

#4 Decoding the Data Act

This is the fourth post in the Decoding the Data Act series.

Now it's time to share initial thoughts about:

- basic concepts of sharing of Data,
- the entities with whom the Data is to be shared, and
- possible scenarios for mandatory Data sharing.

Voluntary and mandatory data sharing

Will voluntary data sharing still be possible?

Yes, voluntary sharing of Data between entities will still be allowed, provided that it complies with the requirements set out in the Data Act, i.e. the agreement does not contain unfair contractual terms between entrepreneurs regarding access to and use of data. Article 13 of the Data Act indicates that an unfair term is one whose application grossly deviates from good commercial practice in the field of access to and use of data, contrary to the principle of good faith and fair dealing (a model agreement for voluntary data sharing has also been prepared as part of the work on model contractual clauses for the Data Act). An example is a provision the purpose or effect of which is to exclude or limit the liability of the party which has unilaterally imposed it for intentional acts or acts resulting from gross negligence.



Importantly, voluntary data sharing **may involve payment of remuneration to the data holder.**

Mandatory data sharing

Who can request Data?

In the previous post, we indicated that mandatory sharing of Data under the Act applies to Data which is:

- raw and pre-processed
- easily accessible to the data holder.

As regards Data that is directly accessible to the user, given that it is already available to the user, there is no need for mandatory sharing.

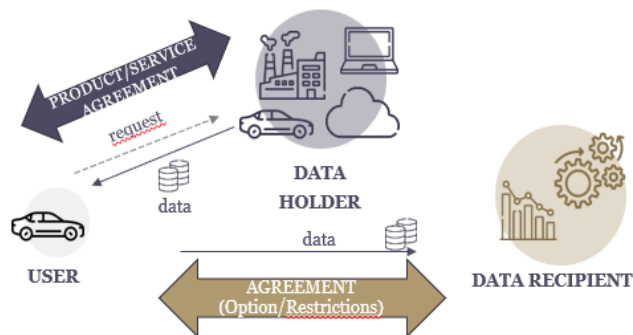
Who can request Data?

The user has the right right to demand mandatory sharing of the Data. **The user is** the natural or legal person who owns a connected product or to whom temporary rights to use that connected product have been contractually transferred or that receives related services (Article 2(13) of the Act). The user must have title to the property or a contractual right to use it. Therefore, they will be the owner of the product or its lessee, and not a family member who has been given the vehicle for occasional use.

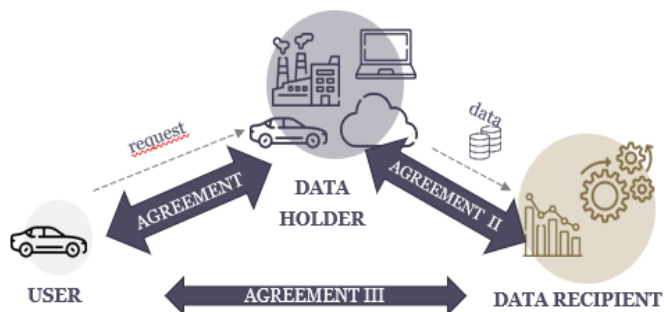
Another important entity in this context is **the data recipient**, i.e. a natural or legal person acting for purposes related to its trade, business, craft or professional activities, other than the user of the connected product or related service, to whom the data holder makes the data available, including a third party at the request of the user to the data holder in accordance with a legal obligation arising from EU law or national law adopted in accordance with EU law (Article 2(14) of the Act). The recipient of the data will be, for example, a leasing company or insurer of the user to whom the user wishes to make the data from the connected product or related service available directly from the data holder.

What are the main scenarios for mandatory disclosure of Data?

Sharing Data pursuant to Article 4 of the Act



Data sharing pursuant to Article 5 of the Act



In the next post in the [Decoding the Data Act](#) series, you will learn what agreements governing such sharing should contain. Stay tuned!

Feel free to contact us!



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