

## **The Guild’s statement on the European Commission’s proposal for a Data Act**

The Guild welcomes the European Commission’s proposal for a Data Act<sup>1</sup> and the ambition to ensure thereby fair access to, and re-use of, data held by for-profit private bodies.

The accelerated digitalisation of society and the economy means that companies increasingly collect and hold data. It also implies that universities and other research-performing organisations need to enter into data sharing agreements with these companies to get access to, and be allowed to use, their data for research purposes. However, there are many obstacles to such data sharing, including unfair conditions imposed by companies, especially when their competitiveness relies on their control over strategic data.

The Guild voices its concern that the current proposal for the Data Act does not provide the sufficient means to ensure a fair access to privately held data for research purposes.

In Chapter III laying down the “obligation for data holders legally obliged to make data available”, Article 8 specifies that data sharing should be done “under fair, reasonable and non-discriminatory terms and in a transparent manner”. Similarly, Chapter IV addresses “unfair terms related to data access and use between enterprises”. The Guild regrets that these provisions apply only to business-to-business data sharing. It urges the European Council and Parliament to extend the scope of these provisions to include business-to-government sharing and data sharing for research purposes.

In Chapter IV laying down rules for business-to-government data sharing, Article 14 specifies that “a data holder shall make data available to a public sector body or to a Union institution, agency or body demonstrating an exceptional need to use the data requested”. Article 15 defines “exceptional need” and links it to “public emergency” and “public interest”.

The critical nature of research has been recognised by the High-Level Expert Group on business-to-government data sharing in its 2021 report.<sup>2</sup> It emphasized that data can serve the public interest by (1) improving our awareness of phenomena; (2) helping better understand phenomena; (3) supporting predictions and forecasts; (4) providing evidence for impacts assessments and evaluations; and, (5) guiding public management decisions. The Guild highlights that these five activities correspond to research activities.

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<sup>1</sup> European Commission (2022) Proposal for a Regulation of the European Parliament and of the Council on harmonised rules on fair access to and use of data (Data Act). COM(2022) 68 final.

<sup>2</sup> European Commission (2021) *Towards a European strategy on business-to-government data sharing for the public interest – Final report prepared by the High-Level Expert Group on Business-to-Government Data Sharing*. Luxembourg: Publications Office of the European Union. DOI: [10.2759/406717](https://doi.org/10.2759/406717).

The Guild highlights that it is the nature of challenge- and mission-oriented research to address public emergencies, either to prevent or to solve them, and that this type of research extensively relies on fundamental research.

Therefore, we invite the European Council and Parliament to recognise that research is an activity conducted in the public interest and that research is crucial to “respond to a public emergency”, “prevent a public emergency”, and “assist the recovery from a public emergency”. In consequence, we advocate for amendments to Chapter IV to ensure that the provisions on business-to-government data sharing applies to requests from research-performing organisations for research purposes. This implies that universities and research-performing organisations – when they are public – must be able to request directly data holders for access to their data. It is crucial that public universities and research-performing organisations do not need to systematically rely on other public sector bodies as intermediate (Article 21), and, that the requirements for data requests could be reasonably filled by them (Article 17).

With the Data Act, the European Union has a real opportunity to ensure that we can strengthen Europe’s resilience and strategic autonomy in addressing our major challenges like climate change, improving public health, and the capacity to trace and fight disinformation on social media platforms. It is essential that the EU recognises research as a public good, whose essential need is based on the fundamental nature of the societal challenges we must address.