BRUSSELS PRIVACY HUB

WORKING PAPER

VOL. 12 • N° 1 • JANUARY 2026

GIVING EU DATA GOVERNANCE LAW A SECOND LIFE?

From Rebranding to Real-World Impact

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Abstract

This working paper examines the evolution of EU data governance law through an assessment of the Data Governance Act (DGA) and the proposed transfer of its substantive provisions into the Data Act (DA) under the Digital Omnibus package. Although the Digital Omnibus is unlikely to reshape the core substance of EU data governance law, its targeted amendments require contextualisation through a reassessment of the DGA's aims, design, early implementation. Adopted in 2022 as part of the European Data Strategy, the DGA sought to reduce fragmentation and promote a more inclusive data economy, yet it has been criticised for conceptual opacity, limited scope, and its modest real-world impact to date. Early evidence raises questions about the regulation's effectiveness and the underlying assumptions driving EU data-sharing and data-reuse initiatives.

To analyse these dynamics and evaluate whether the Digital Omnibus addresses existing tensions, the working draws on a triangulated methodology combining doctrinal legal analysis, desk research, and an exploratory qualitative study with public bodies, data intermediation services, and data altruism organisations. The findings reveal a substantial gap between the practical challenges experienced by stakeholders and the issues targeted by the proposed reforms. Across stakeholder groups, interviewees emphasised the need for concrete data-sharing prototypes, clearer value propositions, and more robust enforcement of the existing regulatory foundation, particularly the GDPR. The working paper concludes by outlining conditions necessary to give EU data governance law a "second life," regardless of whether it ultimately resides in the DGA or the DA.

1. Introduction

Until the adoption of the Digital Omnibus package, EU data governance law will continue to reside in the Data Governance Act (DGA).[1] Although the drafters of the Digital Omnibus did not intend to substantially alter the substance of EU data governance law, significant adjustments are introduced.[2] To assess the significance of these changes, it is essential to revisit the story of the DGA and analyse real-world data on its impact to date. This is the central objective of this working paper.

Enacted in May 2022, the DGA establishes a cross-sector, harmonised framework designed to mitigate the fragmentation of data governance practices within the EU. By attempting to facilitate the sharing of both personal and non-personal data, it aims to foster a more collaborative and efficient data economy. [3] As a central component of the European Data Strategy released in February 2020,[4] it contributes to the broader objective of developing an open, fair, diverse, and democratic digital economy that seeks to enhance data availability and use for better decision-making and improved quality of life.[5] This objective is particularly ambitious given the high degree of monopolisation and centralisation that characterises the platform economy, as well as the current absence of EU-level infrastructure capable of translating data sovereignty into reality.[6] However, their ambitious nature is no reason for dismissal; on the contrary, it underscores the importance of understanding what would truly be required to enable such a take-off.

Most of the provisions set out in the DGA became enforceable in September 2023, with the exception of those relating to data intermediation services (DIS), which, under Article 37, had to be complied

[1] Regulation 2022/868 of the European Parliament and of the Council of 30 May 2022 on European data governance and amending Regulation (EU) 2018/1724 (Data Governance Act), O.J. L152, 3.6.2022, p. 1-44.
[2] European Commission, 'Proposal for a Regulation of the European Parliament and of the Council Amending Regulations (EU) 2016/679, (EU) 2018/1724, (EU) 2018/1725, (EU) 2023/2854 and Directives 2002/58/EC, (EU) 2022/2555 and (EU) 2022/2557 as Regards the Simplification of the Digital Legislative Framework, and Repealing Regulations (EU) 2018/1807, (EU) 2019/1150, (EU) 2022/868, and Directive (EU) 2019/1024 (Digital Omnibus)' (2025) COM/2025/837 final <https://digital-strategy.ec.europa.eu/en/library/digital-omnibus-regulation-proposal>.
[3] Matthias Leistner, 'The Commission's Vision for Europe's Digital Future: Proposals for the Data Governance Act, the Digital Markets Act and the Digital Services Act—a Critical Primer' (2021) 16 Journal of Intellectual Property Law & Practice 778.
[4] European Commission, 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - A European Strategy for Data' (2020) COM/2020/66 final <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0066> accessed 6 February 2025.
[5] Pascal D König, 'Fortress Europe 4.0? An Analysis of EU Data Governance through the Lens of the Resource Regime Concept' (2022) 8 European Policy Analysis 484; Fabio Bravo, 'Data Governance Act and Re-Use of Data in the Public Sector' (2022) 3 European Review of Digital Administration and Law 13.
[6] See Francesca Bria, Paul Timmers and Fausto Gernone, 'EuroStack - A European Alternative for Digital Sovereignty' (2025) <https://www.bertelsmann-stiftung.de/en/publications/publication/did/eurostack-a-european-alternative-for-digital-sovereignty>.

with by 24 September 2025.Yet, in its short lifespan, the DGA has not been warmly received by legal commentators, many of whom have described it as an empty shell.[7] Evidence of real-world impact has also been sparse. Criticisms have been heard in part by the European Commission. On 19 November 2025, the Commission released through its Digital Omnibus a proposal to integrate the substantive provisions of the DGA into the Data Act (DA),[8] following several rounds of public consultations.[9] This transfer is accompanied by several proposed modifications. While some modifications seem to be welcome by scholars and legal commentators, an analysis of their substance seems to suggest that the rushed simplification agenda lacks focus and purpose.

This working paper analyses the tensions and uncertainties surrounding the DGA through an exploratory qualitative study based on semi-structured interviews complementing both a doctrinal legal analysis and desk research on the DGA practical impact. Building on these findings, the working paper further evaluates whether, and to what extent, the modifications proposed in the Digital Omnibus address the tensions and gaps identified in the interviews.

The working paper proceeds in four stages. First, it explores the complex trajectory of the DGA, its main pillars, and bespoke lexicon. After tracing the legislative history of the DGA and its interplay with adjacent regulatory frameworks, including the General Data Protection Regulation (GDPR),[10] the Open Data Directive (ODD),[11] and the DA, the analysis turns to the structural and conceptual features that have made the DGA so hard to grasp, i.e., the DGA's narrow scope, its selective coverage of actors, and its intricate terminology.

Second, the working paper examines, through a triangulation of research methods, the initial impact of the DGA. Several trends emerge from this analysis. While a positive effect on public sector data management is observable, Member States have been slow to implement the regulation, and many

[7] "Whereas the DGA is intended to boost a more competitive and innovative Digital Single Market in facilitating the availability of data, both factors internal to the new legislation as well as its interplay with the broader EU data law framework cast doubt on whether these goals can really be achieved." Gabriele Carovano and Michèle Finck, 'Regulating Data Intermediaries: The Impact of the Data Governance Act on the EU's Data Economy' (2023) 50 Computer Law & Security Review 105830.

[8] Regulation (EU) 2023/2854 of the European Parliament and of the Council of 13 December 2023 on harmonised rules on fair access to and use of data and amending Regulation (EU) 2017/2394 and Directive (EU) 2020/1828 (Data Act) OJ L, 2023/2854, 22.12.2023.

[9] See e.g., EC, 'Call for Evidence for a European Data Union Strategy' (2025) Ares(2025)4163996 <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14541-European-Data-Union-Strategy_en>; European Commission, 'Commission Launches Consultations on the Future of EU Data Legislation' (*European Commission*, 8 July 2025) <https://digital-strategy.ec.europa.eu/en/consultations/commission-launches-consultations-future-eu-data-legislation>.

[10] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119, 4.5.2016, pp. 1–88.

[11] Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information (recast) OJ L 172, 26.6.2019, pp. 56–83.

national initiatives remain fragmented. Moreover, at least on paper, and based on the registers established by the European Commission, there appears to be a notable scarcity of data intermediaries. By data intermediaries, we mean both data intermediation services and data altruism organisations.

Third, the working paper looks at the recently proposed changes contained in the Digital Omnibus and analyses them against the backdrop of the findings emerging from the exploratory qualitative study. What is particularly striking is that these proposals do not align closely with the empirical findings derived from the exploratory qualitative study conducted across three stakeholder groups: DIS, data altruism organisations, and competent authorities.

Although the qualitative study conducted for the purpose of this working paper has limitations in terms of the representativeness of its population, particularly since the cohort of data intermediaries was mostly drawn from the European Commission's registers, the recurrence of similar findings across five themes suggests a degree of shared experience among study participants. Strikingly, the main takeaway of the study may not be what lawmakers wish to hear: the real priority lies in developing prototypes, demonstrating the added value of data sharing use cases, and effectively enforcing the existing foundational regulatory framework, i.e., the GDPR.[12]

Fourth, the working paper concludes by proposing pathways to give EU data governance law a "second life," regardless of where it ultimately resides, be it in the DGA or the DA.

2. Methodology

To assess the impact and implementation of the DGA, and to examine whether, and to what extent, the modifications proposed in the Digital Omnibus address existing tensions and gaps, a triangulated research approach was adopted. This included: (1) doctrinal legal analysis to clarify the DGA's substantive contribution to the EU digital rulebook; (2) desk research to review both scientific and grey literature on the DGA's practical effects;[13] and (3) an empirical qualitative study based on semi-structured interviews with three groups: public sector bodies, DIS, and data altruism organisations.

[12] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119, 4.5.2016, pp. 1–88.
[13] See e.g. the work done by the French Association for Data Intermediation and their position paper on the review of the DGA, Association pour l'intermédiation de données, 'Révision Du Data Governance Act - Position Paper Des Acteurs Français de l'Intermédiation de Données' (2025) <https://data-intermediation.eu/wp-content/uploads/2025/07/20250616-Positions-de-lAssociation-pour-lintermediation-de-donnees-VDEF.pdf>.

With respect to the empirical qualitative study, a set of interview prompts derived from the research questions was developed for each stakeholder group, public-sector bodies (group 1), data intermediation service providers (group 2) and data altruism organisations (group 3). The semi-structured format ensured consistency across interviews while allowing participants to elaborate on issues specific to their experiences and perspectives. The questions focused on stakeholders' awareness of the DGA, perceived challenges and opportunities, anticipated impacts on their practices, and their views and experiences regarding data sharing and reuse both within and outside the regulatory framework.

Ethics clearance was secured from the authors' institutional ethics review board. The interviewees were selected based on their inclusion within public registers and/or other documented evidence of involvement in the field, e.g., through membership in associations or interaction with regulators for groups 2 and 3 and by parsing the list of designated competent authorities under the various Chapters of the DGA for group 1. Interviewees were contacted after collection of their professional contact details. Interviews were conducted via online videoconference, and explicit consent was sought and documented before the interview and recording began. All interviews were recorded and transcribed or only transcribed for analysis.

The interviews were structured around five main thematic blocks: 1) Perceived Added Value of the DGA; 2) Need for Refinement: Polishing the Regulatory Framework; 3) Role and Resources of Public Sector Bodies; 4) Real-World Drivers of Data Sharing and Reuse, and 5) Cross-Cutting Insights and Interdependencies.

The first thematic block explores how participants across the three stakeholder groups understand and articulate the DGA's contribution to the existing regulatory landscape. It examines whether they view the DGA as a necessary complement to pre-existing frameworks (such as the GDPR or the Open Data Directive), or instead as a source of regulatory complexity. This block also touches upon concrete examples of perceived benefits, such as the introduction of official labels, while probing remaining tensions and uncertainties, including gaps between policy ambitions and practical implementation.

The second block examines the participants' views on the clarity, coherence, and operational feasibility of the current regulatory framework. It aims to identify areas where the DGA could be "polished" or further specified to improve implementation, discuss issues such as administrative burden, alignment with national data strategies, and the need for more precise guidance or some form of standardisation. It highlights suggestions from stakeholders for regulatory fine-tuning (e.g., enlarged definition of DIS).

The third block focuses on exploring how different groups perceive their roles under the DGA, as data holders, informal facilitators or regulators. It discusses resource-related challenges, such as financial, technical, or human capacity, that affect their ability to comply with, facilitate implementation, or even benefit from the DGA. It explores variations across types or levels of public institutions and consider interviewees' views on how public bodies could be empowered to take a more proactive role in enabling data sharing and reuse.

The fourth block examines what motivates organisations to share or reuse data beyond mere regulatory compliance, including factors such as economic incentives and broader societal values like data sovereignty. It also explores whether a genuine business model problem exists in practice and how these real-world drivers align with, or diverge from, the assumptions underpinning the DGA. In doing so, the block investigates barriers highlighted by interviewees, such as the limited visibility of concrete data sharing use cases and the confusion between registration and labelling requirements. It then considers how regulators might better leverage these practical motivations to support more effective and sustainable data-sharing ecosystems.

The fifth and concluding block seeks to identify areas of overlap between the preceding blocks. It also reflects on how the three stakeholder groups differ in the way they perceive and prioritise issues, offering insight into potentially divergent understandings, and expectations. This block is included to shed light on the alignment between regulatory design and practical drivers, and more broadly to develop a critical and nuanced assessment of the effectiveness of the DGA.

A thematic analysis approach was then employed to identify and interpret patterns across the interview data. Coding was carried out iteratively, with emerging themes refined through repeated comparison of responses. Interviews were continued until thematic saturation was reached, that is, when no substantially new insights were observed and similar findings began to recur within and across stakeholder groups. This approach ensured that the analysis captured the most salient and recurrent perspectives regarding the implications of the DGA.

A total of 19 stakeholders were contacted, of which 13 agreed to participate, representing a diversified range of institutional profiles and operational contexts across the data governance landscape. Table 1 offers a breakdown of the interview population.[14]

[14] We generalise the number of interviewees by group to reduce re-identification risks.

Role	Size	Number Range
Data Altruism Organisations	Micro	1-3
Data Intermediation Services Providers	Micro and Small	6-10
Public Authorities Competent under the DGA	Not specified	4-7

Table 1: The population of interviewees

3. DGA's Origins and Content

Although the DGA's adoption was seen as a key step toward advancing the EU's ambitious vision for data governance, it was clear from the outset that the final text delivered neither a radical regulatory shift, since the realisation of the vision still depended on prior action by Member States, nor robust support for the actors considered crucial to implementing the EU's data strategy. In addition, the intricacy of the lexicon and the laborious alignment with other chapters of the EU digital rulebook reduced its appeal for the legal and compliance community.

a. DGA's Birth

To "capture the benefits of better use of data, including greater productivity and competitive markets," the European Commission launched the European Data Strategy in February 2020.[15] This initiative aimed to facilitate data sharing between data holders and users by both implementing robust data governance mechanisms and unlocking the full potential of data to benefit the economy.

In 2020, the European Commission identified multiple challenges: a lack of data availability for innovative reuse, including for Artificial Intelligence (AI); imbalances in market power, particularly concerning data access and reuse; significant interoperability and data quality issues hindering access and reuse; a lack of organisational structures and approaches for effective data governance; insufficient secure, energy-efficient, affordable, and high-quality data processing capacities and a high level of technological dependency in strategic infrastructures; the absence of technical tools and standards to facilitate the exercise of data subject rights; a shortage of big data and analytics skills; and insufficient operationalisation of high cybersecurity standards across sectors.[16]

[15] European Commission, 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - A European Strategy for Data' (n 4).
[16] ibid.

The European Commission therefore announced a set of new legislative measures structured around four pillars: a cross-sectoral governance framework for data access and use, encompassing both the DGA and the DA; investments in data and the strengthening of Europe's capabilities and infrastructures for hosting, processing, and using data, as well as enhancing interoperability, in particular through the High Impact Project on European Data Spaces and federated cloud infrastructures; empowering individuals and investing in digital skills and small and medium-sized enterprises (SMEs); and supporting the creation of Common European Data Spaces in strategic sectors and domains of public interest.[17]

In the European Data Strategy, the DGA is described in terms of "an enabling legislative framework for the governance of common European data spaces." The DGA is supposed to be a horizontal regulatory framework designed to "facilitate the use of data for innovative business ideas, both at sector- or domain-specific level and from a cross-sector perspective."[18] At the core of this vision is the concept of data pooling. There are different ways of achieving data pooling: through sector-specific data spaces[19] and the emergence of data intermediaries such as DIS[20] or data altruism organisations.[21]

Although it is not entirely clear what the European Commission meant by data pooling, or even by the broader concept of data governance, data pooling can be understood as the facilitation of data reuse by making data from multiple sources available, with the goal of enabling broader analysis, insights, or applications. It does not necessarily require physically merging all data into a single repository, though it typically involves standardized formats and coordinated access mechanisms. While the European Commission was developing its DGA proposal, a rich body of research was emerging around the concept of data pooling. In particular, the concept of data trusts attracted attention as a potential foundation for effective governance of closed data, while alternative conceptual frameworks were also explored.[22] What these efforts showed was the variety of

[17] ibid.
[18] ibid.
[19] "[T]he Commission proposed establishing domain-specific common European data spaces for data sharing and data pooling." Recital 2 DGA.
[20] "[P]roviders, which may include public sector bodies, that offer services that connect the different actors have the potential to contribute to the efficient pooling of data as well as to the facilitation of bilateral data sharing." Recital 27 DGA. See also Recital 28 DGA.
[21] "This Regulation should aim to contribute to the emergence of sufficiently-sized data pools made available on the basis of data altruism in order to enable data analytics and machine learning, including across the Union." Recital 45 DGA. See also Recital 46 DGA.
[22] See e.g., Sophie Stalla-Bourdillon, Laura Carmichael and Alexsis Wintour, 'Fostering Trustworthy Data Sharing: Establishing Data Foundations in Practice' (2021) 3 Data & Policy e4; Ada, 'Exploring Legal Mechanisms for Data Stewardship.' (Ada Lovelace Institute 2021) <https://www.adalovelaceinstitute.org/event/legal-mechanisms-data-stewardship/>; Ada, 'Participatory Data Stewardship - A Framework for Involving People in the Use of Data' (Ada Lovelace Institute 2021) <https://www.adalovelaceinstitute.org/event/exploring-participatory-mechanisms-data-stewardship-report-

challenges related to setting forth an inclusive model, as well as one that would be appealing to civil society, and the importance of carefully aligning such a framework with data protection law.[23]

Viewed against the backdrop of this research, the DGA appears to aim at keeping as many avenues open for exploration as possible, while doing little to actively support the take-off of these approaches, e.g. through compulsory sandboxes. The only strategy to attract serious consideration has been the imposition of obligations on selected actors as a means of facilitating the signaling of trustworthiness.

b. DGA's Pillars

To achieve its objective of fostering data pooling, the DGA is built on three main pillars: facilitating the reuse of protected public sector data, regulating DIS, and governing data altruism organisations.

Reuse of Public Sector Data

Through Chapter II, the DGA aims to broaden the scope of publicly held data available for reuse by third parties by creating a legal framework for making protected third-party data available. The data within the scope of Chapter II of the DGA is listed in Article 3(1) DGA, i.e., data that "is not accessible due to commercial and statistical confidentiality and data that is included in works or other subject matter over which third parties have intellectual property rights"[24] and personal data governed under the GDPR. This newly introduced framework complements the Open Data Directive (ODD),[25] [e]ncompassing data which is excluded from the scope of the ODD, thereby marking a further stage in the development of the EU's framework aiming at making more data accessible to the wider public.[26]

Guided by principles of public administration law, Article 4 DGA prohibits exclusive arrangements between public sector bodies, i.e., data holders, and third-party data users. Building on that, Article 5 DGA sets forth the conditions for reuse, stating in its first paragraph that the "[c]onditions for re-use shall be non-discriminatory, transparent, proportionate and objectively justified with regard to the categories of data and the purposes of re-use and the nature of the data for which re-use is allowed. Those conditions shall not be used to restrict competition."

A single information point, introduced in Article 8 DGA, is responsible for making publicly available the conditions for allowing such re-use and the procedure to request the re-use of protected data.

launch/>; Sylvie Delacroix and Neil Lawrence, 'Bottom-up Data Trusts' (2019) 9 disturbing the 'one size fits all' approach to data governance 236.

[23] Sophie Stalla-Bourdillon and others, 'Data Protection by Design: Building the Foundations of Trustworthy Data Sharing' (2020) 2 Data & Policy.

[24] Recital 10 DGA.

[25] Recital 6 DGA. The DGA is without prejudice to the ODD. See Recital 3 DGA.

[26] Julie Baloup and others, 'White Paper on the Data Governance Act' [2021] SSRN Electronic Journal.

Importantly, Article 1(3) DGA provides that the DGA does not create a new legal basis for making data available and accessing such data for reuse.[27] Under Article 5(1) DGA, "[p]ublic sector bodies which are *competent under national law* to grant or refuse access for the re-use of one or more of the categories of data referred to in Article 3(1) shall make publicly available the conditions for allowing such re-use and the procedure to request the re-use via the single information point referred to in Article 8. Where they grant or refuse access for re-use, they may be assisted by the competent bodies referred to in Article 7(1)."[28] In other words, the DGA applies only where a legal basis for the reuse of protected data already exists at the national level.

Overall, the DGA's harmonising effect is limited under this pillar: in the absence of a national legal basis for grounding data sharing and reuse, the DGA has no legal force. Consequently, it is difficult to regard the DGA as a truly horizontal framework.

Moreover, as will be discussed below, this so-called horizontal framework comes into tension with another horizontal framework, namely the GDPR. With regard to Chapter II, when a legal basis exists at the national level for making covered data available, and such data includes personal data, the relevant public sector bodies are under an obligation of means to facilitate the obtaining of informed consent within the meaning of Article 4(11) GDPR, potentially with the assistance of the competent bodies designated under Article 7 DGA. Yet, under the GDPR, imbalances of power between data controllers and data subjects complicates the use of informed consent as a lawful basis for data processing. Recital 43 GDPR makes it very clear that "[i]n order to ensure that consent is freely given, consent should not provide a valid legal ground for the processing of personal data in a specific case where there is a clear imbalance between the data subject and the controller, in particular where the controller is a public authority and it is therefore unlikely that consent was freely given in all the circumstances of that specific situation." As the European Data Protection Board (EDPB) notes it, "it is unlikely that public authorities can rely on consent for processing as whenever the controller is a public authority, there is often a clear imbalance of power in the relationship between the controller and the data subject," although the use of consent is not totally excluded.

Data Intermediation Services

Chapter III of the DGA introduces a legal regime for the provision of DIS, defined under Article 2(11) DGA as services that aim to establish commercial relationships for the purposes of data sharing between an undetermined number of data subjects and data holders on the one hand, and data users

[27] Article 1(3) DGA. Recital 3 DGA specifies that "this Regulation should not be read as creating a new legal basis for the processing of personal data for any of the regulated activities") and Recital 15 adds that "personal data should be transmitted to a third party for re-use only where a legal basis under data protection law allows such transmission."
[28] Words emphasised by the authors.

on the other, through technical, legal or other means. [29] Closed groups, which would seem to be characterised by a determined number of data holders and data users, are thus excluded from the DIS definition.[30] The primary purpose of the regulation of DIS is to address trustworthiness issues between data holders and data users through the offering of a range of services, including the implementation of privacy-enhancing technologies.[31]

Aiming to ensure that they operate in a transparent and accountable manner, DIS covered by Article 10 DGA, namely those connecting data holders with data users, individuals and data users, and services of data cooperatives, must comply with a list of obligations found in Article 12 DGA.[32] First, they are required to submit a notification to the competent authority in the Member State of their establishment, or main establishment.[33] Once notified, DIS providers are authorised to offer their services across all Member States.[34] Subsequently, the Member State's competent authority for DIS must notify the Commission of each new notification as per Article 11(10) of the DGA, which will then include the DIS in its public register.

Beyond the mandatory notification requirement, Article 11 DGA provides a voluntary EU labelling process triggered at the request of the DIS provider, which allows the use of the label 'data intermediation services provider recognised in the Union' in the DIS provider's written and spoken communications, as well as a common logo. While the labelling process remains voluntary, the mandatory notification ensures that competent authorities for DIS maintain complete and up-to-date records of all DIS. With this said, there appears to be no requirement for Member States to maintain their own public register in addition to the EU-level register. Notably, the notification process is not necessarily free. Member States' competent authorities for DIS may charge fees provided that they are proportionate, objective, and based on the administrative costs related to compliance monitoring

[29] Four types of activities are in reality excluded from this definition: services that aggregate, enrich or transform the data for the purpose of adding substantial value to it and license the use of the resulting data to data users, without establishing a commercial relationship between data holders and data users, services that focus on the intermediation of copyright-protected content, services that are exclusively used by one data holder in order to enable the use of the data held by that data holder, or that are used by multiple legal persons in a closed group and non-commercial data sharing services offered by the public sector bodies. For an overview of the different types of DIS in scope for the DGA see Micheli M and others, 'Mapping the Landscape of Data Intermediaries' (Publications Office of the European Union 2023) Scientific analysis or review KJ-NA-31-576-EN-N (online),KJ-NA-31-576-EN-C (print).

[30] This explains why the landscape of data collaboratives is far broader than what is captured in the EU DIS register. See 'Data Collaboratives - Creating Public Value by Exchanging Data' (*GOVLAB*) <https://datacollaboratives.org/>. The definition of data collaboratives in this context is rather loose and covers collaborations "beyond the public-private partnership model, in which participants from different sectors—in particular companies- exchange their data to create public value."

[31] See Tervel Bobev and others, 'White Paper on the Definition of Data Intermediation Services' 1.

[32] Whether Article 11 DGA exhausts the definition found in Article 2(11) DGA is not clear.

[33] If the data intermediation service provider is not established in a Member States, it shall designate a legal representative in one of the Member States in which services are offered and proceed to the notification in this Member State under Article 11(3) DGA.

[34] Article 11(5) DGA.

and market control activities. These competent authorities may, but are not obliged to, impose a discounted fee or fee waiver for small and medium enterprises (SMEs) and start-ups under Article 11(11) DGA.

Article 12(a) DGA provides crucial requirements related to DIS business's structure. First, it requires them to operate their services through a separate legal person, requiring formal separation from any other services. This requirement is paired with the condition that DIS must only use provided data to put them at the disposal of data users. Furthermore, Article 12(c) DGA adds that data collected with respect to any activity of a natural or legal person for the purpose of the provision of the data intermediation service can only be used for service development, fraud detection or cybersecurity, and must be made available to the data holders upon request. These requirements aim to render DIS trustworthy to the extent that it reduces the risk of cross-data usage and potential misuse of data handled for intermediation purposes.[35]

As a matter of principle, subject to some exceptions, Article 12(d) DGA requires DIS to facilitate the exchange of the data in the format in which they receive it. Article 12(e) DGA adds that data may be transformed, which includes curation, conversion, anonymisation, and pseudonymisation, through specific tools, but only at the explicit request or approval of the data holder or data subject. Temporary storage may also be part of the services provided by the DIS provider.

Article 12 DGA addresses several structural concerns surrounding DIS: openness and inclusiveness are promoted through Article 12(f), which requires fair, transparent and non-discriminatory access procedures for data subjects, data holders and data users alike, including with respect to pricing and contractual terms. Interoperability obligations under Article 12(i) aims to ensure that different intermediation services can function seamlessly together, while Articles 12(k)–(l) underline the centrality of data security. Finally, when providers offer services directly to data subjects under Article 12(m), they must act in those subjects' best interests and facilitate the exercise of their rights, effectively imposing an obligation of loyalty.

Data Altruism Organisations

Chapter IV introduces the regime for data altruism, defined by Article 2(16) DGA, as the voluntary sharing of data based on the consent of data subjects to process personal data pertaining to them, or on the permissions of data holders to allow the use of their non-personal data without seeking or receiving a reward. This legal framework is designed to promote the voluntary sharing of data in pursuit of the public interest. As the definition of data altruism seems to suggest, objectives of general interest are defined at the Member State level.

[35] Baloup and others (n 26).

Registration of data altruism organisations is voluntary under Article 19 DGA, although it carries with it a set of obligations. An entity that meets Article 18 DGA requirements may submit an application for registration in the public national register of recognised data altruism organisations in the Member State in which it is established.[36] Importantly, under Article 18 DGA, the organisation must be a legal person established under national law to pursue objectives of general interest, operate on a not-for-profit basis and maintain legal independence from any for-profit entity. It must also preserve operational independence and ensure that its data altruism activities are conducted through a functionally separate structure that is not leveraged for other activities and comply with the Rulebook foreseen by Article 22 DGA.

Recognised data altruism organisations are under transparency and other data management requirements under Articles 20 and 21 DGA. Data altruism organisations must maintain records of data users, purposes for processing data, duration of processing, and any applicable fees.[37] They must also submit annual activity reports describing, in particular, data uses, data users, privacy and data protection measures applied on the data, and financial matters. One key requirement of the DGA is purpose limitation: data altruism organisations may not use the data for any purpose other than the public-interest objectives for which the data subject or data holder has authorised its processing, as per Article 21(2) DGA. Data security is also a key obligation for data altruism organisations.[38]

Similarly to the requirements for DIS, Member States must designate one or more competent authorities for the registration of data altruism organisations.[39] These authorities are responsible for maintaining the public national register of recognised data altruism organisations, and monitoring and supervising their compliance with the requirements laid down in Chapter IV of the DGA.[40]

Contrary to what appears to be the case for DIS, once a data altruism organisation is registered in the public national register of recognised data altruism organisations, it has the possibility to just use the label 'data altruism organisation recognised in the Union' in its written and spoken communication, as well as a common logo. The process of label obtention thus seems simpler than for DIS.

[36] Article 19(1) DGA.
[37] Article 20(1) DGA.
[38] Article 21(4)-(5) DGA. A rulebook adopted by the European Commission may further substantiate these obligations.
[39] Article 23 DGA.
[40] Article 24(1) DGA.

The processing of personal data for purposes of data altruism is intended to be based on consent within the meaning of Article 4 of the GDPR.[41] Under Article 21(3), a data altruism organisation must offer tools for obtaining consent. Article 25 DGA goes one step further and gives the European Commission the power to adopt "implementing acts establishing and developing a European data altruism consent form." Unsurprisingly, under article 25(2) DGA, consent is intended to be purpose specific: "[t]he European data altruism consent form shall use a modular approach allowing customisation for specific sectors and for different purposes."[42] What is not explored by the DGA is that the level of purpose specificity should largely depend upon the way workflows are built and whether they make it possible for data subjects to give consent at the project level.[43] Focusing upon a form template might thus be just distracting from the real implementation challenge.

Apart from introducing a process to create a uniform consent form, the DGA does little to facilitate data altruism activities. This partly explains why some in the research community, who have long sought to source data donations for various purposes, have regarded it as a missed opportunity. Veil observes that "[t]he Data Governance Act is not only annoyingly bureaucratic, but first and foremost a missed opportunity to breathe life into the "Data for Good" idea."[44]

c. DGA's Lexicon

When compared with the GDPR, it is clear that while the DGA relies upon GDPR concepts such as personal data, consent, processing, controller, processor, it also puts forward its own lexicon.

The DGA introduces the concept of permission defined under Article 2(6) DGA as the act of "giving data users the right to the processing of non-personal data." As the definition of data user is very broad (it means a "natural or legal person who has lawful access to certain personal or non-personal data and has the right (…) to use that data for commercial or non-commercial purposes"), permission appears to act like a legal basis for accessing non-personal data for secondary use.[45]

The DGA uses both the concepts of data users and re-user. Although re-user appears 34 times throughout the text, it is not formally defined in Article 2, whereas re-use is explicitly defined in Article 2(2). A re-user appears to be a kind of data user accessing data made available by public sector

[41] Article 25(3) DGA. See also Recital 52 DGA.
[42] See also Recital 52 DGA.
[43] Technically, this is feasible given the current state of the art in data architectures.
[44] See e.g., Winfried Veil, 'Data Altruism: How the EU Is Screwing up a Good Idea' (2022) AlgorithmWatch <https://algorithmwatch.org/en/eu-and-data-donations/>.
[45] EDPB and EDPS had initially stressed the ambiguity of such term. EDPB and EDPS, 'EDPB-EDPS Joint Opinion 03/2021 on the Proposal for a Regulation of the European Parliament and of the Council on European Data Governance (Data Governance Act)' (2021) Joint Opinion 03/2021 version 1.1 <https://www.edpb.europa.eu/our-work-tools/our-documents/edpbedps-joint-opinion/edpb-edps-joint-opinion-032021-proposal_en>.

bodies. It is unclear whether it makes sense to distinguish between the notions of data user and re-user.

The concept of data holder is exclusive of that of data subject as per Article 2(8) DGA. The definition is largely tautological, as it based upon the right "to grant access to or to share certain personal data or non-personal data." Although both data sharing and access are defined separately,[46] sharing seems to imply access.

Both the concepts of public interest and general interest are used in the text of the DGA. While the former only appear in the recitals and is used to describe potential purposes of re-use of public sector body data,[47] the concept of general interest is used to describe both conditions of the re-use of public sector body data and the activities of data altruism organisations.[48] Whether a substantive distinction must be drawn between the two terms is not clear.

Article 2(16) DGA offers examples of what may be considered objectives of general interest, such as using data for healthcare purposes, combating climate change, enhancing mobility, facilitating the development, production, and dissemination of official statistics, improving public service delivery, informing public policy, and conducting scientific research. When compared with the examples listed in Recital 45 GDPR illustrating the concept of public interest, there is only one explicit intersection: healthcare.[49]

The DGA also introduces in Article 2(20) a term that appears in other data laws establishing new data-access mandates: secure processing environments.[50] A secure processing environment is defined as "the physical or virtual environment and organisational means to ensure compliance with Union law, such as Regulation (EU) 2016/679, in particular with regard to data subjects' rights, intellectual property rights, and commercial and statistical confidentiality, integrity and accessibility, as well as with applicable national law, and to allow the entity providing the secure processing environment to determine and supervise all data processing actions, including the display, storage, download and export of data and the calculation of derivative data through computational algorithms." Notably, the definition emphasises the potential of secure processing environments to uphold data subjects' rights, although their principal purpose is to offer a controlled setting for data access. Upholding data subjects' rights is not therefore the main driver of such tooling in practice.

[46] See Article 2(10) and (13) DGA.
[47] See e.g., Recitals 6, 11, 16, 24 DGA.
[48] See e.g., Recitals 12, 13, 45, 46 DGA and Articles 12(16), (18), 4(2), 18(b) DGA.
[49] See also Baloup and others (n 26).
[50] See e.g., Article 2(1)(c) EHDS.

While the DGA is conceived as being without prejudice to the GDPR and expressly provides that in case of conflict the GDPR prevails,[51] it does create some tensions particularly relating to the role of consent as lawful legal basis for the sharing and reuse of public-data, and the concrete implementation of the principle of purpose specification and limitation in the context of the deployment of the European data altruism consent form.

Reading the DGA in the light of the GDPR, DIS providers appear to be viewed mainly as processors, although Recital 35 DGA preserves a controllership option as well. The same is true with Recital 50 and data altruism organisations. In the light of the case law of the Court of Justice of the European Union on joint controllership, the owner of the decision to share the data with a particular data user seem to be of paramount importance for characterising controllership, although this is not really emerging from the DGA itself.[52]

All in all, the DGA introduces a relatively complex lexicon, which does not simplify the GDPR analysis: it requires bringing data protection law expertise to make sense of the newly introduced definitions.

4. DGA's Impact

A doctrinal analysis of the statutory text is not, on its own, a dependable means of evaluating its practical impact. To better evaluate the DGA's real-world contribution, we conducted an explorative qualitative study with three types of stakeholders as explained in Section 2. After analysing the interview data, we decided to structure the discussion around the three pillars of the DGA to make it more accessible. What was striking was that the perceptions of the three groups of interviewees were largely aligned, and we did not identify any major discrepancies in their understanding of the regulatory framework.

Before turning once again to the DGA's three pillars, two preliminary observations are worth noting. First, while several interviewees adopted a rather optimistic stance, noting that it was still early in the timeline since the DGA entered into force and establishing an entirely new data ecosystem would take time, they all had feedback to share on ways to improve the framework. Notably, all representatives of data intermediaries demonstrated a sophisticated understanding of the framework. Second, the interviews with data intermediaries' representatives confirmed that the DGA

[51] Article 1(3) DGA.

[52] See e.g..*Nacionalinis visuomenės sveikatos centras prie Sveikatos apsaugos ministerijos* [2023] CJEU C-683/21, ECLI:EU:C:2023:949; *C-40/17 Fashion ID* [2019] CJEU C-40/17, ECLI:EU:C:2019:629; *X v Russmedia Digital SRL, Inform Media Press SRL* [2025] CJEU C-492/23, ECLI:EU:C:2025:935.,

does not exhaust the data intermediation space as closed groups are excluded from the definition of DIS and yet many closed data intermediaries are in operation, as confirmed by DIS interviewees.[53]

a. Protected Public-Sector Data Opening

Member States play a critical role in the DGA. They are expected to establish national authorities to supervise and safeguard the reuse of public sector data.[54] Moreover, national law serves an essential function in designating public sector bodies that are competent under national law to grant or refuse access for data reuse.[55]

On May, 2024, the Commission initiated infringement procedures by issuing a formal notice to 18 Member States that had not appointed the responsible authorities or had not demonstrated that these authorities are authorised to carry out the necessary tasks outlined in the DGA. [56] A similar situation occurred in July 2025, when the Commission initiated the infringement procedure against Ireland.[57] Although the infringement procedure has had some positive impact, Cyprus, the Czech Republic, Germany, Luxembourg, and Poland still have not appointed any responsible authorities at the time of writing.[58]

Despite the slow pace of national implementation, interviewees noted some positive trends, particularly when the implementation of the ODD had led to investments in technical expertise, which in turn significantly facilitated the operationalisation of the DGA. This may help explain why most Member States have designated already-established public bodies responsible for governmental digitalisation as the competent authorities under Chapter II of the DGA.

At the same time, interviewees observed that despite their prior experience, a key factor hindering Chapter II but also Chapter III and IV implementation was the limited availability of financial and human resources, particularly because the new responsibilities were added to an already heavy workload and required upskilling, in particular giving the intersection of many different data regulations. ("[T]he difficulty for me is the different texts that all exist besides each other." (4_PSB

[53] The French Association for Data Intermediation is actually recommending including closed groups within the definition of Article 10 DGA. See Association pour l'intermédiation de données (n 13).
[54] Article 5(1) DGA.
[55] Recital 15 DGA.
[56] Those Member States were Belgium, Czechia, Germany, Estonia, Greece, France, Italy, Cyprus, Latvia, Luxembourg, Malta, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, and Sweden. *In* European Commission. (2024, May 23). Commission calls on 18 Member States to comply with the EU Data Governance Act. Shaping Europe's Digital Future. Retrieved June 15, 2025, from https://digital-strategy.ec.europa.eu/en/news/commission-calls-18-member-states-comply-eu-data-governance-act.
[57] European Commission. (2024, July 25). The Commission calls on Ireland to comply with the EU Data Governance Act. Shaping Europe's Digital Future. Retrieved June 15, 2025, from https://digital-strategy.ec.europa.eu/en/news/commission-calls-ireland-comply-eu-data-governance-act.
[58] European Commission, 'EU Register of Data Intermediation Services' (*European Commission*, 2 December 2025) <https://digital-strategy.ec.europa.eu/en/policies/data-intermediary-services>.

(PSD), Pos. 85) "I definitely want to mention this, that this is a very new area of regulation [for us]. So, we are traditionally focused on consumer protection and competition enforcement, while in this case, we really had to upskill within the organisation to ensure that we could meet the demands of the regulatory landscape in this case." (2_PSB (DIS_DAO), Pos. 73) "What we can clarify is that the main obstacle in implementing the DGA has been the lack of human resources, both at the legislative level and among potential competent authorities. At the moment, there is no clear understanding of who should act as the competent authority and how. As of today, we are seeing significant fragmentation across the EU, meaning there is a lack of consistency." (3_PSB (DIS_DAO)), p. 1)).

A further factor contributing to the slow implementation of Chapter II relates to the DGA's fragmented oversight architecture. Most Member States have designated different bodies as competent authorities under Articles 7, 13, and 23 DGA, resulting in a multi-agency oversight model. Only Latvia and Romania have appointed a single authority with responsibility across all three provisions. Although the European Data Innovation Board (EDIB) serves as a key forum for coordination across Member State authorities, some interviewees noted that, in practice, limited attention is devoted to Chapter II. According to some interviewees, the European Commission's focus remains predominantly on other Chapters, particularly DIS, with comparatively little guidance directed toward the authorities responsible for implementing Chapter II, who feel largely excluded from the Board's discussions. ("But we do not have a formal sub shadow group for Chapter II affairs. And that is something that is missing, in my opinion, (…) because the DGA is more than data intermediaries and data altruism, it's really also about public sector information that is confidential and should be able to be reused in a confidential way." (4_PSB (PSD), Pos. 146-147)).

A significant consequence of this lack of guidance is that, although interviewees emphasised their willingness to implement the DGA and increase the availability of protected public-sector data, they receive little direction on how to operationalise these obligations in practice, which explains underuse of the framework. Some interviewees highlighted challenges in balancing the protection of third-party rights with making data accessible and reusable, for which no guidance is provided. ("I still highly believe we are only using it for 5 or 6% [of the data], that's just an estimation. (4_PSB (PSD), Pos. 157). "But yes, how it works in practice for maintaining confidentiality of very sensitive data sometimes with opening up and making use of all that government data in positive ways, it's a challenge, but we're working on it." (4_PSB (PSD), Pos. 183-184)).

Moreover, even regarding the DGA chapters governing DIS providers and data altruism organisations, some interviewees stressed that the European Commission should do more. ("So again, what I would say here is that I feel like the data Governance Act appears to have flown somewhere under the radar." (2_PSB (DIS_DAO), Pos. 57). "I believe that greater visibility and

promotion from the European Commission could help drive that awareness and uptake as well." (2_PSB (DIS_DAO), Pos. 59)).

Some interviewees also made it clear that the two-step process of compulsory registration and optional label acquisition requires a subtle allocation of competences among different teams. ("[B]ut actually we've split the tasks. (…). There is the notification procedure and also the labeling procedure. We call it the labeling procedure because if you read the DGA, it seems to happen in two steps, right? There's first the notification that's compulsory, and we have to answer within a week. But then [its's the labelling procedure], it's at the request of the data intermediation service provider, right? So they kind of decide whether they want to be subjected to this more stringent control. And so we do that whole part, but then the ex ante supervision of the conditions falls under the competence of a separate unit." (1_PDB (DIS_DAO), Pos. 1)). The separation between registration and label acquisition is likely to explain the confusion on the ground among DIS providers themselves. ("[I]f you don't fully understand the legislation, you might not even know that getting the label is not compulsory. I mean, right? That it's only compulsory to notify and then getting the label is completely up to you." (1_PDB (DIS_DAO), Pos. 1)).

b. Data Intermediation Services Takeoff

DIS providers and data altruism organisations are the pillars through which the DGA aims to enhance the sharing of data within the EU. However, despite the importance of Chapters III and IV of the DGA for the EU data governance model, the EU registers of DIS and data altruism organisations shows that, at the time of writing, only 8 Member States have registered DIS[59] and 2 have registered data altruism organisations,[60] suggesting a very slow uptake of these activities. To explore the causes of slow uptake, the interview questions focused on interviewees' perspectives regarding institutional, organisational, and resource-related barriers.

Answers revealed varying levels of commitment to implementing Chapters III and IV. Some interviewees mentioned efforts to provide clear and effective guidance to stakeholders through the development of frequently asked questions (FAQs), easy-to-follow registration procedures, and the organisation of discussion groups to assess stakeholder needs. At the same time, other interviewees indicated that their engagement with stakeholders remained largely passive, limited to responding to inquiries about whether actors were covered by the DGA. Interviews with DIS providers reinforced these findings, indicating that their interactions with Member State authorities varied

[59] ibid.
[60] European Commission, 'EU Register of Recognised Data Altruism Organisations' (*European Commission*, 31 July 2025) <https://digital-strategy.ec.europa.eu/en/policies/data-altruism-organisations>.

considerably, particularly regarding the authorities' readiness to provide support and implement the DGA.

From the analysis of interview data, it thus seems that the low number of registered DIS (28 in total) cannot solely be blamed on the lack of commitment on the part of Member States to implement the DGA.[61] At the time of writing, 22 Member States have implemented Article 13 DGA, and yet only 8 of them have registered DIS providers at an EU level.[62] This gap suggests that implementation, in the sense of designating competent authorities alone, does not guarantee market uptake.

Building on this observation, the interview questions also examined whether the limited number of registrations could result from the viability of their business models. Carovano and Finck have stressed that the DGA imposes requirements that, in practice, limit the diversity of operational models. One contentious requirement reported by these authors is the neutrality obligation, which mandates that data intermediation service providers act solely as facilitators of data exchange, without utilising the data for any other purpose. By restricting intermediaries from offering additional services that could strengthen their competitive edge, such as analytics, marketing, or other secondary uses, the DGA reduces the attractiveness of DIS.[63]

The interview data partly supports this assessment. While some interviewees have noted that greater flexibility regarding the neutrality obligations would facilitate the development of their business models, the interview analysis shows that interviewees do not prioritise it in the same way, with one acknowledging both the pros and cons of such changes, and another one stressing the importance of limiting re-use to low-risk activities. In any case, the interview analysis suggests that data reuse prohibitions are not the main obstacle to the take-off of DIS activities.

To be fair, the DGA does distinguish between provided data and usage data and allows DIS providers to leverage usage data for service development.[64] As mentioned above, the DGA also foresees that DIS providers are able to offer data formatting services to data users as well as curation and other transformation services at the request of data holders.[65] What is more, the obligation not to reuse provided data for purposes other than the provision of the services is considered by some interviewees as an important differentiator with bigger players, some of which are actually under an

[61] European Commission, 'EU Register of Data Intermediation Services' (n 60).
[62] ibid.
[63] Carovano and Finck (n 7).
[64] Article 12(c) DGA.
[65] Article 12(d)-(e) DGA.

obligation not to combine and use data generated through different services under the Digital Markets Act.[66]

What is more, for specific DIS, the category of provided data is actually very small. Under Article 10(b) DGA, services appear to fall within scope when they make available the technical or other means necessary to enable data flows between data subjects and potential data users, e.g., services enabling the exercise of data subjects' rights, even if these services do not process the data flowing between data subjects and data users themselves.

The interview analysis indicates that one very important reason explaining the low take-off is the lack of public awareness about the added value of data sharing through DIS, about the range of use cases that are in scope for DIS, and their operational characteristics, especially for providers offering consumer-facing services.

Ultimately, when DIS providers fail it is because they do not have a solid use case at hand. ("You can't be an intermediary in data intermediation without having an eye on the use cases." (3_DIS, Pos. 170)).

DIS interviewees echoed the view that national regulators have hardly been proactive in raising public awareness for specific use cases. Indeed, only one public-sector body interviewee mentioned awareness campaigns as part of their implementation efforts.

This lack of awareness cannot simply be explained by pointing to the national level. DIS interviews also mentioned that there has been virtually no effort at the European level to promote or communicate the potential value of DIS. Interviewees noted that, beyond the formal adoption of the DGA provisions, no EU-wide initiatives, guidance campaigns, or outreach activities have been undertaken to familiarise stakeholders and the broader public with these new services. The absence of a coordinated awareness-raising effort further compounds the challenges identified above, suggesting that the limited uptake of DIS stems from a lack of commitment, both at the Member State and EU levels, to fostering visibility and understanding of the DGA's new governance model. ("I'm sorry, but that's unbelievable, unbelievable that we don't have systems in place to monitor what's being done based on the texts." (3_DIS, Pos. 150); "I would love for influential people in Europe to ask themselves: How do we help businesses? Who is innovating on the free flow of data, and what is needed for it to happen? Without excluding anyone, there's no way to help. It has to be multi-stakeholder, it has to be a team effort." (3_DIS, Pos. 200)).

[66] Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) OJ L 265, 12.10.2022, pp. 1–66 (See Article 5(2)).

So far, the only EU-level action related to awareness-raising of DIS is the development of a register and common logos to identify trustworthy EU DIS, which has been praised by interviewees, but which has also led to some confusion on the ground as hinted above. Some interviewees mentioned that the difference between registering a DIS and obtaining a label was not always well understood on the ground. Although a 2023 JRC report on DIS identified awareness as a key factor for their development, it did not expand further.[67]

What is more, no DIS interviewee mentioned the necessity to make registration voluntary to facilitate uptake. As expected, getting visibility through the registration process and obtaining a label is seen positively by all interviewees. ("If you've got a nice stamp of approval on your website saying you're EU approved, then that immediately takes away the worry from a potential customer that you are going to follow the rules and that the (…) Government is going to monitor you and audit you." (6_DIS, Pos. 83)).

What some interviewees did mention, however, was the lack of effort to facilitate and support the work of small actors wanting to become DIS providers. Credibility is crucial for small actors and so they welcome the registration and labelling processes. ("It doesn't matter if you're a small company, you're following the rules and that's it. So I think it's very important. I don't have big load of start-up money, so I thought it gives me credibility. It also helped give me structure as well, so yeah." (6_DIS, Pos. 84)). But making sure SMEs have the means to become financially sustainable and pursue data sovereignty is also an important consideration ("For example, if you're not making very much money and you have to pay for Amazon Web Services or as your web services, it's very expensive, but I believe there's now an EU initiative to have EU based cloud service providers and make them much cheaper." (6_DIS, Pos. 97)).

Concerns about potential high fees applied by regulators were mentioned for Member States that have not designated competent authorities yet. ("[I]f it's a very small company like ours, it should be very, very, very cheap." (4_DIS, Pos. 116)). As per Article 10(11). This is because competent authorities for DIS are not obliged to lower or waive fees for SMEs and start-ups.

c. Data Altruism Take-off

The analysis of interview data reflects a similar pattern in the case of data altruism organisations. Despite Member States' implementation, the EU register of recognised data altruism organisations only features one registered organisation in Spain and two in Belgium at the time of writing.[68] While

[67] M and others (n 31).

[68] European Commission. EU register of recognised data altruism organisations. Shaping Europe's Digital Future. Retrieved June 15, 2025, from https://digital-strategy.ec.europa.eu/en/policies/data-altruism-organisations

registration under the DGA is voluntary, organisations that opt-in must comply with several administrative requirements, such as record-keeping, annual reporting, and the implementation of robust data-handling protocols. Just like for DIS, the interview findings do not suggest that these obligations, in themselves, constitute a primary barrier to registration. However, the requirement to operate on a not-for-profit basis, combined with the overall compliance burden, appears to be a significant deterrent contributing to the low number of registered data altruism organisations in the EU as per some commentators.[69]

Beyond these requirements, a significant deterrent that emerged from the interviews was the lack of awareness among the public in part due to the inaction of the European Commission, as regards the role of data altruism organisations in the EU data-sharing ecosystem. Although data altruism organisations are described in the DGA as a key stakeholder for the sharing of data for the public good, they are not expressly integrated within sector-specific data spaces, such as the European Health Data Space Regulation (EHDS),[70] essentially sidelining the role of data altruism organisations from the broader EU health data ecosystem.

Furthermore, it is worth noting that the European Commission plays a significant role in implementing the DGA, particularly in developing data altruism consent forms, which have been deferred by Article 22 of the DGA to an implementing act that was yet to be adopted at the time of writing. Some commentators have complained about the delay, stating tit may be hindering the emergence of new data altruism organisations.[71] An interviewee noted, however, that the consent form could limit the creativity of those who might otherwise develop innovative approaches to consent management beyond the form's structure. ("So this would be another change to do for the DGA, like, adopt not the consent form that they are suggesting, but another form, such as dynamic consent." (1_DAO, Pos. 1)).

Returning to the interview findings from Member State bodies, a similar dynamic can be observed with respect to data altruism organisations. Interviewees indicated that their approach to this chapter of the DGA has been largely passive, characterised by minimal outreach and virtually no efforts to raise awareness among potential stakeholders. Some public-sector body interviewees reported that they had not undertaken campaigns or guidance initiatives to inform organisations or individuals about the purpose, benefits, or practical requirements for becoming a data altruism organisation. This lack of proactive engagement, when combined with the absence of action from

[69] Veil (n 46).

[70] Regulation (EU) 2025/327 of the European Parliament and of the Council of 11 February 2025 on the European Health Data Space and amending Directive 2011/24/EU and Regulation (EU) 2024/2847 OJ L, 2025/327, 5.3.2025.

[71] Baloup and others (n 26).

the European Commission, was identified as contributing to the limited visibility and uptake of data altruism activities.

5. DGA's Future

a. The Data Union Strategy

On 23 May 2025, the European Commission launched a public consultation on the European Data Union Strategy (DUS),[72] an initiative aimed at bringing coherence and clarity to the EU's increasingly complex landscape of data-related frameworks, which closed on 20 July 2025.

The launch of the DUS aligns with the European Commission's 2025 work program, which emphasises competitiveness and economic resilience across the EU by making rules simpler and more effective.[73] In this line, a recurring theme of this program is the need to reduce regulatory burdens.[74]

Following the consultation period, the European Commission published its DUS on 19 November 2025.[75] The text reflects a commitment to simplifying the EU's current regulatory environment, which is marked by a complex patchwork of rules, uneven implementation across Member States, legal uncertainty, and significant compliance costs, particularly for SMEs.

To address these challenges, in particular data scarcity, regulatory complexity, and rising global competition, the Strategy organises its initiatives around three core priorities.

(i) Scaling up access to data for AI and innovation. The European Commission recognises that high-quality, large-scale data is essential for developing competitive AI and sustaining industrial leadership. Current EU data ecosystems are often siloed, limiting AI development. Pillar I of the Strategy aims to create a seamless, interoperable data ecosystem. Central to this effort is the launch

[72] European Commission, 'Call for Evidence For a European Data Union Strategy (without an Impact Assessment)' (2025) Ares(2025)4163996 <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14541-European-Data-Union-Strategy_en>. A total of 247 responses have been received by the European Commission.

[73] European Commission, 'Explaining the Commisison Work Programme 2025' <https://commission.europa.eu/document/download/537a45af-ad64-494c-a165-6410b10657b0_en?filename=CWP_2025_explained_en.pdf>; European Commission, 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Commission Work Programme 2025 – Moving Forward Together: A Bolder, Simpler, Faster Union' (2025) COM (2025) 45 final <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52025DC0045&qid=1761126737792>.

[74] European Commission, 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Commission Work Programme 2025 – Moving Forward Together: A Bolder, Simpler, Faster Union' (n 75).

[75] European Commission, 'Data Union Strategy - Unlocking Data for AI' (2025) COM(2025) 835 final <https://digital-strategy.ec.europa.eu/en/library/data-union-strategy-unlocking-data-ai>. The Digital Package also comprises a proposal for a Regulation on the establishment of European Business Wallets.

of data labs, that are said to "offer trusted pseudonymisation services and pool data resources across public and private actors to provide companies and researchers with high-quality datasets."[76] The Strategy also proposes expanding public-sector datasets under the ODD.

(ii) Streamlining data rules. According to the DUS, the swift rollout of several major regulations has left the EU's data framework fragmented, creating legal uncertainty and driving up compliance costs. Pillar II indicates that efforts to simplify the framework centre on the Digital Omnibus, a legislative proposal to consolidate the EU's horizontal data acquis into a clearer, more streamlined structure.

The DUS flags regulatory complexity as a barrier to scale. The document refers to the introduction, since 2020, of landmark digital regulations, particularly the DGA, DA, and sector-specific rules such as the EHDS, layered atop existing rules. According to the DUS, this has produced a fragmented regulatory landscape, exacerbated by uneven implementation across Member States and overlaps with the GDPR. The resulting legal uncertainty and high compliance costs are said to disproportionately affect start-ups and SMEs. For example, DIS providers, an emerging sector, face restrictive obligations that constrain growth. The DUS suggests that imposing disproportionate requirements on early-stage ecosystems could slow the adoption of data-sharing models and stall the development of data spaces.

(iii) Strengthening the EU's global position on international data flows. Pillar III of the Strategy focuses on securing cross-border data flows in line with EU values. It seeks to prevent unjustified barriers and address situations in which EU data flows abroad without adequate safeguards. Planned measures include an anti-data-leakage toolbox to counter localisation demands or insufficient protections in third countries,[77] the promotion of the European Trusted Data Framework (to strengthen convergence and interoperability), and deeper international cooperation with like-minded partners to attract data flows through interoperable connections between data ecosystems.

Building on the need to streamline the EU's data framework, the DUS emphasises in Pillar II that the Digital Omnibus proposal should consolidate the operational components of the DGA into the DA. On page 13, the document notes that the Omnibus will repeal the DGA and transfer its essential provisions into the DA. This approach aims to simplify obligations for data intermediaries, by making them lighter and voluntary.

[76] ibid 1. It is not exactly obvious in which ways the concept of a data lab differ from DIS.
[77] The Strategy does not specify the toolbox or its exact content. Its purpose appears to focus on situations where data transfers or use in non-EU jurisdictions create imbalances, risks, or unfair treatment. This includes cases where EU data flows abroad without adequate safeguards or where third countries impose data localisation, market exclusion, or other restrictive conditions on EU entities. (European Commission, 'European Data Union Strategy' (Shaping Europe's Digital Future) https://digital-strategy.ec.europa.eu/en/policies/data-union accessed 1 December 2025).

b. The Digital Omnibus

The release of the Digital Omnibus follows another public consultation started by the European Commission on 16 September and closed on 14 October.[78] A month later, the European Commission published the Digital Omnibus Regulation Proposal on 19 November 2025.[79] The proposed Digital Omnibus is released together with a Digital Fitness Check, i.e., another call for evidence to get input on how "the digital rulebook affects and supports the competitiveness objective of the EU, focusing on areas of strategic importance."[80] The timing of this call sits oddly with the already-proposed Digital Omnibus.

Since the Draghi Report,[81] policy documents and legislative proposals have repeatedly emphasised the objectives of ensuring competitiveness and efficiency, officially calling for the streamlining of digital laws and clearer articulation of their interconnections.[82]

The Digital Omnibus is thus presented as a way to advance a set of targeted amendments to the existing digital acquis, with the stated objective of enhancing competitiveness, improving the practical application of the regulatory framework, and reducing compliance costs.[83] As mentioned in its explanatory memorandum, this approach involves "technical amendments" across a wide range of digital laws, in an attempt to implement a "simplicity by design" strategy.[84]

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[78] European Commission, 'Call for Evidence - Digital Omnibus (Digital Package on Simplification)' (2025) <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14855-Simplification-digital-package-and-omnibus_en>. A total of 512 responses have been received by the European Commission.

[79] European Commission, 'Proposal for a Regulation of the European Parliament and of the Council Amending Regulations (EU) 2016/679, (EU) 2018/1724, (EU) 2018/1725, (EU) 2023/2854 and Directives 2002/58/EC, (EU) 2022/2555 and (EU) 2022/2557 as Regards the Simplification of the Digital Legislative Framework, and Repealing Regulations (EU) 2018/1807, (EU) 2019/1150, (EU) 2022/868, and Directive (EU) 2019/1024 (Digital Omnibus)' (n 2). To be more precise, the Digital Omnibus two distinct proposed regulations: Digital Omnibus covering data, cybersecurity and privacy rules and the Digital Omnibus on AI.

[80] European Commission, 'Call for Evidence for a Digital Fitness Check' (2025) Ares(2025)10018469 <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/15554-Digital-fitness-check-testing-the-cumulative-impact-of-the-EUs-digital-rules_en>.

[81] Mario Draghi, 'The Future of European Competitiveness: A Competitiveness Strategy for Europe' (European Commission 2024) <https://commission.europa.eu/document/download/97e481fd-2dc3-412d-be4c-f152a8232961_en?filename=The%20future%20of%20European%20competitiveness%20_%20A%20competitiveness%20strategy%20for%20Europe.pdf>.

[82] See Hannah Ruschemeier, 'The Omnibus Package of the EU Commission: Or How to Kill Data Protection Fast' (*VerfBlog*, 17 November 2025) <https://verfassungsblog.de/the-omnibus-package-of-the-eu-commission/>.

[83] European Commission, Digital Omnibus Regulation Proposal (Policy and Legislation, 19 November 2025) https://digital-strategy.ec.europa.eu/en/library/digital-omnibus-regulation-proposal accessed 21 November 2025.

[84] After the GDPR entered into force, by design principles multiplied across the EU's regulatory landscape. See Jukka Ruohonen, '"By Design" Principles Considered Harmful' [2025] Internet Policy Review <https://policyreview.info/articles/news/design-principles-considered-harmful/2030>. What began as a mandate to embed data protection into technological architectures has evolved into a broader legislative habit: attaching by design to an ever-growing set of regulatory aims. This expansion has sparked attempts to theorise what it means to regulate through design, whether understood as the outcome of policy measures

Among the proposal's most substantial interventions is the comprehensive streamlining of the data regulatory framework into primarily two acts: the GDPR and the DA. This consolidation is achieved, in part, by incorporating key provisions of the DGA, previously contained in Chapters II, III and IV, into the DA in new Chapters VIIa and VIIc. Important parts of the ODD are also incorporated into Chapter VIIc, and what is left of the Free Flow of Non-personal Data Regulation,[85] that is the prohibition of data localisation in the Union, is found in Chapter IIb. The rationale for the changes brought to the DGA by the proposed Digital Omnibus are found in Recitals 7 and 8. They mention complaints about stringent rules that have prevented actors from finding sustainable financial models and have generated compliance costs, which explain the shift toward a voluntary regime for DIS.

The Digital Omnibus introduces several definitional tweaks, including updated definitions of data holders and DIS. Data holders are now defined in reference to the right and obligation to use or make available data,[86] and the criterion of establishing a commercial relationships for the purposes of data sharing present in the current definition of DIS is replaced by that of establishing "relationships of an economic character for the purposes of data sharing" in an attempt to broaden the definition.[87] The DIS definition also loses its three main examples, including services of data cooperatives. As regards closed groups, Recital 8 specifies that "[s]ervices should not be eligible to register as data intermediation services where they are exclusively used by a closed group of companies and where any extension of that group of companies can only be decided by that group and not the service provider," to explain the exclusion of services that are "jointly procured by several legal persons for exclusive use among them," from the definition of DIS.[88]

One modification to Chapter II DGA to be welcome is the introduction of the possibility for public sector bodies "to set out different conditions and charge higher fees for the re-use by very large enterprises and in particular undertakings designated as gatekeepers."[89]

Under the current DGA framework and as stated above, providers of DIS are subject to a compulsory notification regime. The proposed Digital Omnibus would then transform it into a voluntary notification regime.[90] Yet, as the outcome of the interviews have shown, the compulsory notification

adopted by public bodies or as a broader practice that subsumes design within the regulatory enterprise. Kostina Prifti, 'The Theory of "Regulation By Design" - Toward a Pragmatist Reconstruction' [2024] Technology and Regulation 152.

[85] Regulation (EU) 2018/1807 of the European Parliament and of the Council of 14 November 2018 on a framework for the free flow of non-personal data in the European Union OJ L 303, 28.11.2018, pp. 59–68.

[86] Proposed Article 2(13) DA.

[87] Proposed Article 2(38a) DA.

[88] Proposed Article 2(38a)(2) DA.

[89] European Commission, 'Call for Evidence - Digital Omnibus (Digital Package on Simplification)' (n 80) 5. See also proposed Article 32q(6) DA.

[90] See proposed Article 32e(1) DA.

regime is not considered in itself a factor of concern. In fact, the majority of interviewees indicated that the process was straightforward and unobtrusive, and that it was worthwhile to undertake in order to enhance visibility. It is worth nothing at this stage that the French Association on Data Intermediation recommended in its white paper to keep the registration compulsory and include closed group into the definition of DIS.[91]

The proposal also introduces a requirement of functional separation between core DIS services and added-value services for providers that are not micro or small sized enterprises and removes the previous obligation of full legal separation between DIS and other value-added services, allowing providers to offer additional services while maintaining operational independence.[92] Gatekeepers within the meaning of the DMA are prohibited from acting as the entity offering value-added services.[93] This adjustment appears to be an attempt to reconcile trustworthiness imperatives with practical considerations of market viability. This modification aligns with the insights gathered from our interviews, although on the whole interviewees seemed to view this modification as a nice-to-have rather than as a must-do. While this proposed change may help facilitate the emergence of new DIS by reducing one potential break identified by interviewees, it is not tackling the core of the problem.

In addition, the notification and label processes discussed during some of our interviews seem to be merged, which should be welcome. The proposed Article 32a(2) states that "[d]ata intermediation services providers registered in the public Union register (…) may use the label 'data intermediation services provider recognised in the Union' in its written and spoken communication, as well as a common logo (…)." The same remains true for data altruism organisations.

Furthermore, the Digital Omnibus revises the framework for data altruism organisations, which enable voluntary data sharing for societal or scientific purposes. Under the DGA, these entities operated under a voluntary registration regime coupled with extensive transparency and safeguarding obligations, to be expanded through the development of a prescriptive "Data Altruism Rulebook." The Omnibus proposal eliminates these layers of administrative requirements, simplifying obligations and repeals the idea to supplement the DGA rules with a "data altruism Rulebook."[94]

[91] Association pour l'intermédiation de données (n 13) 5.
[92] Proposed Article 32c(d) DA.
[93] Proposed Article 32b(d)(iv) DA.
[94] European Commission, 'Proposal for a Regulation of the European Parliament and of the Council Amending Regulations (EU) 2016/679, (EU) 2018/1724, (EU) 2018/1725, (EU) 2023/2854 and Directives 2002/58/EC, (EU) 2022/2555 and (EU) 2022/2557 as Regards the Simplification of the Digital Legislative Framework, and Repealing Regulations (EU) 2018/1807, (EU) 2019/1150, (EU) 2022/868, and Directive (EU) 2019/1024 (Digital Omnibus)' (n 2) 17.

The European data altruism consent form is now considered unnecessary and thus repealed as well. Recital 7 of the Digital Omnibus proposal explains it in the light of the EDPB study on the processing of personal data in the context of scientific research.[95] Interestingly, the interview findings align with the proposed amendment, although more real-world data on this point would be welcome.

The European Commission embeds the DGA's mechanisms, especially those governing DIS and data altruism organisations, into the DA, which reduces the emphasis on the DGA's original governance philosophy. In practice, the Digital Omnibus recasts the DA as the EU's primary instrument of "data law," emphasising regulatory reach over conceptual framing. This consolidation creates its own complexities. The DA already attracts scrutiny for its expansive scope, and adding DGA provisions expands its ambit further. At the same time, embedding of the DGA does not solve the lack of clear synergies between DIS providers and data altruism organisations with the broader EU data access framework and EU Common Data Spaces.

c. The Unaddressed

One important finding stemming from the interview data analysis that is not addressed by the European Commission in its attempt to simplify the regulatory framework is strengthening enforcement of the data access mandates. Several DIS interviews have stressed the importance of making data access and portability a reality. ("And so in our next round, hopefully we'll reach a much higher percent than (…) % success rate in having data portability. But probably data holders will find new excuses not to share the data." (2_DIS, Pos. 162-163); "The solution is to ensure that portability is forced by the citizen, through use cases, by demonstrating the benefit and value proposition for each European citizen, and to ensure that the citizen accepts it. So, once again, this is an element that proves that the time for drafting is over; the time for action is now." (3_DIS, Pos. 136)). Initiatives from regulators such as the French Data Protection Authority's one on data portability for loyalty cards, which specifies which data points are in scope for the right to portability, have been praised for having made a difference on the ground.[96]

As hinted above, another crucial finding is the importance of show-casing existing use cases and convincing people to develop other use cases, including through funding. Related to that is the important challenge of bringing SMEs on board, as confirmed by several interviewed data

[95] EDPB, 'Study on the Secondary Use of Personal Data in the Context of Scientific Research' (2025) <https://www.edpb.europa.eu/our-work-tools/our-documents/other/study-secondary-use-personal-data-context-scientific-research_en>.

[96] CNIL, 'Programmes de Fidélité : La CNIL Précise l'application Du Droit à La Portabilité Des Données' (*CNIL*, 14 October 2025) <https://www.cnil.fr/fr/programmes-de-fidelite-la-cnil-precise-lapplication-du-droit-la-portabilite-des-donnees>. Both bar codes and the amount of a promotion obtained during a purchase constitutes data that a person can access and request to be ported, when it is part of a loyalty program and can be attributed to the beneficiary customer.

intermediaries that are all small enterprises. ("So, Europe should be interested in what companies are doing and the support they provide; that's the only, the only, message. And let's not navel-gaze about whether my text is good or whether I can make it better. It's pointless." (3_DIS, Pos. 180). "So either we recognize them [data intermediaries], we identify them, we help them, or I'll go do that somewhere else." (3_DIS, Pos. 210). "So I'm a really pro-European, I'm really convinced by the positive role of the European Union, but I think that Europe has to fulfil its promises and not only communicate." (1_DAO, Pos. 1)). While interviewees called for action at the EU level, Recital 8 of the proposed Digital Omnibus simply state that "[i]t should be possible for government organisations to financially support data intermediation services or data altruism organisations, in particular given the emerging nature of these entities, provided that they are legally separate entities."

One perceived weakness of the EU is that it is deficient in economic intelligence. Another is the lack of financial investment in favour of entities engaging in data intermediary activities. ("[H]ere we are, creating a European fund to help companies that facilitate the free movement of goods and services. That's what we want, that's what we want to achieve in five years. In five years, we want to ensure that no data can be kept by companies solely for their own benefit. You see what I mean? Because that's what's going to kill businesses, along with AI, with the accelerating revolution ahead. I've seen it. Because we've created quite a mess [in the market I operate]. So, [data holders] did everything they could to prevent [my company] from succeeding." (3_DIS, Pos. 134)).

Finally, one other important obstacle to enabling data sharing and reuse was said to lie in the prevailing compliance culture that makes constructive dialogue between compliance roles and more technical roles rare occurrences. ("And they [legal persona] screw everything up. Exactly. And they cost so much as well, as a fee." (4_DIS, Pos. 160)). For this particular obstacle, it was felt that amending the legislative text would probably worsen the problem. Researchers have also been criticised when they simply point to a lack of initiative without knowing what is already being attempted in the market. ("That I hear someone (…), in a European [conference] organized by the CNIL (French Data Protection Authority), saying it's a shame there are no initiatives being taken in the private sector regarding the portability of personal data, it's unbelievable." (3_DIS, Pos. 150)).

6. Conclusion

A close reading of the DGA suggests that portraying it as a comprehensive, horizontal regulatory framework capable of enabling data-driven innovative business models is overly ambitious. What is particularly striking, when comparing the substance of the DGA with the European Commission's stated intentions in the European Data Strategy**,** especially in light of subsequent developments such as the adoption of the EHDS**,** is that the final text of the DGA does not fully align with the Commission's original objectives. In other words, the DGA appears to be a rather shallow horizontal

framework, whose main pillars have been largely ignored in subsequent regulatory initiatives establishing bespoke Common European Data Spaces, such as the EHDS.

By way of example, the EHDS does not include any data intermediation service or data altruism organisation within its governance framework. Instead, it introduces a new category of actors, which overlap with the category of competent bodies under Article 7 DGA (i.e., health data access bodies as per Article 55 EHDS),[97] and a new type of actors under Article 50(3) EHDS (i.e., health data intermediation entities that carry out the duties of certain categories of health data holders such as making available, providing, restricting access to, and exchanging electronic health data for secondary use provided by health data holders), but which are not DIS under Article 2(11) DGA. Data altruism organisations are largely ignored by the EHDS.

Despite its conceptual limitations, the DGA is nevertheless perceived quite positively in practice, as interviewees representing data intermediaries indicated. They seem to opine that, even if imperfectly, the DGA has managed to point toward an alternative to dominant data walled gardens. Several interviewees emphasise that, at this stage, legislative rewriting is less important than support for effective implementation. At the same time, interviewees within public-sector bodies show that these actors have not allocated substantial resources to showcase compelling use cases for data sharing and reuse.

Overall, interviewees representing data intermediaries are convinced that their roles and activities are central to the European model for multi-party data access and reuse, a model that must be significantly accelerated if it is to offer a credible alternative to the current one and remain sustainable in the long term.

After reviewing the most recent documents produced by the European Commission, it still remains difficult to unpack its vision of data governance and provide a rigorous definition of the term. In fact, data governance appears to be a narrative that is losing both traction and precision, partly failing to focus on actionable measures that could meaningfully advance a European model for multi-party data access and reuse, and introducing yet another set of terms such as data labs that are difficult to reconcile with the existing lexicon. As most of our interviewees have stressed, one key enabler would be to invest in prototyping and documenting use cases, so that it is possible to both demonstrate the added value of data intermediary services and review the strength of the solutions built in the light of existing frameworks, such as the GDPR. Despite what policy reports seem to

[97] For a critical overview of the role of these intermediaries see Paul Quinn, 'Health Data Access Bodies under the European Health Data Space – A Technocratic Colossus or Rubber Stamp Forum?' (2025) 2025 Technology and Regulation 60.

suggest, the data intermediaries that we have interviewed see the GDPR as an opportunity for innovation, with several of them having within their own portfolio AI-related use cases.[98]

Furthermore, not only does the European Commission fail to focus on the key priorities needed to enhance the potential of trustworthy data intermediaries, but with the Digital Omnibus it also risks undermining the GDPR itself, particularly by introducing additional frictions in the exercise of the right to data access.[99]

From our exploratory qualitative study, several recommendations surfaced. Participants stressed the need to expand access to data through intermediaries (deemed trustworthy and formally recognised as such), rather than simply burdening these actors with additional obligations. This would require more proactive enforcement of existing data-access mandates scattered across the EU's digital rulebook, including the GDPR's rights of access and portability under Articles 15 and 20. They also called for the creation of cross-regulatory sandboxes to foster experimentation; and insisted strongly on the importance of use cases, for which a public register of good-practice data-sharing use cases could perhaps be introduced to increase their visibility; some of them also signal the importance of dedicated funding to support and showcase prototypes and proofs of concept. Above all, however, one message was unmistakable: meaningful progress depends on the development and deployment of real-world use cases.

In concluding this working paper, we acknowledge the limitations of our study, particularly given the existence of many closed-group data intermediaries which are not represented in the interview data and for which further qualitative research is needed to understand their needs and actual achievements, including in terms of regulatory compliance. Nevertheless, the interview analysis confirms that rushed legislative reforms may ultimately become a distraction, diverting resources away from where they are truly needed.

Finally, we end with one last note on research methods. In an attempt to better inform policymaking, which should be evidence based although no impact assessment has been performed to justify the potential changes brought by the proposed Digital Omnibus, this working paper underscores the urgent need for more empirical legal research.

[98] They are attempting to unlock access to data to facilitate reuse of data for deploying, e.g., services leveraging AI models.
[99] Draft Article 12(5) GDPR seems to be viewing negatively requests to access data for purposes other than the protection of personal data.

Acknowledgements:

We extend our sincere gratitude to all interviewees for the time and insights they generously contributed to this study.

Declaration of Interest Statement:

The authors declare that they have no conflicts of interest relevant to the content of this manuscript.