

Data intermediation service providers: consequences and potential pitfalls from policy and business model perspective

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To establish a European Single Market for data, the European Commission proposes the European Data Strategy. One of the new regulatory frameworks central to this strategy is the Data Governance Act (DGA). The goal of the DGA is to promote a neutral data intermediation service provider to create trust. A data intermediation service is defined as “a service that aims to establish a commercial relationship for the purpose of data sharing between an undetermined number of data subjects and data holders on the one hand and data users on the other through technical, legal or other means including for the purpose of exercising the rights of data subjects in relation to personal data” [Article 2 (11) DGA]. However, this definition lends itself to multiple interpretations concerning the scope and applicability of the DGA.

Multiple parts of the definition can be interpreted in different ways. This unclarity in the definition combined with stringent obligations and the increasing modular service provision in the EU might result into unfavorable conditions for a myriad of service providers qualifying as Data Intermediation Service Providers (DISPs) under the DGA. Depending on the interpretation of the scope, more or less intermediaries will fall under the scope of the DGA. Competition between intermediation service providers falling under the DGA and those not falling under the DGA (e.g. data brokers since they buy/gather the data instead of enabling sharing between data user and holder) might occur, providing the second group with additional advantages. Thus, DISPs might have to comply to a lot more restrictions and requirements than other competitors creating unbalanced situations.

Through a series of case studies, this presentation outlines the potential negative impact of the current broad scope combined with restrictive obligations on the business models of potential intermediaries. Ultimately, modifications to the DGA are put forward to mitigate this impact. Additionally, a few starting points are presented for still unresolved issues related to the DGA's future implementation.

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