

Having a large reservoir of data available for re-use will

- make it possible to build new information services
- allow for searching for correlations and patterns
- enable the emergence of ideas and answers to societal challenges
- e.g. epidemics, smart cities

→ It must be legally & technically possible not only to access and re-use, but also to blend and combine data and tools.

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Digital Single Market Strategy

10 May 2017: Mid-Term Review adopted - COM(2017) 228

Chapter on the Data Economy:

Autumn 2017: legislative proposal on the EU free flow of data cooperation framework (principles: free flow of data within the EU, porting non-personal data, availability of certain data for regulatory control purposes)

Spring 2018: initiative on accessibility and re-use of public and publicly funded data; further explore the issue of privately held data which are of public interest (subject to evaluation / impact assessment) - including PSI Directive review and other data-related instruments

Analyse whether to define principles to determine who is liable in cases of damage caused by data-intensive products

Continue to assess the need for action concerning B2B datasharing

Striking the competition balance

Competition law: Ex-Post remedy to negative effects.

But do we also need to pro-actively foster positive effects, in addition to striking down negative ones?

How do we ensure a level playing field for new and smaller players without punishing those who do well?

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Data Protection and the Data Economy

- **Difficult to separate** personal from non-personal data
- EU legislators **rely on consent as a criterion to legitimise processing** of personal data.
- Data **economy relies on** both non-personal and **personal data**
- Work on **technical solutions:** Personal Data Spaces, data provenance, anonymisation, fostering APIs

No EC action will interfere with the rights and obligations established in the GDPR

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Thank you!

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