



NOTAT

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The Danish Government's response to the public consultation on the European Strategy for Data

The Danish Government welcomes the European Strategy for Data. Availability and use of data are prerequisites for the development of digital technologies and tools that can spur growth and thus contribute significantly to the economic recovery after the covid-19 economic backlash as well as strengthen health systems for future global health crises.

Following remarkable results such as the legislation on free flow of data, GDPR and open data, the data strategy should have the overall aim of creating a genuine single market for data. As the spread of the coronavirus has shown, data is a crucial element in EU's economy, not only as a distinct data economy, but indeed as a tool to fight the pandemic, as well as enable businesses, researchers and health systems to be innovative in a time of comprehensive restrictions on physical appearance and sale.

As a general remark, it is paramount that data and digitalisation serve the interests of society. We should find a European way for digitalisation where responsibility, ethics and safety go hand in hand with innovation and growth. The digital transformation should be characterized by a high degree of trust and safety as well as a strong digital competitiveness based on an innovation friendly and technology neutral regulatory framework without unnecessary burdens and barriers. The data strategy should support this transition which must contribute to a green economy as well.

Common European Data Spaces

Furthering the availability of data and making it easier for public and private actors, such as researchers, public authorities and businesses, to share data among each other is an important part of strengthening Europe's digital capacities and competitiveness. Therefore, the Danish Government supports the intention of establishing European data spaces.

The Commission's intention to clarify the rules on data sharing between and within the private and the public sector is timely and important. As part of a legislative framework on governance of data spaces, the Danish Government would urge the Commission to clearly define data ownership and data accountability. For both public and private actors, in particular small and medium sized enterprises (SME's), this would help reduce uncertainty about legal use of data and data protection requirements, thereby also reducing potential barriers for data sharing within the common European data spaces. It should be noted though, that there is no "one size fits all" across all sectors, which must be taken into due account.

When establishing the common European data spaces, it is important to strike a balance between clearly defined roles, rules and criteria and at the same time make room for innovation and quick responses to new technologies and market demands that change over time. This need for flexibility calls for a decentralised infrastructure. Also, it is essential that the data spaces build upon Member State's national regulation and principles as well as local circumstances in different sectors, such as existing data infrastructure and national initiatives.

Therefore, The Danish Government encourages the development of data spaces as 'soft infrastructures' based on technical and legal frameworks rather than actual, physical data pools. With this approach data sharing would become much easier for EU businesses and easier to keep the data secure and to ensure control over who accesses what data for what purposes. Especially for sensitive personal data collected by the public sector, it is essential that the public authorities in Member States maintain control over the use of data for the purpose of data security and citizens' trust.

These frameworks should enable decentralised data sharing, where public and private actors can easily share data with numerous business partners by using a common framework, while protecting personal data and without compromising business critical data.

For businesses, this would reduce uncertainty and the need for companies to draft up new, extensive contracts and for developing new technical data sharing measures each time a new data sharing agreement is made. An example of such a decentral ecosystem is the initiative Nordic Smart Government^[1]. The purpose is to enable standardised economic business data to be easily accessible and usable to benefit both businesses and authorities. This is done by aligning the digital business systems, i.e. the SME's accounting systems, with other systems processing business data.

[1] <https://nordicsmartgovernment.org/>

When developing the data spaces, harmonisation, standardisation and interoperability should be key words, as these are prerequisites in order to make data reusable. This applies to sharing of high-quality data in general and it is particularly important if the common data spaces are to bring value to data users across Europe. To realise the potential of the common data spaces, strong governance on common standards is, thus, a prerequisite. A strong governance framework is needed to ensure that the data spaces are indeed common European data spaces. The Danish Government looks forward to contributing to legislative work concerning governance of data spaces and underlines the importance of continuously maintaining the standards chosen.

Standardisation efforts include introducing common standards on data quality, definition of datasets and data objects. The guiding principle should be to generalise as much as possible - such as standards for API's – but only to the extent that the gains from implementing these generic standards exceed the costs of implementing such standards. It is key, however, that Member States and the European Commission work together to prevent unnecessary duplication and ensure a solid governance. Generally, focus should be on promoting standards that are already widespread in order to avoid imposing unnecessary transition costs on authorities and businesses who have already initiated data sharing measures.

As opposed to this approach, a collection of unstructured data in centralised data pools will not bring real value to users such as researchers, start-ups and SMEs, as they will have difficulties investing the amount of money it takes to structure and standardise data to make it usable. Therefore, the Danish Government advises against constructing centralized platforms that contain all shared data, as this approach would be unnecessarily costly and maintenance-heavy while not bringing the results, we are aiming for.

It is important to underline the importance of public authorities in Member States maintaining control over the use of data for the purpose of data security and citizens' trust, especially when it comes to sensitive personal data collected by the public sector.

A Differentiated, Sector-Specific Approach

Standardisation is an important prerequisite for high data quality and interoperability across sector domains. However, this comes at a price for authorities and businesses responsible for distribution of data.

The Danish Government suggests that proportionality should be the guiding principle when deciding on the granularity of mandatory requirements to data quality and interoperability, while cost-benefit analyses could be a

relevant tool to estimate proportionate efforts. Not all data need to be available in the highest technically possible quality and not all data are relevant to share e.g. in real-time. The higher the requirements are, the more expensive it becomes for public authorities and for SMEs and start-ups to participate.

There is a need to focus the effort on data in sectors with significant societal challenges, such as climate change, which can be addressed by increased data access, sharing and use. Likewise, sectors that are expected to have the greatest economic and public beneficial potential tied to data access, sharing and use should be prioritised, as enabling job creation, innovation and the development of new business models is increasingly important in the wake of the corona crisis. From the Danish perspective these include energy, green deal, industrial (manufacturing), agriculture, health, the financial and mobility sectors. Within the financial data space, we would propose to include a focus on economic business data, which are part of the sales and purchase processes of all businesses and therefore has a huge potential to reduce barriers on the Single Market, if data are standardised, portable and interoperable.

Therefore, the Danish Government recommends a differentiated approach when drafting a legislative framework for governance on common European data spaces. For sectors and data spaces of high importance and high priority for Europe, we should aim for the highest quality and standards. In the wake of the corona crisis, not all sectors will be equally important, and we should focus on the ones that matter the most for businesses in a green and innovative economy.

A generic framework for data spaces must be supplemented by sector specific international or European standards, that are compatible and thus still support the development of services and products that combine data from different sectors. There is a need for the Commission to specify the difference between the sector specific data spaces and the horizontal green deal data space. Also, the Danish Government requests that the underlying reasons for choosing the nine selected sectors are elaborated.

The Danish Government furthermore suggests that the Commission considers clear coordination between selected data spaces and the focus of Open Data Directive on the high-value data sets when relevant.

Implementing Act on High-Value Datasets

Access to high-quality public sector data enables data driven innovation and growth, especially when data are available free of charge for businesses, authorities and citizens. This is also reflected in the Open Data Directive, where the Commission has initiated a process of identifying high-

value datasets within six thematic categories. The Danish Government supports the approach of promoting certain datasets based on their potential to create socioeconomic and environmental benefits and innovative services, while also considering the number of users, especially SME's. When selecting datasets of high value, interoperability should be pursued by relying on internationally well-acknowledged standards, which are used widely by Member States.

Data sharing B2B and B2G

Sharing of data for the public good has interesting perspectives. When analysing different models of data sharing, the guiding principle should be creating incentives for businesses to share data for a purpose, such as enabling the green transition of the economy. A clear incentive for businesses could be in the form of access to other businesses' data (by entering a data sharing network). For some businesses value could be created through ecosystems around their products and sharing of data within that ecosystem. Other models for data sharing could involve financial compensation for high-quality data enabling new business models.

It is important, however, to carefully analyse which models of data sharing that would lead to the realisation of benefits for all involved parts. As a basic rule, business to business (B2B) and business to government (B2G) data sharing should be voluntary. The Danish Government would not recommend imposing regulation on mandatory B2B or B2G data sharing as this could lead to distortion of competition and impose great costs and administrative burdens on businesses as well as the authorities who are tasked with enforcing such a regulation. Moreover, a mandatory approach could potentially result in sharing of excessive and inconveniently large volumes of data that might not be reusable due to poor data quality or incomplete data sets. Thus, mandatory B2B or B2G data sharing should only be considered in cases where the potential benefits are proportionate to the costs and where this is in accordance to Member States competences.

In connection to the efforts made to increase B2B and B2G data sharing, the Danish Government suggests that the Commission also considers initiating concrete measures that support data altruism (citizens voluntarily sharing the data they generate for the public good). Increased access to citizens' data could enable the development of innovative green solutions and services that would benefit the European citizens.

Further work on this needs to be closely coordinated with initiatives on data spaces. When considering new initiatives in this field, it is important explicitly to describe what data can be used for and by whom and to make sure, initiatives are carried out in a responsible way to address potential data ethical issues.

Cloud

Regarding the suggestion to establish a European cloud infrastructure, the Danish Government emphasizes that authorities and businesses should be able to participate on an open and transparent basis. The European approach to cloud infrastructure should build on interoperability and focus on user needs. EU businesses need access to the best cloud-services in terms of quality and prices in order to thrive in the global competition.

The situation described in the Commission's data strategy regarding low uptake of cloud technology, particularly in the public sector, are well-known, as are many of the challenges mentioned, such as vendor lock-in, legal uncertainties etc. Currently, the Danish Government is mainly pursuing legal and organizational clarifications regarding the use of cloud by the public sector. The Danish Government welcomes further deliberations and analyses of the issues.

Further initiatives to clarify rules on cloud services and the functioning of a cloud marketplace are welcome. Also, there is a need for a more detailed description of the proposed MoU on a cloud-federation, as it is presently not clear what this initiative contains.

Cybersecurity

The Danish Government agrees that the new data paradigm that follows from the Commission's data strategy brings new challenges for cyber security due to the decentralised nature of data storage and exchange. This necessitates safe and secure use and handling of data at all levels and the Danish Government would therefore suggest a particular focus on cyber and information security skills as part of the overall effort to empower individuals and investing in digital skills for citizens and SME's.

Initiatives to improve availability and use of data should always meet relevant cyber security standards and enable ethical and responsible handling of data. It is a priority for the Danish Government that an ethical and responsible approach to data becomes a competitive advantage in Europe.

Data Portability and Trustworthy Data Use

The Danish Government sees the ambition to enhance citizens' rights under article 20 of the GDPR as an effort to deal with practical issues concerning users' current data portability rights, e.g. by demanding a standardised API through which a user can give a third party data access.

From a Danish perspective, it is important that it is made clear that such a right applies only to consent-based data sharing and, consequently, not the

majority of the public sector's data. There are sound reasons for not extending data portability to all public data without proper deliberations on issues of data ethics.

In general, it is the position of the Danish Government that both content and presentation of empowerment initiatives must take into account to what extent such rights for individuals could and should be extended to data collected by the public sector mandated by law. Such considerations might need to build on a more explicitly defined concept of trustworthy data use that is applicable to data collected through consent as well as data collected through a legal mandate.

An open and proactive international approach

The Danish Government appreciates the efforts of the Commission to pursue an EU approach to data availability and data use on a global scale. This includes the proposal to allow open access to the European data spaces for international participants adhering to EU legislation.

The Danish Government welcomes the Commission's proposal to have an open and proactive approach to international data flows as well as the focus on addressing unjustified obstacles to digital trade. The Danish Government continues to encourage the Commission to engage proactively towards achieving ambitious rules on digital trade, especially in terms of cross-border data flows, both in EU's trade agreements as well as in the WTO. It is of vital importance for EU companies to harness the full potential of global value chains as well as expanding into new markets.

The Danish Government considers the area of data impact assessment to be underdeveloped and supports the intention of the Commission to establish a framework for measuring data flows and estimating their economic value. The estimation of economic impact is also a central focal point in national Danish initiatives such as the Basic Data Programme.

Concluding remarks

As a general remark, specific initiatives that are mentioned in the European Strategy for Data are yet to be presented and it is not the intention of the Danish Government to anticipate any of them.

As the European strategy for Data is based on the presupposed condition that GDPR is complied with, it would be beneficial to cover some of the difficulties that public and private actors, especially SME's etc., experience. Furthermore, based on the experience of implementing the GDPR, it should be noted that legislation imposing new and comprehensive requirements to both public and private actors, especially SME's should be accompanied by extensive and clear guidance. Otherwise, there is a risk that new

initiatives will be counterproductive and reduce data use and thus harm innovation, growth and data-based progress.

Finally, it is important that initiatives mentioned in the data strategy are aligned with and complement the work on the White Paper on Artificial Intelligence also put forward by the Commission.