



Context

The potential of free flow of data for the achievement of the Digital Single Market (DSM) and of sustainable economic growth is placed high on the political agenda. The **European Free Flow of Data Initiative** is a key component of the broader DSM Strategy¹. The Free Flow of Data initiative focuses on tackling “restrictions on free movement of data for reasons other than the protection of personal data within the EU and unjustified restrictions on the location of data for storage and processing purposes”². Notably, EU action may be needed to address emerging issues related to data ownership, interoperability, usability and access to data, and liability. Importantly, access to public data (supporting research and innovation) will also be encouraged³.

For this specific purposes, the European Commission recently launched a Communication on "Building a European Data Economy - COM (2017)9"⁴ which aims at addressing these barriers to the free flow of data in order to unlock its economic potential. In parallel, the European Commission also launched a public consultation⁵ to gather stakeholder feedback in this domain and identify the key challenges and trends for future policy making.

The Free Flow of Data Initiative will thus reinforce and complement other Commission’s actions in the area of data economy, such as the launching of a European Cloud Initiative⁶, and of other initiatives in terms of Big Data and Future Internet⁷. This as, the Free Flow of Data Initiative relates directly to the areas of cloud computing, big data and Internet of Things (IoT).

Presentation of the assignment and approach

In this context, Deloitte, Open Evidence and WIK as partners, and time.lex and OpenForum Europe as their subcontractors have been engaged by the European Commission, Directorate-General for Communications Networks, Content and Technology, to carry out an “Impact Assessment support study on emerging issues of data ownership, interoperability, (res)usability and access to data, and liability – SMART 2016/0030”.

The main objective of our assignment is to provide evidence and analysis for the EU Free Flow of Data Initiative, as announced in the DSM. More specifically, the study will inform the European Commission’s (EC) Impact Assessment concerning the emerging issues of **data ownership, interoperability, (re)-usability and access to data, and liability**.

¹ COM (2015) 192 final.

² Ibid.

³ Ibid.

⁴ COM (2017) 9 Final.

⁵ See: <https://ec.europa.eu/digital-single-market/en/news/public-consultation-building-european-data-economy>

⁶ See: <https://ec.europa.eu/digital-single-market/en/big-data>

⁷ See: <https://ec.europa.eu/digital-single-market/en/future-internet>

Within the scope of this assignment, the consortium is assigned to assess barriers as well as interactions between various different elements and suggest possible policy options. The Commission has defined the following five areas to examine:

- Business models
- Technical and non-contractual barriers
- Contractual barriers
- Contractual and extra contractual liability in IoT
- Legal aspects in M2M contracting

Our study will examine these aspects across 11 sectors through the analysis of case studies (aerospace, agriculture and food, automotive, chemistry, energy, finance, FMCG, health, machinery, telecom and transport). For such purpose, phone interviews with key stakeholders are being carried out, within and outside the framework of the case studies, and relevant contracts are being collected and analysed. For example, a case study on connected cars in the field of automotive includes interviews on the five above-mentioned areas with key actors across the data value chain, as well as the analysis of contractual practices.

In addition, the team developed a on line survey⁸ targeting companies sharing and accessing data or willing to do so, and aiming at providing evidence on business practices of data sharers and re-users in Europe. This input will allow the European Commission to gain better insights on the current exchange of data, especially from the perspective of SMEs and highly innovative businesses, and identify solutions for the emerging challenges. In this respect, the survey complements the public consultation and offers a special focus on some of the key stakeholders of the data economy.

Where do you fit in

Stakeholder involvement is central to all projects and studies at EU level, given the important role that different organisations have to play in specific domains and that the final actions taken by the Commission will in turn affect stakeholders. Understanding the stakeholders, their concerns, their influence, and how they are impacted is crucial for the accomplishment of projects. In this vein, and for this particular study, you have been identified as a relevant stakeholder in the matter and field of interest and we would be happy to collaborate with you within the framework of this study.

⁸ <https://www.surveymonkey.com/r/WQ796JB>