

CONSULTATION ON DATA GOVERNANCE ACT

CLUJ IT/DATA INTELLIGENCE GROUP – POSITION AND FEEDBACK

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ABOUT US



Cluj IT (www.clujit.ro) is a cluster based organization formed of active organizations in the information technology field: providers of software services and solutions, universities and research institutes, public bodies and other catalyst organizations.

The Cluj IT Data Intelligence Group (www.clujit.ro/working-groups/wg-data-intelligence) is a working group of ClujIT and aims to improve the community environment by harnessing the power of Big Data and Artificial Intelligence.

INTERTECHNICA (intertechnica.com) is a member of CLUJ IT and the founding member of the ClujIT Data Intelligence group. We are a company specialized in technical and management consulting and implementation.

This position paper represents the positioning of Cluj IT in the context of the Data Intelligence Group and consolidated by INTERTECHNICA. We appreciate the invitation for feedback and the chance to impact future developments on the area of Data Governance in European Union.

In general terms: we welcome this initiative and we consider it extremely necessary as it regulates the data sharing processes in order to maximize the utility of public data within the constraints of protection, privacy and property of such data. In the sections below we would like to propose a few amendments we believe it may further improve this proposal.

REGARDING THE RE-USE OF PUBLIC SECTOR DATA

In the context of **Chapter 2 - Re-use of certain categories of protected data held by the public sector bodies**, we agree with the following:

- We agree with the general assumption of the proposal that the data generated from the activities supported by public budgets should be used for further benefit of the society. Data is an essential ingredient of digitalization and it is essential in the advancement and competitiveness of the society;
- We agree as well that the usage of data should be considered from multiple angles such as protection, privacy and property; thus we agree that a data governance strategy should identify and address all these concerns.

Furthermore, within the constraints of economic and legal implications in place we consider that some of this data (or at least a clearly defined subset of it):

- Should be considered from the perspective of a public good, available to the society at large and governed by public bodies;
- Sharing of such data should be considered a public service governed by public bodies and financed as any other public service.

We acknowledge the provision of Article 3, paragraph 3 stating that "**The provisions of this Chapter do not create any obligation on public sector bodies to allow re-use of data**", yet we also consider that access of citizens to a subset of this data - with high impact on the life of an individual - to be a basic civic right. Therefore, sharing of such data by the public sector bodies should be mandatory and free of charge to data users - the associated costs should be supported from the public budgets.

Examples of such data (without limitation) could be basic quality of life indicators or measurements related to realization of public policies (e.g. fulfillment of KPIs related to public policies). We encourage a process that could identify such a critical set of data considered to be minimal and mandatory to be shared with the society free of charge by all the European Union states; at national level - public sector bodies may consider adding additional data.

REGARDING THE REUSE OF CERTAIN CATEGORIES OF PROTECTED DATA HELD BY PUBLIC SECTOR BODIES

In the Article 19, paragraph 2 it is stipulated in regards with data altruism organizations: "**The entity shall also ensure that the data is not be used for other purposes than those of general interest for which it permits the processing**".

From a practical perspective, such data altruism organizations may find these requirements as being impossible to fulfill. Unless data is strictly processed in a secure environment under the control of a data altruism organization - further usage of this data (once made available to a data user) cannot be properly controlled. Therefore, this requirement may rise the costs of operating an altruism organization high enough to dissuade the establishment of such organizations.

Our proposal is to require from a data altruism organization to implement a due diligence mechanism (for example by using public notice materials and contractual clauses) so that the inappropriate usage of shared data by a data user will be discouraged. These due diligence mechanism could be standardized across the entire European Union to further lower the entry barrier for data altruism organizations.

In our opinion, data protection, privacy and property should be protected in a way that it does not impose excessive legislative burdens and thus defeating the purpose of an easier and altruistic sharing of data.

REGARDING THE REGISTER OF RECOGNIZED DATA ALTRUISM ORGANIZATIONS

We welcome the application of the register of recognized data altruism organizations as an instrument of trust and transparency in data sharing. The status of "**data altruism organization recognized in the Union**" being valid in all the European Union will even the chances of data altruism organizations to be visible and provide valuable data not only on a regional level but also at a global level.

We think that having an official quality rating associated with the records of such organization will bring more incentive to adopt best practices and quality service to the data users. This would easily fall in the scope of **Article 21 Monitoring of Compliance** from the proposal, where at any monitoring cycle a general rating (which could be a set of different indicators such as quality of service, quality of data or legal compliance) should be recorded along with the history of all confirmed breaches and remediation actions.

Such a rating along with the history of breaches would help data users to select in a more informed way a data altruism organization and would contribute to incentivize the organizations to adopt and apply a set of best practices in data sharing. We believe that such quality ratings and breaches history may be addressed in the future as a commercial service by private organizations as well.

REGARDING COMPETENT BODIES TO SUPPORT THE PUBLIC SECTOR

We agree that that provision of Article 7 paragraph 1 that "**Member States shall designate one or more competent bodies, which may be sectorial, to support the public sector bodies which grant access to the re-use of the categories of data referred to in Article 3 (1) in the exercise of that task**" will contribute to a faster and smoother implementation of public sector data sharing services

In this context we should consider the importance and impact of (E)DIHs as go-to potential organizations that could fulfill the role of supporting the public bodies in sharing and reusing of data. The arguments in favor of this statement are:

- Data processing, sharing and re-use are processes embedded in the larger scope of digitalization and innovation. Digitalization and innovation are core concerns of E-DIHs organisations;
- Due to their core activities, E-DIH organizations are likely to attract the talent and resources that are more likely to maximize the quality of the support for the public bodies in their journey to provide data sharing and reusing services;
- The E-DIH organisations will have the following core services **Test before invest** and **Skills and training**. These core services could be pivotal in order to ensure the best adoption and implementation of data sharing services by the public bodies.

FINAL CONSIDERATIONS

In line with the considerations expressed in the opening of this position paper, we consider this proposal for a Data Governance Act as a timely, needed and valuable initiative. The decision of going for a low intensity regulatory intervention in regards with Data Altruism Organizations will have a beneficial impact in the long run due to decreased legislative and administrative burdens imposed to such organizations.

While in the future we may discover the need for further improvement, we consider the following points as adding a very good value in the proposition:

- Requirement for fair, non-discriminatory conditions for data reuse that can be imposed by public bodies;
- Prohibition of exclusive arrangements;
- Regulation for data altruism organizations on a voluntary, low intensity regulatory interventions.

Finally, we would like to express our gratitude for the invitation to provide feedback on the Data Governance Act and provide an impact in the future of the Data Strategy in the European Union.