

Data Governance Act Data Act

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BUILDING A DATA ECONOMY
WORKSHOP
EMERGING CHALLENGES IN THE EUROPEAN DATA ECONOMY
AGENDA

DAY 1: ACCESS TO AND TRANSFER OF DATA

I) What are the main data-based business models? In these business models who has access to data and under which conditions?

- Introduction by Contractor and by the Commission.
- Discussion

II) Possible contractual restrictions on access to or transfer of data: are there restrictions and are those restrictions justified? What are the effects of those restrictions on other business models and on the market in general? Is the current legal framework fit for purpose?

- Introduction by Contractor and by the Commission.
- Discussion

III) What is the right balance in terms of access to and transfer of data between the relevant actors? Who should have access and at which conditions? What is the role of consumers?

- Discussion

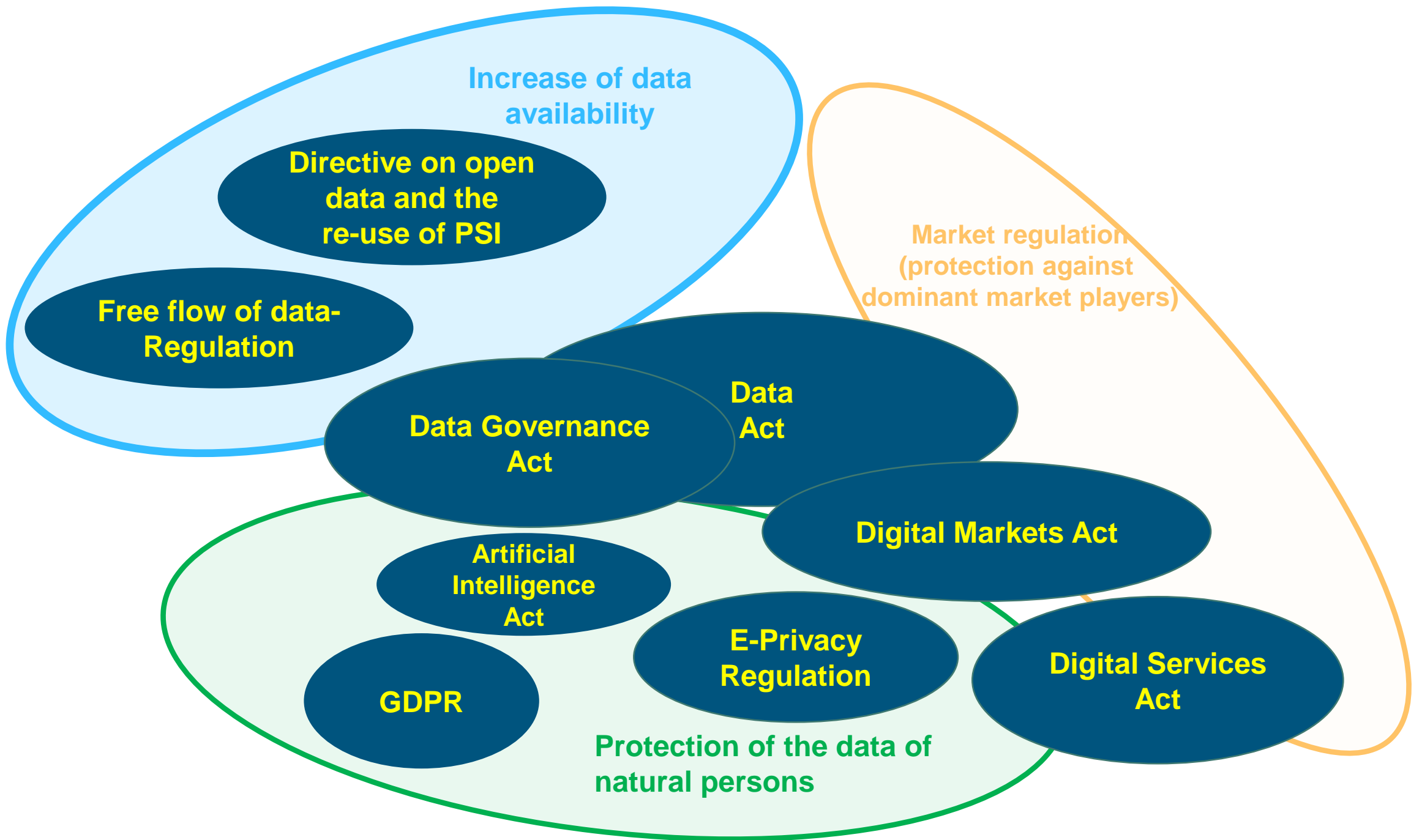
22.9.2016 Workshop on Data Economy

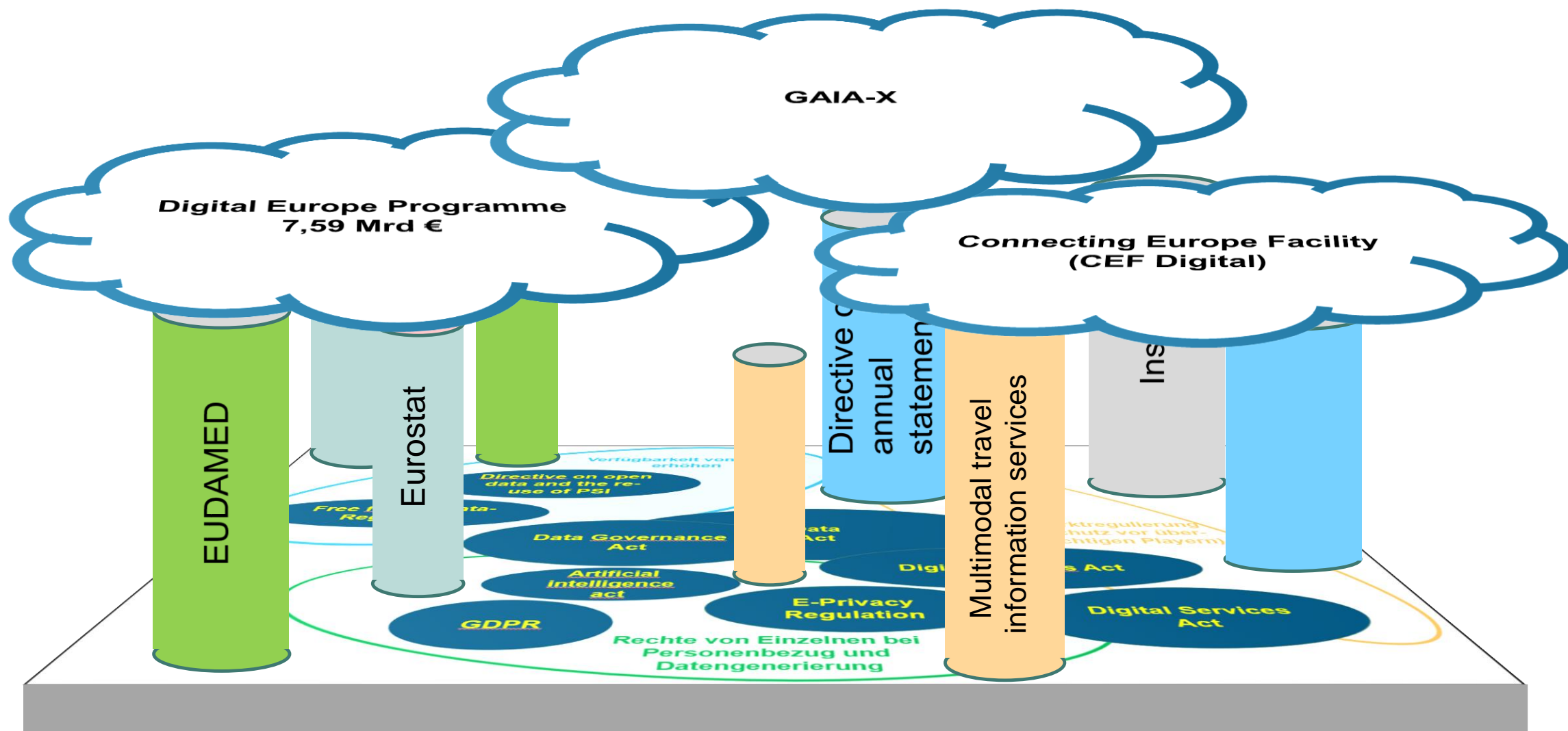
Main Topic: What is the legal basis for data ownership?

What are data legally?

In Austria wide definition of § 285 ABGB as *"unkörperliche Sachen"*, but *"Sachenrecht"* does not seem to be applicable.

The factual possibility of using data has so far been decisive for its use. (With exceptions such as data protection law or industrial property rights).





Data Governance Act

- Adopted: 30th May 2022
- Publication date: 3rd June 2022
- Enter into force: 23rd June 2022
- Applicable: 24th September 2023

Data Act

Proposal: 23rd February 2022

- Still under negotiation. Currently, proposed changes are up for vote.
- In the Council, the Swedish Presidency has the Member States comment on key points.

„Together, these initiatives will unlock the economic and societal potential of data and technologies in line with EU rules and values.
(European Commission)

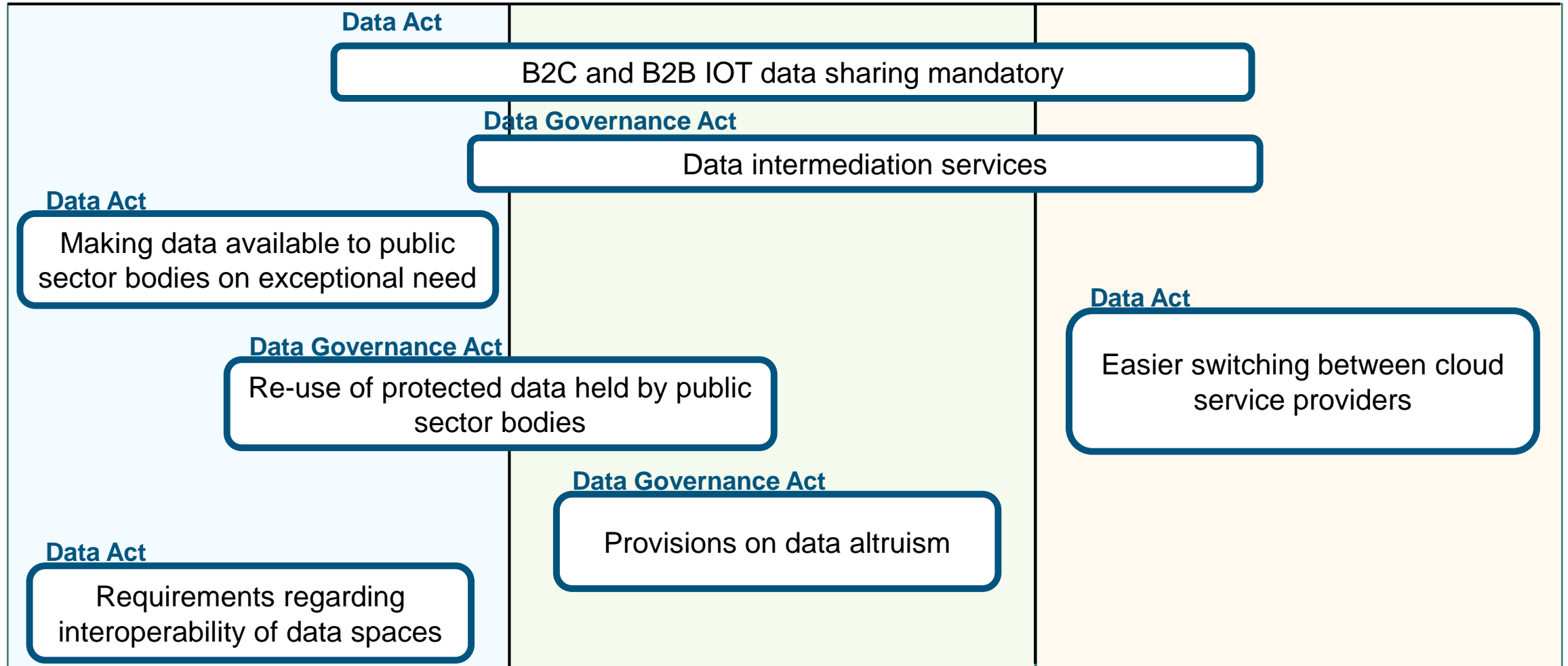
Data Act

Data Governance Act

Increase of data availability

Protection of the data of natural persons

Market regulation
(protection against dominant market players)



Mandatory disclosure of data arising from the use of a product or associated service by the manufacturer

- To purchasers, tenants and lessees and other users of the product.
- The user may also provide access to third parties (with the exception of gatekeepers), who may then process this data
- Does not apply to products primarily intended to display or play content (smartphones, computers, sound recording)
- Does not apply to micro-enterprises

Example Mercedes B

- GPS position and status data every two minutes (e.g. mileage, fuel consumption, tank level, tyre pressure and levels of coolant, wiper fluid or brake fluid).
- Number of electromotive belt tightenings (allows conclusions to be drawn about driving style)
- Fault memory entries with information about excessive engine speed or temperature
- Kilometres on motorways, country roads and in the city separately (allows conclusions to be drawn about the usage profile)
- Operating hours of the vehicle lighting are stored
- The last 100 charging and discharging cycles of the starter battery with time and date as well as kilometre reading

Source: ADAC

- Data delivery must be fair and non-discriminatory (reversal of burden of proof)
- Fees cost-oriented
- Strong abuse protection in favor of small businesses (extension currently under discussion)

Protected data held by public bodies should be made reusable upon request.

Protection due to

- a) commercial secrecy, including trade secrets, professional secrets, company secrets;
- b) statistical secrecy,
- c) the protection of intellectual property of third parties; or
- d) the protection of personal data

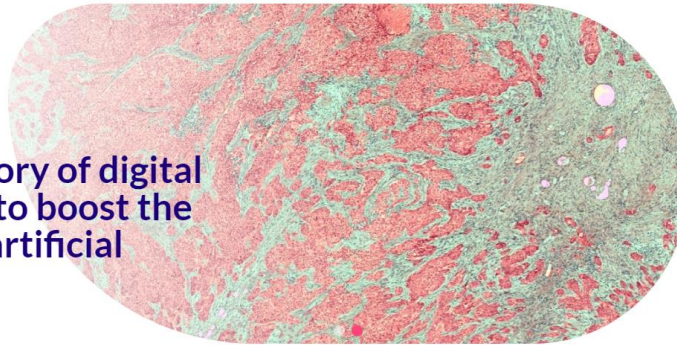
Example: Medical images as training data for AI applications



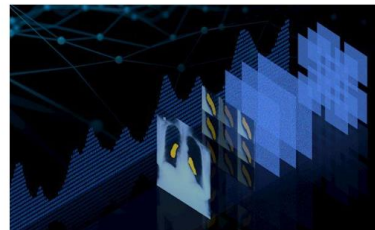
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A central repository of digital pathology slides to boost the development of artificial intelligence



Pathology is key to diagnose, understand and treat diseases. Traditionally, pathologists examine body tissues on a glass slide under a microscope.



Today, artificial intelligence (AI) is revolutionizing many fields. But to help pathologists, algorithms need to be adequately trained and validated.

Example: Austrian Micro Data Center



Re-use of certain categories of protected data held by public sector bodies, possible requirements:

- In the case of personal data, anonymization
- In the case of confidential business information, other method of disclosure control
or
- remote access in a secure processing environment provided or controlled by the public entity
or
- access to and reuse of the data within the physical premises where the secure processing environment is located

Re-use of certain categories of protected data held by public sector bodies, possible requirements:

Basic principles as in the first PSI directive:

- No exclusive agreements
- Charges based on costs
- No discrimination
- Publication of openings
- Harmonized procedures

Goal: Independent intermediaries without conflicting self-interests

- Registration obligation
- No own use of the mediated data
- High requirements for security level
- Prices independent of other business relations
- Support for the customer in processing possible

Example: Data Intelligence Offensive

The screenshot shows the homepage of the DIO Data Intelligence Offensive. The header includes the DIO logo and navigation links for News & Events, Netzwerk, Data Spaces & Co, GAIA-X, Projekte, and Über Uns. The main banner is titled 'DATASPACE UNCHAINED' and 'EDITION 1: TIROL'. It features a map of Austria with a red pin in Tyrol. The event details are: 24.01.2023, 13:30 - 17:30 Uhr, in Innsbruck. A sidebar on the right describes the event as a 'Data Space Roadshow' for 'Early Movers'. The footer lists sponsors: DIO Data Intelligence Initiative, Hewlett Packard Enterprise, Microsoft, ACP, LAND TIROL, Tirol, and gaia-x.

DIO
Data Intelligence Offensive
Verein zur Förderung der Datenwirtschaft

News & Events Netzwerk Data Spaces & Co GAIA-X Projekte Über Uns

DATASPACE UNCHAINED

EDITION 1: TIROL

24.01.2023
13:30 - 17:30 Uhr
Innsbruck

Wir „touren“ für Data Spaces durch Österreich – Seien Sie dabei!

Die erste Station unserer Data Space Roadshow, in der wir Sie als Early Movers vereinen möchten, um konkreten Business Value mit Use Cases auf die Straße zu bringen, findet am 24.01.2023 in Innsbruck statt.

Treffen wir Sie dort?


Interessieren Sie aktuelle Entwicklungen aus der Datenwelt?

Sponsors: DIO Data Intelligence Initiative, Hewlett Packard Enterprise, Microsoft, ACP, LAND TIROL, Tirol, gaia-x

Providers of data processing service shall remove obstacles, which inhibit customers from:

- a) terminating, after a maximum notice period of 30 calendar days, the contractual agreement of the service;
- b) concluding new contractual agreements with a different provider of data processing services covering the same service type;
- c) porting its data, applications and other digital assets to another provider of data processing services;
- d) maintaining functional equivalence of the service in the IT-environment of the different provider or providers of data processing

Examples are easy to find

 luckycloud®

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§ 6.2 luckycloud Services mit dediziertem Hosting

- a. Beim dediziertem Hosting wird dem Kunde ein oder mehrere eigenständige bzw. dedicated Server zur Verfügung gestellt. Dies ist bei luckycloud pro Enterprise, Enterprise Plus und Webhosting der Fall.
- b. Sofern nicht anders vereinbart, beträgt die anfängliche Vertragslaufzeit 12 Monate.
- c. Der Vertrag verlängert sich automatisch um weitere 12 Monate.
- d. Der Vertrag kann 3 Monate vor Vertragsende schriftlich per E-Mail (support@luckycloud.de) durch einen weisungsberechtigten Ansprechpartner, der vorher im Hauptvertrag festgelegt wurde, gekündigt werden. Das Recht zur Kündigung aus wichtigem Grund bleibt unberührt.
- e. Weitere Leistungen und Service Levels sind dem Hauptvertrag zu entnehmen.

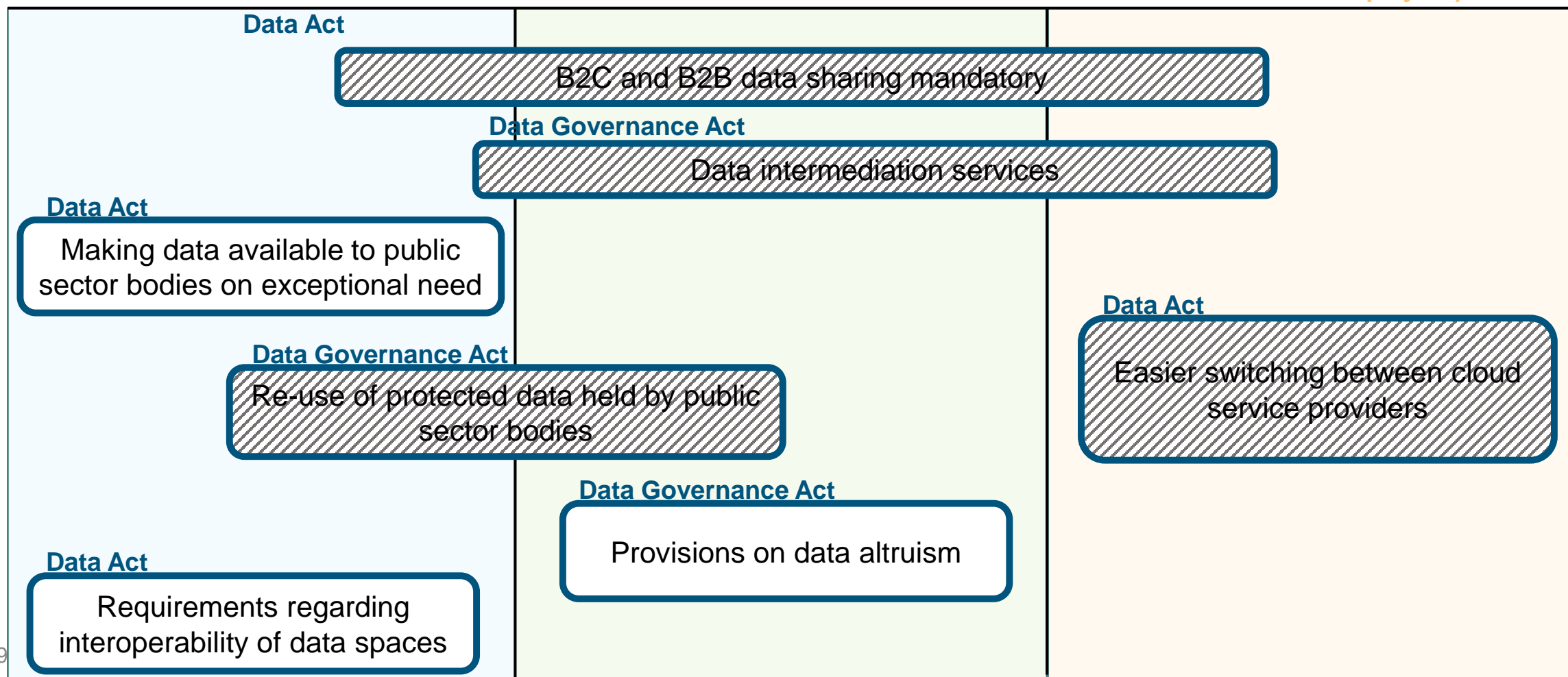
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Authorities for reuse of certain categories of data (Necessary 9/24/2023)

Single information points

- Accept requests related to the reuse of data
- Publish inventory lists with conditions for reuse

One or more competent Bodies for technical support for processing environment, structuring and storage of data, pseudonymization and anonymization.

- Where appropriate, support to public sector bodies regarding data subjects' consent to reuse
- Assessment of contractual commitments from reusers.

Other authorities

European Data Innovation Board

On Memberstate level (starting September 2023)

- Registration and monitoring of data intermediation services providers
- Registration and monitoring of recognised data altruism organisations

Timing depending on when the Data Act goes into effect

- Dispute settlement bodies
- One or more competent authorities responsible for the application and enforcement of the act.

