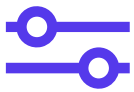


# Data Act - Fact Sheet

Early 2024, the new [Data Act](#) entered into force. It will be largely applicable from 2025. The new regulatory framework may require significant legal and engineering effort to (re-)design affected products/services and business processes to ensure compliance. Organizations should evaluate their compliance strategies well in advance of the enforcement deadlines, as the new legal obligations may require significant time to plan and implement technical and organizational solutions.

## Scope



The Data Act focuses on data in relation to the use of **IoT-devices** and **device-related services (personal and non-personal data)** and will apply various entities, including:

- **Manufacturers of connected products** and/or **providers of product-related digital services** as well as **users of connected products and/or related services**
- **Data holders** (entities who have the right or obligation to use and make available data, including due to data access obligations under the Data Act itself) and **data recipients** (entities to whom a data holder makes data available)
- **Providers of data processing services** (cloud computing services)

## Obligations



The Data Act imposes various obligations, including:

- **Accessibility** of data from connected products and related services by design
- **Making available** data from connected products and related services to users and third parties
- **Data licences** for the use of non-personal data from connected products and related services
- **Contractual terms** for data access and data processing services and FRAND conditions
- **Facilitating interoperability** and **switching** between data processing services
- **Transparency** (information to users/customers)

## Timeline



- The Data Act will generally be applicable from **September 12, 2025**
- The **data accessibility requirement** will apply to connected products and related services placed on the market after **September 12, 2026**

## Compliance risks



Access under the Data Act might lead to conflicts with **IP/trade secret protection** and **GDPR data protection requirements** which remain unaffected by the Data Act. Organisations face the challenge of complying with both the Data Act and the GDPR while maintaining legitimate IP/trade secret protection. Non-compliance with the Data Act and/or the GDPR may have serious negative consequences for affected organizations, including:

- **Severe administrative fines** (up to EUR 20m or 4% of the total worldwide annual turnover of the preceding financial year, whichever is higher)
- **Actions of competitors** under laws on unfair competition
- **Claims for damages** by affected persons
- **Loss of reputation**

# Data Act - Capability Statement

Drawing on our many years of experience as a market-leading firm in data law, we provide our clients with wide-ranging and balanced advice on the robust implementation of data regulatory requirements, including the new Data Act:

## Data Act Readiness – Scope, Impact, Implementation



- **Scope:** Review which of your organization's products/services and business processes are affected by the Data Act
- **Impact:** Assessment of the Data Act's impact for the affected products/services and business processes
- **Implementation:** Planning and structuring the practical implementation of the Data Act in your organization considering key compliance risks under the Data Act

## Data Compliance by Design and by Default



- **Adjusting existing products and business** processes for Data Act compliance
- **Designing new products/services** and business processes in compliance with the Data Act and other applicable data regulatory requirements
- Defining standardized **data access procedures and interfaces** considering Data Act and GDPR requirements as well as IP/trade secret protection
- Preparing mandatory **information** for users/customers
- Drafting legally required **contractual clauses** for data usage, data access and data processing services

## Data Compliance Governance



- Establishing a robust and efficient **data compliance governance** for effective management of Data Act compliance requirements in synergy with established data protection governance
- Implementing practicable **data compliance management systems (DCMS)** to plan, implement, monitor and improve risk-based compliance measures for personal and non-personal data

Our [Data, Tech & Telecoms team](#) is happy to support on any data regulatory matters.

To assist our clients in navigating the regulatory jungle of the new European data law, we provide a regularly updated interactive “Map” of European data law at [europeandatalaw.com](https://europeandatalaw.com).