

Exploring the EU's Data Regulation and Digital Markets Regulation: Key Updates for 2022

Written by Florina Pop and Laura Grant

Part two of the series: **Digital round-up 2022**

Read part one here

Welcome back! Last time, we discussed some of the EU's main legislative developments in artificial intelligence. In this blog, we want to share some of the most important EU legislative developments of 2022 when it comes to European data regulation and digital markets regulation, in addition to EIPA's courses and publications in this area. In the next part of this series, we'll dive into the new developments in data protection and the healthcare sector.

European Data Regulation

- **Data Governance Act**

Background: Introduced as part of the Strategy for Data initiative proposed by the European Commission in 2020, the Data Governance Act will enable better data re-use, data sharing, foster the creation of data intermediary services, and promote data altruism. This will create better access to data, strengthening Europe's digital sovereignty and increasing the value of data for the benefit of the economy and society.

Key Aims of the Data Governance Act:

- Facilitate better data-sharing and re-use of protected data across the EU for the

benefit of the economy and society

- Foster the creation of data intermediation services as a neutral mechanism to create relationships for sharing and re-using data
- Encourage data altruism
- Set up conditions for the international transfers of non-personal data

Impact of the Data Governance Act:

- Establishes rules for public service bodies to make available protected data that falls outside the scope of the 2019 Open Data Directive available for re-use
- Data sharing for the benefit of society will allow insights taken from data to allow more evidence-based decisions and policies to be developed across all sectors
- Makes it easier for European citizens to willingly share their data whilst ensuring personal data remains protected

Progress: The Act was adopted and published on 3 June 2022, entering into force on 23 June 2022 and will be applicable by 20 September 2023.

- **Data Act**

Background: The Data Act will determine who can use and access data across the EU to ensure a fair digital environment, stimulate a competitive market and make data accessible for everyone. It is the second main legislative initiative from the 2020 European Strategy for Data and will help unlock the value of data by clarifying who can create value and how.

Key Aims of the Data Act:

- Facilitate better access and use of data by businesses and consumers

- Enable public sector bodies to access and use private sector data in exceptional circumstances
- Enable customers to switch between different cloud data-processing service providers
- Prevent unlawful data transfers
- Ensure negotiation power is rebalanced for SMEs by preventing abuse of contractual imbalances

Impact of the Data Act:

- Empowering consumers and businesses by giving them more say in how their data is used and better access services
- Businesses will be able to benefit from a competitive data market
- SMEs will be protected against unfair contractual terms
- Data can be used in the public interest to improve evidence-based decision-making

Progress: The European Parliament is expected to adopt a position on the Act by Q1 2023.

Digital Markets Regulation

- **Digital Markets Act**

Background: The Digital Markets Act creates a criterion for qualifying a large online platform as a “gatekeeper”, and tackle problems that arise with these gatekeepers by creating a list of “do’s” and “don’ts” to create a fairer business environment for businesses and consumers alike.

Key Aims of the Digital Markets Act:

- Establish a list of “do’s” for gatekeeper platforms
- Establish a list of “don’ts” for gatekeeper platforms

- Enable the European Commission to undertake market investigations in addition to sanctioning the non-compliant behaviour of gatekeepers and fining them for non-compliance

Impact of the Digital Markets Act:

- Smaller companies and start-ups will have better opportunities to compete against gatekeepers
- Reduce dependency on online platforms by smaller companies
- Consumers will be able to choose between more and better services, an ability to switch provider and choose options beyond the limits of certain online platforms
- Consumers can choose fairer prices, stimulating the market and encouraging fair competition

Progress: The Act will be applicable at the beginning of May 2023, and fully applicable by February/March 2024.

If you're interested in learning more, check out our blog post on the Digital Markets Act here.

- **Digital Services Act**

Background: The Digital Services Act aims to harmonise fragmented national laws on intermediary services and create Union-wide rules for a safe, predictable and trusted online environment. It will improve mechanisms for removing illegal content and protecting free speech, whilst simultaneously increasing oversight of very large online platforms in particular.

Key Aims of the Digital Services Act:

- Better protect users' fundamental rights

- Establish a transparency and accountability framework for online intermediaries (online platforms, hosting services, intermediary services)
- Foster innovation, growth and competitiveness within the single market

Impact of the Digital Services Act:

- New measures to counter illegal goods, services or online content
- New measures which help identify illegal goods sellers
- Ban on targeted advertising of children or using special categories of personal data e.g. ethnicity, sexual orientation, etc.
- Introduction of transparency methods for online platforms, including concerning advertising and recommendation algorithms
- Obligations on very large online platforms and very large online search engines to

ensure effective risk management and auditing

Progress: The Act entered into force on 16 November 2022, and online platforms will have until 17 February 2023 to report the number of active end users. Following this, the Commission will assess whether a platform is very large or not. The Act will be fully applicable for all entities on 17 February 2024.

If you're interested in learning more, check out our blog post on the Digital Services Act here.

Want to discover more?

Stay tuned, because our next blog will feature the topic of Data Protection and the Healthcare Sector. In the meantime, have a look at our upcoming Artificial Intelligence and Data Protection courses by clicking the button below:

The views expressed in this blog are those of the authors and not necessarily those of EIPA.