

# Data Governance Act (DGA)

## What You Need to Know

- The European Union has long sought to create a single market for data, as reflected more recently in its European Strategy for Data in 2020. The Data Governance Act (DGA) is the first set of measures implemented as part of this Strategy. It aims to facilitate data sharing across the EU and between industry sectors. Formally adopted in May 2022, and entered into force in June 2022, it will become applicable as of September 2023.
- The DGA sets out rules relating in particular to the re-use of public sector data, and so-called data intermediation services.
  - **Reuse of public sector data.** Public-sector bodies making some of the data that they possess available for re-use now will have to comply with certain requirements (e.g., making the conditions for reuse and the procedure to request the reuse of the data publicly available). The DGA's provisions apply to data held by public-sector bodies that are protected on grounds of commercial or statistical confidentiality, intellectual property rights, or personal data protection. Significantly, the DGA does not oblige public-sector bodies to allow re-use of data and does not release them from any existing legal obligations with respect to such data, such as the EU General Data Protection Regulation.
  - **Obligations on providers of data intermediation services.** Data intermediation services cover a wide range of services, including (i) platforms or databases enabling the exchange or joint exploitation of data, such as industry data spaces; (ii) intermediation services between data subjects that seek to make their personal data available to potential data users; and (iii) services offered by data cooperatives.
- The DGA also introduces the concept of “data altruism” and allows organisations to register as a “Data Altruism Organisation recognised in the Union”, as well as establishes a new formal expert group chaired by the Commission, the “European Data Innovation Board”.

## Why Does It Matter?

- The DGA is likely to facilitate greater sharing of data by public sector bodies, which could put those companies sharing data with such bodies, either voluntarily or because required by law, at greater risk.
- The DGA also establishes a new compliance framework for providers of the data intermediation services. In particular, these providers will be required to;
  - notify the competent authority in order to provide their services in the EU;
  - comply with a number of conditions when providing their services, such as not using the data for other purposes and providing their services via a separate legal entity.
- The DGA sets the stage for public sector data sharing, and regulates the activities of data intermediaries. As it has already entered into force and will become applicable in September 2023, companies should already be thinking about how they can bring their activities in compliance with any new obligations that may apply to them.

## Why Covington?

Covington represents a variety of companies likely to be impacted by the DGA. Combining our technology regulatory and privacy capabilities, our cross-disciplinary team is advising on the impact of the DGA and helping our clients navigate and prepare for this new regulatory landscape.

For more information, please reach out to Dan Cooper, Alix Bertrand, and other members of the Privacy and Cyber team.



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