Building a European Data Economy
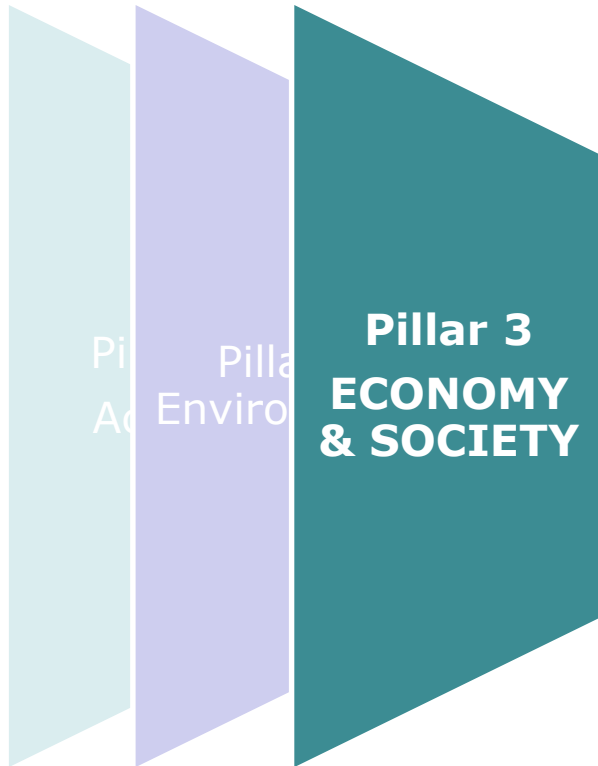
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Workshop on processing of genomic information
Torino, 19 July 2017

Creating a European Digital Economy and society with growth potential

Pillar 3 ECONOMY & SOCIETY

Ensuring that Europe's economy, industry and employment take full advantage of what digitalisation offers.

- Digitising industry ✓
- **Cloud** ✓
- Inclusive digital economy and society ✓
- e-government ✓
- **Standardisation & interoperability** ✓
- Digital skills ✓

- **Data economy** ✓

European Commission

1. Free Flow of Data

OBJECTIVE
Removing data localisation restrictions except if they are required for national security and similar objectives

PROPOSED ACTION

➢ Prepare a **legislative proposal on the free flow of data** within the EU by autumn 2017:
  ➢ Cooperation framework including **'FFD' principle and data portability principle**
  ➢ **Security**
  ➢ **Availability of data for regulatory control**

European Commission

2. Data access and transfer

OBJECTIVE
Making machine-generated data more accessible for businesses to boost innovation and the digital economy

POSSIBLE FUTURE ACTIONS

➢ **Guidance on data sharing**

➢ **Foster technical solutions to identify and exchange data**

➢ **Default contract rules**

➢ **Access for public interest and scientific purposes**

➢ **Access against remuneration**

3. Data portability, interoperability and standards

- GDPR Art 20: only **personal data,** only for **data subjects**
- B2B data portability could **foster innovation/new services** and **stimulate competition**
- **Interoperability** and appropriate technical **standards** important

POSSIBLE ACTIONS

➢ **Developing portability rights** to facilitate cloud switching (FFD)

➢ Improving **technical interoperability** and **sector-specific standards**

➢ Studying further **rights to data portability,** e.g. in platforms context

4. Liability in the context of IoT and autonomous systems

- Combination of **hardware, software & data** from many market players makes it **difficult to identify the responsible**
- Legally difficult to qualify IoT as either **products** or **services**
- **Established concepts & principles** possibly not fit for purpose

POSSIBLE ACTIONS

➢ Work on better **defining responsibilities**
➢ **Revision of Product Liability Directive**

Big Data and privacy

- Anonymisation

- Consent management

- Enabling data portability

European Commission

Data Protection and the Data Economy Initiative

No EC action will interfere with the rights and obligations established in the GDPR

- **Difficulty to categorically separate** personal from non-personal data
- EU legislators have **relied on consent** (and continues to do so) **as a criterion to legitimise processing** of personal data since 1995.
- The data **economy relies on** both non-personal and **personal data**
- Looking to strike a good balance between **protection and individual control** on the one hand and **openness, transparency or economic use** on the other.
- Work on **technical solutions to enhance data protection** (e.g. Personal Data Spaces, watermarking/data provenance technology, anonymisation techniques, fostering APIs)

Public consultation: first results

Free Flow of Data

- Concrete location restrictions exist. Legal uncertainty.
- Majority want removal of EU data localisation restrictions.

Access and transfer

- Access to data is difficult for a majority of business respondents;
- Non-legislative solutions favoured
- Many favour work to foster use of APIs

Liability

- Extra-contractual liability a concern for IoT/robotics suppliers;
- However, so far few accounts of damages.

Portability, interoperability and standards

- Data portability is in demand, but rarely offered by businesses.
- Interoperability a big issue.

10 May DSM Mid-Term Review Communication

Autumn 2017: legislative proposal on the **EU free flow of data cooperation framework**.

Spring 2018: initiative on accessibility and re-use of **public and publicly funded data**; further explore the issue of **privately held data of public interest** → main instrument: PSI Directive

No specific deadlines imposed:

Continue to assess need for liability principles.

Continue to assess the need for action concerning "emerging data issues" (e.g. data access rights).

European
Commission

2018 Review of the PSI Directive

Possible elements:

- **Scope** of the Directive (types of data, entities covered);
- Re-use of **cultural heritage** materials and **research data**;
- Data held by **public undertakings**, publicly funded companies and companies holding public concession contracts;
- Re-use of **data of public interest**;
- The functioning of current **charging provisions**;
- Interplay of **personal data protection** and re-use.

European Commission

Health Data

- Data of public interest?
  - Research data?

Digital transformation of health and care

- The DSM midterm review Communication announced a **2017 Communication on digital health and care**, especially addressing:
    - Citizes' **secure access** to EHRs, **possibility to share** data across borders and use of **e-prescriptions**;
    - Support for **data infrastructure** to advance research, disease prevention and personalised health in key areas;
    - Facilitation of **feedback and interaction** between patients and healthcare providers.

17 January 2017 Communication and Staff Working Document on Building a European Data Economy: https://ec.europa.eu/digital-single-market/en/news/communication-building-european-data-economy

Online Public Consultation on Building a European Data Economy: https://ec.europa.eu/digital-single-market/en/news/public-consultation-building-european-data-economy

Directive on the Re-Use of Public Sector Information: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:345:0090:0096:en:PDF

10 May 2017 Mid-Term Review of the Digital Single Market Strategy: (Communication and Staff Working Document) https://ec.europa.eu/digital-single-market/en/news/digital-single-market-commission-calls-swift-adoption-key-proposals-and-maps-out-challenges