



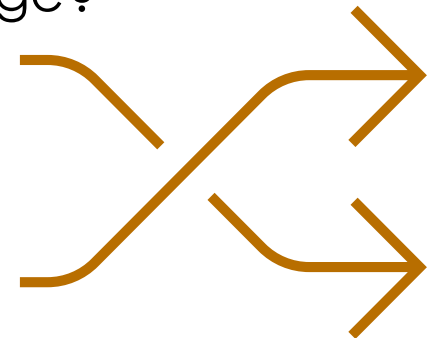
PRIVACY & THE PROMOTION OF ACCESS TO DATA UNDER THE EU DATA ACT

Data Privacy Day 2025

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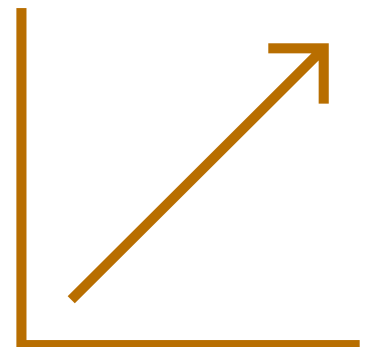
Preserving privacy while Creating Value From (Industrial) Data.

- Privacy and data protection : protecting the rights and freedoms of individuals
- Data Act: unlocking the (economic) value of 'industrial' data
- Entities (other than data subjects) may have a legitimate reason to access data generated by the use of a connected product or related service
- Tensions occur inevitably in the context of IoT
- Transformation of personal data into exploitable and valuable knowledge?



The Data Act in brief.

- New legal framework designed to make data more accessible, useable and shared as much as possible for the benefit of companies, consumers and society
- New obligations for ‘data holders’ (e.g. manufacturers) of ‘connected products’ (IoT) and providers of ‘related services’ (e.g. providers of repair or maintenance services) towards ‘users’ of such products (cf. Chap. II and III of Data Act)
- Key component of the EU Strategy for Data
- Unleashing the potential of data (innovation, competition, sustainability)
- Applicable as of 12 Sept. 2025



Diversity of topics addressed in the Data Act.

B2B & B2C in the context of IoT

Chap. II. Rights for users of connected objects (access, sharing).

Mandatory B2B data sharing

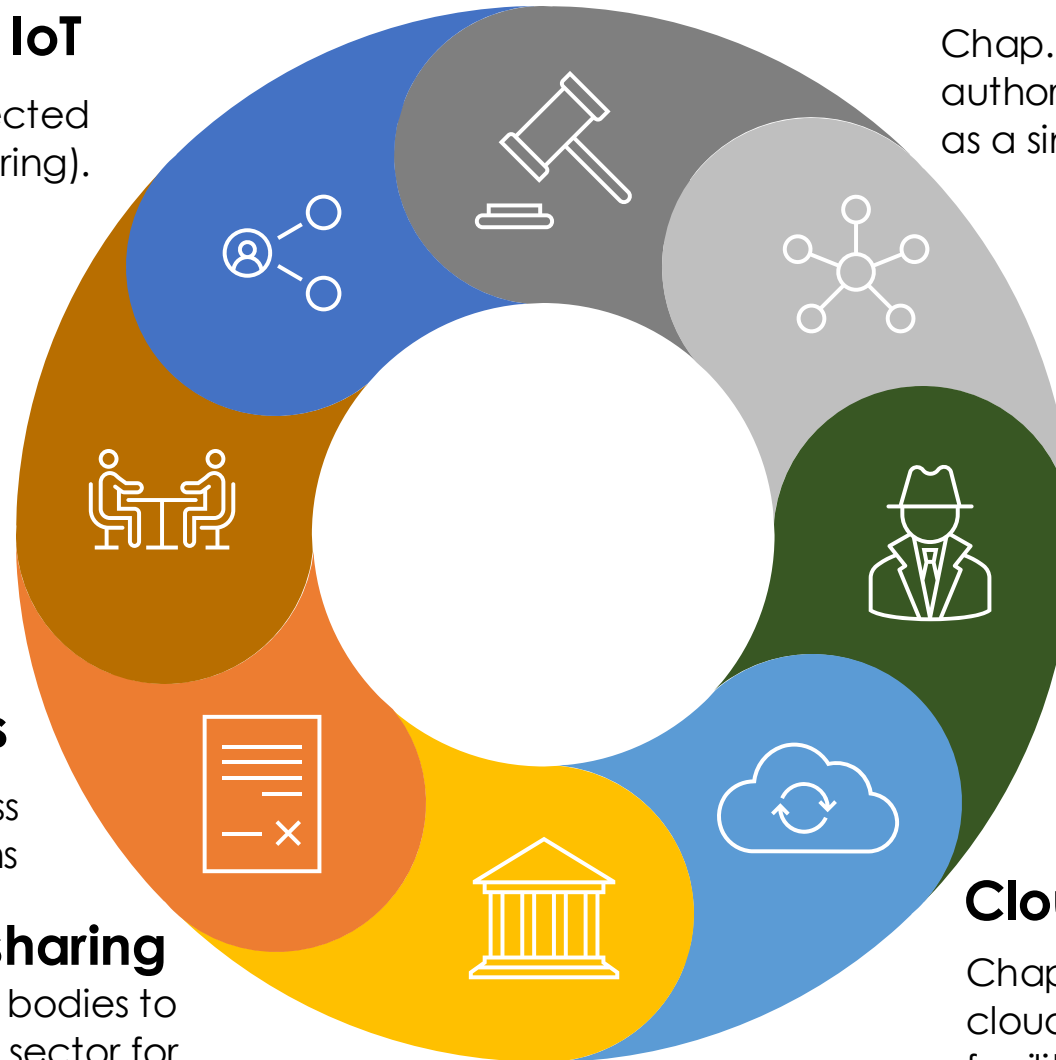
Chap. III. Conditions where there is an obligation by law to share data with another business

Unfair contractual terms

Chap. IV. Protection of business against unfair contractual terms

B2G data sharing

Chap. V. Access of public sector bodies to certain data held by the private sector for exceptional need in the public interests



Enforcement

Chap. IX. One or more competent authority(ies) per MS (+ a data coordinator as a single point of contact)

Interoperability

Chap. VIII. Criteria to allow data to flow within and between data spaces

Unlawful foreign gov. access to data

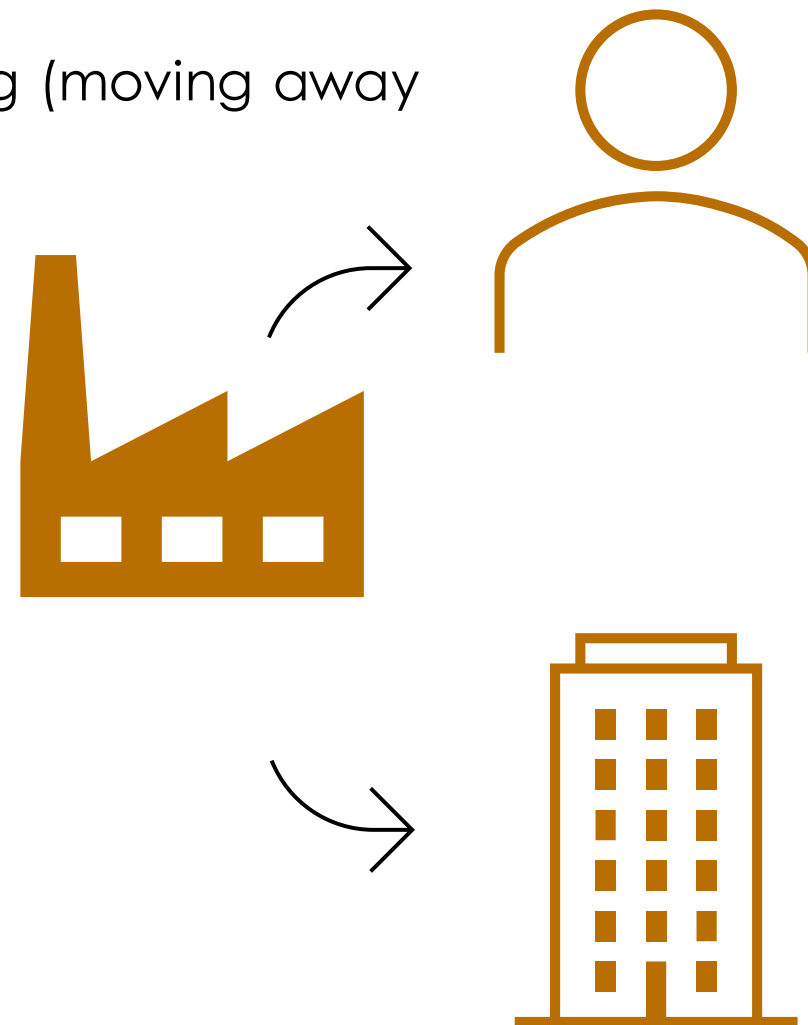
Chap. VII. Protection of non-personal data stored in the EU against unlawful foreign gov. access requests

Cloud switching

Chap. VI. Minimum criteria for providers of cloud and edge computing services to facilitate interoperability and enable switching

Different Paradigm in terms of Data Access, Data Usage and Data Sharing.

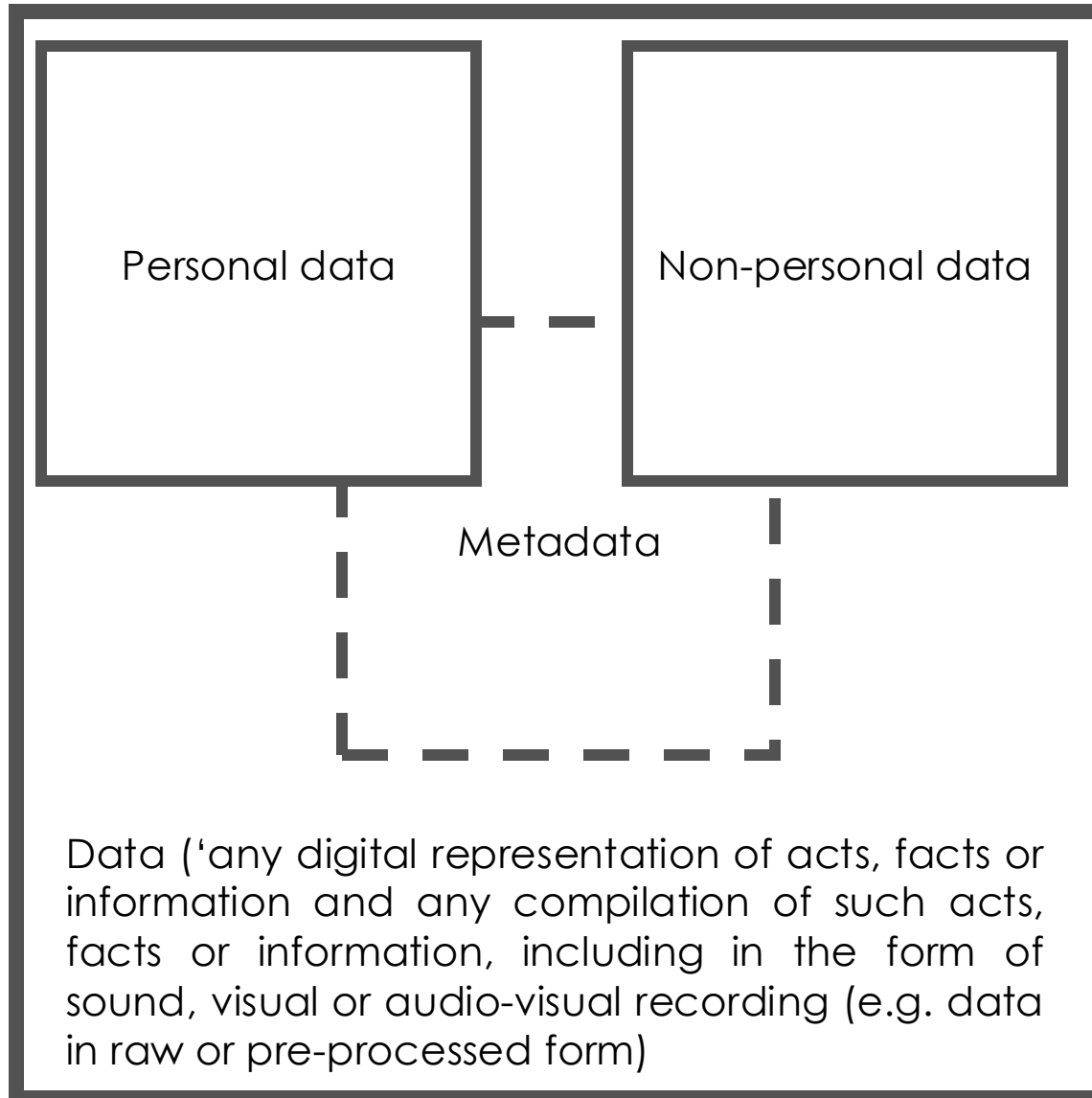
- Lifting current obstacles to data access and data sharing (moving away from status quo, data silos...)
- More competition and innovation on the EU data market
- Transfer of control over data from 'data holders' to 'users'
 - ▶ Users can request access to 'product data' (and 'related service data') generated from the use of connected products and related services
 - ▶ Users can request such data to be transferred to a third party
 - ▶ Future products and services must be designed so as to enable and facilitate data access



'Connected products' and 'related services'



Type of data in scope.



Out of scope:

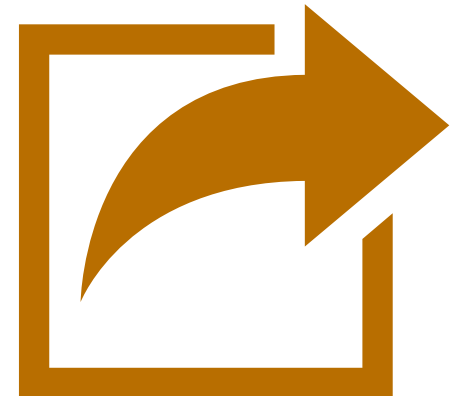
≠ Inferred or derived information

≠ Content

≠ Data produced by virtual assistants unrelated to the use of a connected product

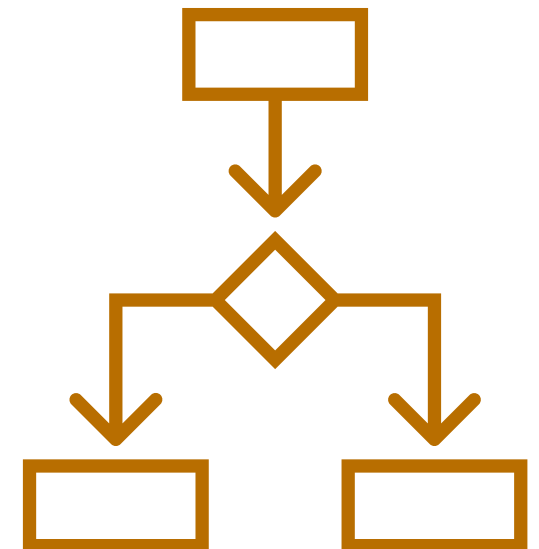
New framework on B2B and B2C data sharing in the context of IoT (1/2).

- Rights granted to users to empower them (access, new portability right) regarding raw and pre-processed data generated from the use of a connected product or a related service
- Obligations for data holders
 - ▶ Make data access easy and for free
 - ▶ Enable data sharing with third parties of user's choice
 - ▶ Inform customers before they buy
 - ▶ Contract with users (clear allocation of roles, own use by data holder such as data analytics or product development)
 - ▶ Fair, reasonable and non-discriminatory data sharing terms and conditions (for mandatory B2B data sharing)



New framework on B2B and B2C data sharing in the context of IoT (2/2).

- Protection of data-related investments made by data holder and prohibition to use the data to develop competing products (\neq competition in aftermarket services)
- Confidentiality of trade secrets
- Right to claim reasonable compensation from the data recipient (Chap. III)
 - ▶ Costs of making data available
 - ▶ Technical costs related to dissemination and storage
- Remedy measures in case of unlawful access or use by a third party or user
- Limitations to data sharing obligations to ensure security of the connected product
- Privacy and Data Protection



Enhanced data access, use and sharing (Data Act)

Rights granted to users (legal persons, individuals)

Protection of the rights and freedoms of individuals (GDPR)

Rights granted to data subjects (individuals)

Related privacy and data protection Risks

Potential conclusions drawn from the use of
connected products and related services, Use of
data for purposes exceeding data subjects'
expectations

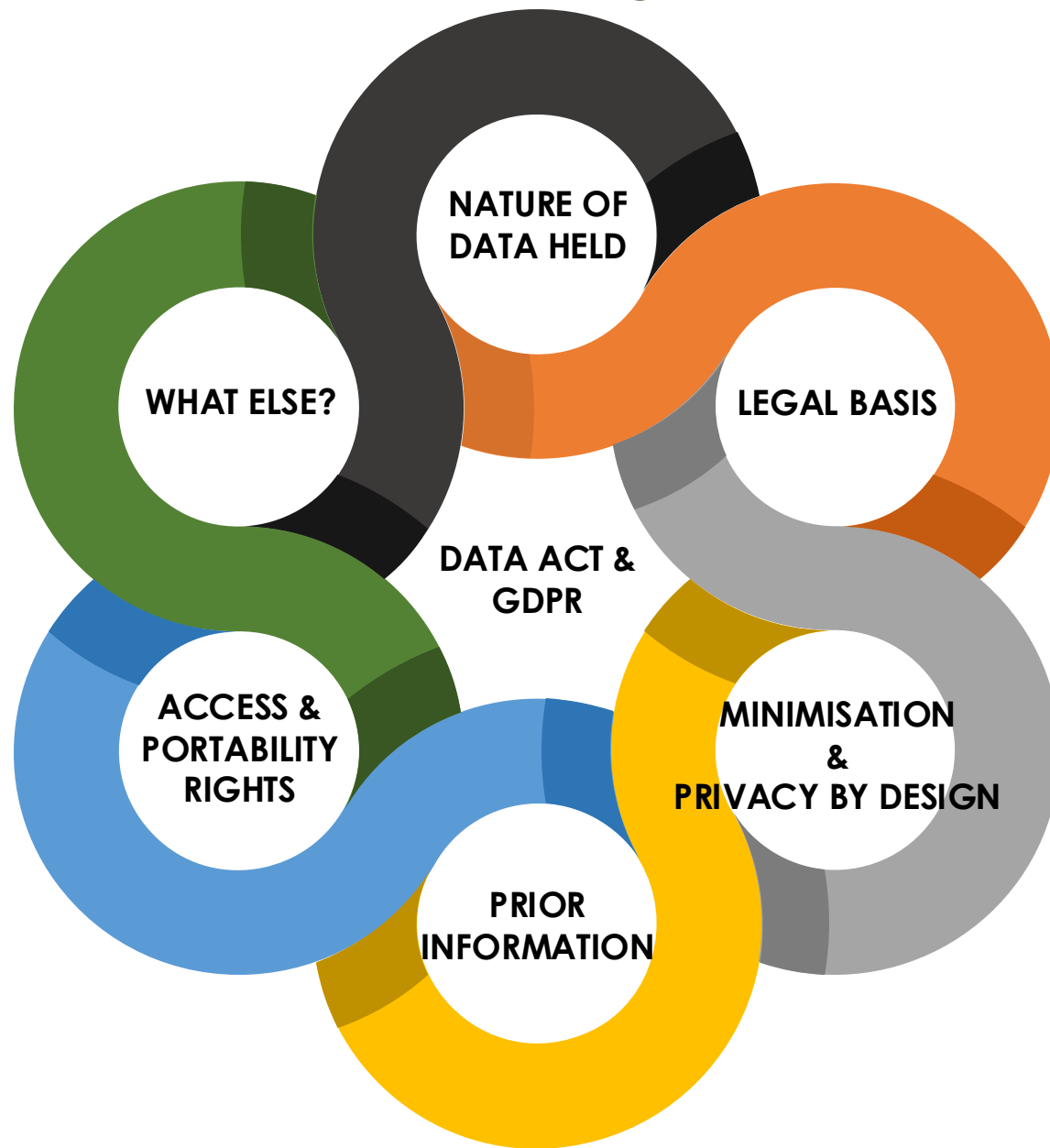


Interplay between Privacy and Data Act.

- The Data Act is intended to complement and is 'without prejudice to' the GDPR.
- Access, use and sharing of personal data by users other than data subjects (as well as by third parties and data holders) should occur in full compliance with the GDPR
- In case of conflict, the GDPR shall prevail
- It is not only about GDPR compliance (ePrivacy...)



Potential 'waves' and challenges.



- What type of data are you holding?
- Is there a legal basis that renders the sharing of data possible? Does art. 5(3) ePrivacy Directive apply?
- Is the connected product designed in such a way that the device can be used in the least privacy intrusive way? How much data leaves the device?
- Are customers duly informed (both under GDPR and Data Act?)
- Have measures been taken to facilitate the rights of users/data subjects?
- Other data protection rules and principles (security, accountability, high risk and DPIA...), supervision

Thank you for your attention !

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