

# Position on the EU Data Act

## Key messages

BASF welcomes the main objectives of the Data Act and the opportunities it brings in fostering a true Data Economy. The future legislation should be clear, flexible and avoid any unnecessary administrative burdens. The EU is at the forefront on legislation ruling non-personal data transactions. If properly drafted and implemented, the Data Act could avoid market distortions and ensure a level-playing field with countries that still need to legislate in this matter.

- It is key that obligations for Business-to-Business (B2B) and Business-to-Government (B2G) are adaptable to specific cases, clear and enforceable for all involved economic operators.
- Contractual freedom and fair compensation are the basis of any modern business relation and should be preserved in any data access negotiation. This includes foreseeing situations involving trade secrets.
- The existing European Standardization System is a reliable and transparent process for the drafting and approval of Standards. Any future secondary legislation should avoid bypassing this consolidated process.

## About the topic

The European Commission (EC) considers data as a core component of the Digital Economy, and an essential resource to secure the Green and Digital transitions. In this context, in February 2022 the EC published a proposal for a Regulation on harmonized rules on fair access to and use of data – the “Data Act”. The main goal of the proposal is to better harness the economic potential of data by addressing two main key issues in the Data Economy: access to data and the switching of service providers.

The Data Act establishes a horizontal framework for sharing non-personal data by introducing obligations giving the users access to the data they generate. This topic is relevant for BASF because it reshapes business relations on who may have access to the data we hold and under which conditions they can access it, including situations where companies would be obliged to share data with public bodies.

## What does BASF offer?

In light of the growing importance of digitalization coupled with investment in Research & Development in our different businesses; BASF strives to create new opportunities and make use of innovative resources.

BASF’s different businesses both use and generate data, benefiting from a well-functioning European Single Market and a robust Data Economy. Currently we conduct research on different topics that can potentially benefit from this future legislation, including new chemical compounds, Artificial Intelligence (AI), Internet of Things (IoT), predictive modeling, digital farming solutions and animal feed and ingredients. We are also active members of Catena-X, an industry alliance that aims to create uniform standards for information and data-sharing throughout the entire automotive value chain.

## Our position

BASF welcomes the main objectives of the Data Act and the intent to foster a true Data Economy. Regulation at EU level should establish and guarantee a competitive and transparent digital environment. For that reason, any legislation in the digital sector should continue to enable an innovation friendly environment, especially in the context of new digital technologies.

**Business-to-Business (B2B) data sharing:** The legislation should foresee and explicitly protect the interests of Data Holder against the misuse of the data that is being shared.

**Business-to-Government (B2G) data sharing:** The proposal should clarify the situations in which public sector bodies in the EU would have access to certain data, especially the so-called “exceptional” situations.

**Trade Secrets:** The Data Act should foresee situations where manufacturers could be obliged to share trade secrets with competitors and provide adequate safeguards. In parallel, it is necessary to ensure the correct application of the Trade Secrets Directive, regulating the lawful disclosure of trade secret information and data related to it.

**Intellectual Property (IP) rights:** Mandatory data sharing should respect consolidated IP processes. Any requirements to publicly share data should not weaken the ability to obtain or to assess and exploit IP based on this data.

**Contractual freedom & compensation:** BASF and its businesses partners should continue benefiting from contractual freedom, deciding how data sharing should take place, what solutions should be offered and adequate compensation.

**Standardization:** Any secondary legislation should be used only in very specific cases and not to bypass the consolidated standardization process. Industry involvement in standardization is key and BASF believes that any future selection of interoperability standards should also rely on the industry point of view.