

 DATA SHARING  
COALITION

Response to the Market Consultation on the Data Act: towards a unified approach to data sharing

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# 1 Introduction to Data Sharing Coalition

The Data Sharing Coalition [\[link\]](#) is a collaborative initiative that aims to stimulate unified, secure and easy cross-sectoral data sharing under the control of the entitled party between organisations in different sectors and domains. The initiative is a response of the Dutch Ministry of Economic Affairs and Climate Policy to their research study on the Dutch Vision on Data Sharing [\[link\]](#) (English).

Participating European and international organisations (such as data service providers, data sharing initiatives, industry associations, research institutions and universities) collaborate in use cases to create new value from cross-sectoral data sharing [\[link\]](#) and generate insights on the generic agreements requirements to achieve a scalable data economy [\[link\]](#).

Currently, over 46 organisations are committed to the coalition and the number is growing with other organisations joining the open initiative.



**Figure 1: Overview of Data Sharing Coalition participants as of 18 August 2021**

In a formalised, use case led and phased co-creation process, the Data Sharing Coalition (DSC) works (2020 – 2025) towards a generic soft infrastructure for cross-sectoral data sharing, including generic agreements and principles enabling self-regulation and interoperability between data sharing initiatives.

DSC's main objectives for 2021-2022 are:

1. Realisation of cross-sectoral use cases to unlock potential value
2. Determine harmonisation potential between data sharing initiatives
3. Drive knowledge sharing and external communication about the value of cross-sectoral data sharing

## 2 General view on Data Act by the Data Sharing Coalition

The Data Sharing Coalition (DSC) welcomes the alignment between its own goals and the goals of the European Commission to ensure that more data becomes available for use in the data economy, while ensuring that data remains sovereign and is used for authorised purposes only, as controlled by the entitled party

The DSC encourages the objectives of the Data Act to improve fair access and portability of data, since this is considered a key enabler of value creation in the data economy. Businesses should have a lawful basis for data sharing like consumers have under GDPR, in particular for data that they generated themselves using machinery (IoT) and computer tooling (software, hardware). Businesses should be provided the tools and mechanisms to access and transfer their data to any 3rd party based on their consent. Releasing these data will spark new value creation and services.

In further advancing the Data Act, the DSC encourages the Commission to set the right values and principles for access and use of data such that the market can develop the supportive infrastructure and technology for data sharing.

## 3 Response per selected Policy Theme

First-hand experience of DSC participants developing data sharing use cases in business-to-business (B2B) and business-to-government (B2G) contexts have been gathered to formulate a response to the Commission. The Data Sharing Coalition wants to share these insights and perspectives to further provide substance to the following policies:

- (i) Business-to-government data sharing for the public interest
- (ii) Business-to-business data sharing, including clarifying rights on non-personal Internet-of-Things (IoT) data stemming from professional use (iv)
- (iii) Tools for data sharing: smart contracts
- (vi) Complementing the portability right under Article 20 GDPR

The DSC selected these policies because they strongly align with the goals and nature of the Data Sharing Coalition.

### 3.1 Business-to-government data sharing for the public interest

The Data Act addresses the need for sharing privately-held data to mitigate impact of natural disasters, COVID and other event types that impact the public health and economy. Although B2G data sharing is not key focus of the DSC, we believe in the importance of serving societal and economic public interests with privately held data.

The DSC agrees with the Commission's consideration of defining both binding (legislative) and non-binding measures for B2G data sharing. To provide more direction and substance to the policy, the DSC has the following advice:

- Provide a lawful basis for B2G data sharing

- Determine any mandatory B2G data sharing on a per use case basis (e.g., pandemic and/or energy transition use cases), not per data set
- Ensure uniform rules and conditions between EU nations around B2G data sharing and its definitions (e.g., anonymous data) to ensure a level-playing field
- Avoid governments unilaterally imposing their own conditions for data sharing
- Align any requirements on B2G data sharing on existing legal tasks, for example the legal tasks of energy grid & system operators
- Align any requirements of B2G data sharing on private sector initiatives to minimise implementation efforts by businesses (such as the DSC)

### **3.2 Fairness in business-to-business data sharing, including clarifying rights on non-personal IoT data**

The DSC acknowledges the importance of enabling business (including SMEs and corporates) to have fair and rightful access to data from tools and machines they use and operate. The current framework for rights to access, use and transfer (personal and non-personal) data from machines and tooling is often regulated through contract law and no longer fits today. Many vendors have clauses in these contracts to claim ownership on the data, making it difficult for businesses to access and use this data. A new lawful basis should enable businesses to access and share data from machinery and tooling to 3rd parties. The DSC sees a key role for the Commission in directing this.

The DSC agrees with the policy options presented in the Inception Impact Assessment (a.o., fairness test, model contract terms, transparency obligations) and has the following recommendations to the Commission to further shape the requirements for B2B data sharing:

- Explore and study the various B2B data sharing archetypes (for example transactions, streaming, and auctions). Each of these archetypes have their own characteristics and impact on organising consent, controlled access and smart contracts)
- Provide a lawful basis for B2B data sharing, two possible lawful bases for B2B are:
  1. *Consent*: The organisation, or a natural acting person with the necessary rights on behalf of an organisation, has given clear consent for the processing of their non-personal data for a specific purpose.
  2. *Other lawful bases*: Any other legal agreements or ground can be used as basis for the processing of non-personal data for a specific business
- Make the scope and definition of business data as broad as possible (for example any data generated by a business and being held in cloud services, devices, Internet of Things, machines, tooling)
- Ensure businesses are provided the mechanisms and tools to share data based on audit-verifiable agreements
- Organise supervision to monitor and enforce the established rules and conditions on EU level, thereby fulfilling a role of the “Executive Power” seen in the ‘Separation of Powers’ (For a detailed description, see the Governance chapter of our Data Sharing Canvas [\[link\]](#)). Supervision could include:
  1. A set of clear principles and values to ensure vendors provide businesses the mechanisms and tools to access and port data
  2. A clear definition on contract clauses considered to be illegal or discouraged, including guidelines for tools and mechanisms to monitor and list these (e.g., deny lists, grey lists)

3. A set of clear criteria and conditions for becoming third party, including licensing and certification

### **3.3 Tools for data sharing: smart contracts**

Smart contracts<sup>1</sup> play a fundamental role in automated data sharing and in executing rules and conditions linked to a data transfer. The DSC agrees with the Commission's view that harmonised standards for smart contracts are prerequisite for interoperability and scaling across sectors and borders.

The DSC envisions generic agreements which are enforceable via smart contracts in B2B contexts. Many aspects are considered in this development, including, but not limited to: Identification, Authentication & Authorisation, Terms and Conditions, Governance, and Information Security [[link](#)]. With regards to make smart contract interoperable, the DSC has the following advice to the Commission:

- Ensure that smart contracts will be machine readable, allowing the technical enforcement of agreements to enable scalable data sovereign data exchange
- Development of any (technical) standards for smart contract interoperability should remain an initiative by market players

### **3.4 Complementing the portability right under Article 20 GDPR**

The GDPR contains provisions and requirements for data protection and privacy of natural persons in the EU. Further, the GDPR imposes obligations onto any organisation which targets or collects data related to people in the EU. Under Article 20 of the GDPR, individuals can decide to port certain personal data to any organisation or service of their choice.

The DSC agrees with the Commission's view that additional rules need to be developed to facilitate the portability of personal data generated by 'gatekeeper' platforms, vendors of Internet of Things devices and the services made available on these devices. Data generated by such objects should be considered personal data and should fall under GDPR. In these situations, it is unclear who owns the data. To provide clarity on personal data ownership, the DSC calls for the separation of personal data, service applications and computing. When an individual stores personal data with a service provider, this individual should be enabled to make this data portable to any desired application or computing form. For this reason, the DSC makes a distinction between one that holds the data ('data holder') and someone who has rights over the data ('entitled party').

## **4 Closing remarks**

The Data Sharing Coalition continues to build on existing data sharing initiatives, develop use cases to unlock significant economic and societal value creation while maintaining control on data by the entitled party. Further the DSC aims to stimulate

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<sup>1</sup> Smart Contracts within the DSC community are defined as "Data Service Transaction Agreements" and include all the terms and conditions associated with making a specific transaction

data sharing between organisations in different sectors and domains, all working towards the unified approach for data sharing.

As the Data Sharing Coalition is an open initiative, knowledge and insights gained on cross-sectoral data sharing will be shared publicly.

Initiatives on (cross-sectoral) data sharing by the European Commission will be monitored closely to see whether any input can be provided as the Data Sharing Coalition is open to share its knowledge and insights gained with the European Commission.

Please send us an e-mail to [info@datasharingcoalition.eu](mailto:info@datasharingcoalition.eu) if you would like to get in touch and discuss the contents of this document.

## APPENDIX: Use Case funnel of the DSC

Please find below the list Use Case funnel of the DSC and a Table with a short description on the use cases active in Stage 1 to 3. Please visit our website

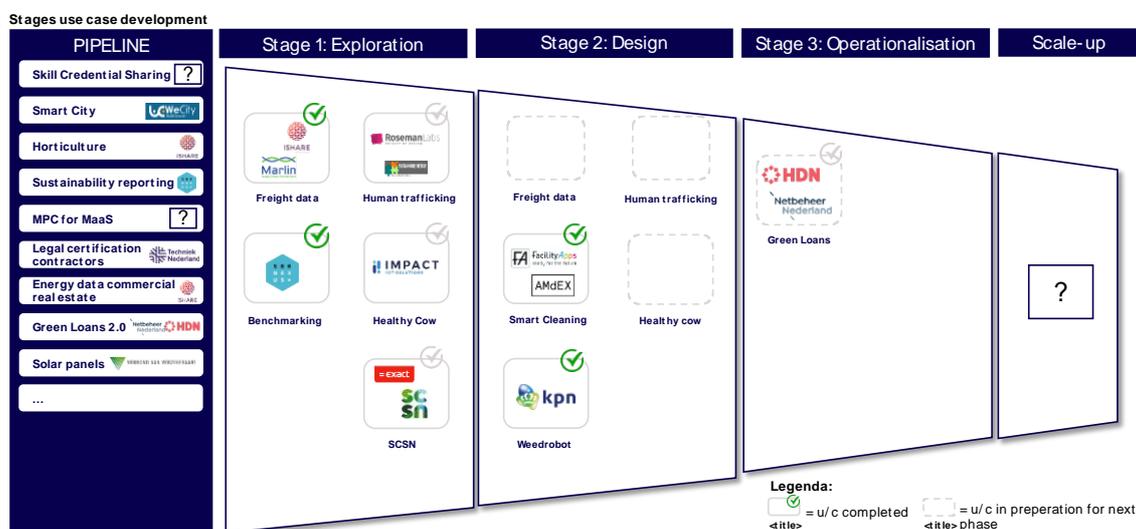


Figure 2: DSC's Use Case Funnel

Use Case Name	Description
<b>Freight Data</b>	Logistic and insurance sector want to explore value opportunities based on making structured and machine-readable freight transport data from e-CMR available and portable in a generic and controlled manner
<b>Human Trafficking</b>	Authorities and private parties want to detect relevant patterns in their sources to reduce issues in human trafficking, without revealing personal identifiable information of informants and (possible) victims
<b>Benchmarking</b>	Accountants share qualified and standardised data through a generic structure to support various Industry Associations in providing benchmarks to its individual members
<b>Healthy Cow</b>	Farmers want to improve health of cows by combining insights from all data providers on the farm (e.g., milk robot)
<b>Green Loans</b>	House owner wants to share smart meter data with his loan advisor and provider so that he can obtain support in making his home more energy efficient
<b>Smart Connected Supplier Network</b>	Organisations who want a more efficient supply chain share data in a standardised way
<b>Smart Cleaning</b>	Sensor data from soap dispensers and people counters is shared with cleaning companies to develop smart cleaning services to improve hygiene and efficiency
<b>Weed Robot</b>	Working towards a uniform way of sharing agricultural IoT (agro-IoT) data between a wide range of market players