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Subject:	Proposal for a Regulation of the European Parliament and of the Council on a framework for the free flow of non-personal data in the European Union - Discussion on the EP amendments

In view of the discussion in the WP TELE of 18 June, delegations will find in Annex a 4-column document with the Commission proposal, IMCO amendments and the Council amendments (as set out in doc. 15724/17 REV 1) included respectively in the first, second and third column of the table.

Four-column document: **Proposal for a Regulation of the European Parliament and of the Council on a framework for the free flow of non-personal data in the European Union**

Note: Differences between IMCO's position and the Commission's proposal are highlighted in ***Bold/italics***. **Bold** in the Council column indicates where the Council has amended Commission's text. Deletions are marked with a ~~strike through~~.

R o w	COMMISSION'S PROPOSAL	IMCO AMENDMENTS	COUNCIL AMENDMENTS	COMPROMISE PROPOSALS
	<p>THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,</p> <p>Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,</p> <p>Having regard to the proposal from the European Commission,</p> <p>After transmission of the draft legislative act to the national parliaments,</p> <p>Having regard to the opinion of the European Economic and Social Committee,</p>	<p><i>Idem</i></p>	<p><i>Idem</i></p>	<p><i>Idem</i></p>

2.	Having regard to the opinion of the Committee of the Regions,	<i>Idem</i>	<i>Idem</i>	<i>Idem</i>
3.	Acting in accordance with the ordinary legislative procedure, Whereas:	<i>Idem</i>	<i>Idem</i>	<i>Idem</i>
4.	(1) The digitisation of the economy is accelerating. Information and Communications Technology (ICT) is no longer a specific sector but the foundation of all modern innovative economic systems and societies. Electronic data is at the centre of those systems and can generate great value when analysed or combined with services and products.	(1) The digitisation of the economy is accelerating. Information and Communications Technology (ICT) is no longer a specific sector but the foundation of all modern innovative economic systems and societies. Electronic data is at the centre of those systems and can generate great value when analysed or when combined, under secure conditions , with services and products.	(1) The digitisation of the economy is accelerating. Information and Communications Technology (ICT) is no longer a specific sector but the foundation of all modern innovative economic systems and societies. Electronic data is at the centre of those systems and can generate great value when analysed or combined with services and products. Considering, at the same time, that the rapid development of the data economy and emerging technologies such as Artificial Intelligence, Internet of Things products and services, autonomous systems, and 5G raise novel legal issues surrounding questions of data ownership, liability, ethics and solidarity. Furthermore, work should be considered notably in the area of liability, in particular through self-regulatory codes and other best practices, taking into account recommendations, decisions and actions taken without human	

			interaction along the entire value chain of data processing. Such work may also consider inter alia appropriate mechanisms for determining liability, responsibility transfers among cooperating services, insurance and auditing.	
5.	(2) Data value chains are built on different data activities: data creation and collection; data aggregation and organisation; data storage and processing; data analysis, marketing and distribution; use and re-use of data. The effective and efficient functioning of data storage and other processing is a fundamental building block in any data value chain. However, such effective and efficient functioning and the development of the data economy in the Union are hampered, in particular, by two types of obstacles to data mobility and to the internal market.		(2) Data value chains are built on different data activities: data creation and collection; data aggregation and organisation; data storage and processing; data analysis, marketing and distribution; use and re-use of data. The effective and efficient functioning of data storage and other processing is a fundamental building block in any data value chain. However, such effective and efficient functioning and the development of the data economy in the Union are hampered, in particular, by two types of obstacles to data mobility and to the internal market.	<i>Identical amendments</i> <i>See comment in Row 56</i>
6.	(3) The freedom of establishment and the freedom to provide services under the Treaty on the Functioning of the European Union apply to data storage or other processing services. However, the provision of those services is hampered or sometimes prevented by certain national requirements to locate data in a specific	(3) The freedom of establishment and the freedom to provide services under the Treaty on the Functioning of the European Union apply to data storage or other processing services, including porting of data . However, the provision of those services is hampered or sometimes prevented by certain national, regional or local requirements	(3) The freedom of establishment and the freedom to provide services under the Treaty on the Functioning of the European Union apply to data storage or other processing services. However, the provision of those services is hampered or sometimes prevented by certain national requirements to locate data in a specific	

	territory.	to locate data in a specific territory.	territory.	
7.	<p>(4) Such obstacles to the free movement of data storage or other processing services and to the right of establishment of data storage or other processing providers originate from requirements in the national laws of Member States to locate data in a specific geographical area or territory for the purpose of storage or other processing. Other rules or administrative practices have an equivalent effect by imposing specific requirements which make it more difficult to store or otherwise process data outside a specific geographical area or territory within the Union, such as requirements to use technological facilities that are certified or approved within a specific Member State. Legal uncertainty as to the extent of legitimate and illegitimate data localisation requirements further limits the choices available to market players and to the public sector regarding the location of data storage or other processing.</p>	<p>(4) Such obstacles to the free movement of data storage or other processing services and to the right of establishment of data storage or other processing providers originate from requirements in the national laws of Member States to locate data in a specific geographical area or territory for the purpose of storage or other processing. Other rules or administrative practices have an equivalent effect by imposing specific requirements which make it more difficult to store or otherwise process data outside a specific geographical area or territory within the Union, such as requirements to use technological facilities that are certified or approved within a specific Member State. Legal uncertainty as to the extent of legitimate and illegitimate data localisation requirements further limits the choices available to market players and to the public sector regarding the location of data storage or other processing. <i>This Regulation in no way limits the freedom of businesses to make contractual agreements specifying where data is to be located. This Regulation is merely intended to enhance that choice by ensuring that an agreed location may be situated anywhere within the Union.</i></p>	<p>(4) Such obstacles to the free movement of data storage or other processing services and to the right of establishment of data storage or other processing providers originate from requirements in the national laws of Member States to locate data in a specific geographical area or territory for the purpose of storage or other processing. Other rules or administrative practices have an equivalent effect by imposing specific requirements which make it more difficult to store or otherwise process data outside a specific geographical area or territory within the Union, such as requirements to use technological facilities that are certified or approved within a specific Member State. Legal uncertainty as to the extent of legitimate and illegitimate data localisation requirements further limits the choices available to market players and to the public sector regarding the location of data storage or other processing.</p>	

8.	(5) At the same time, data mobility in the Union is also inhibited by private restrictions: legal, contractual and technical issues hindering or preventing users of data storage or other processing services from porting their data from one service provider to another or back to their own IT systems, not least upon termination of their contract with a service provider.		(5) At the same time, data mobility in the Union is also inhibited by private restrictions: legal, contractual and technical issues hindering or preventing users of data storage or other processing services from porting their data from one service provider to another or back to their own IT systems, not least upon termination of their contract with a service provider.	<i>Identical amendments</i> <i>See comment in Row 56</i>
9.		<i>(5 a) The combination of those obstacles has led to a lack of competition between cloud service providers in Europe, to various vendor locking issues, and to a serious lack of data mobility. Likewise, data-localisation policies have undermined the ability of research and development companies to facilitate collaboration between firms, universities, and other research organisations with the aim of driving their own innovation.</i>		
10.	(6) For reasons of legal certainty and the need for a level playing field within the Union, a single set of rules for all market participants is a key element for the functioning of the internal market. In order to remove obstacles to trade and distortions of competition resulting from divergences between national laws and to prevent the emergence of further	<i>Idem</i>	<i>Idem</i>	<i>Idem</i>

	likely obstacles to trade and significant distortions of competition, it is therefore necessary to adopt uniform rules applicable in all Member States.			
11.	(7) In order to create a framework for the free movement of non-personal data in the Union and the foundation for developing the data economy and enhancing the competitiveness of European industry, it is necessary to lay down a clear, comprehensive and predictable legal framework for storage or other processing of data other than personal data in the internal market. A principle-based approach providing for cooperation among Member States as well as self-regulation should ensure that the framework is flexible so that it can take into account the evolving needs of users, providers and national authorities in the Union. In order to avoid the risk of overlaps with existing mechanisms and hence to avoid higher burdens both for Member States and businesses, detailed technical rules should not be established.	<i>Idem</i>	<i>Idem</i>	<i>Idem</i>
12.		<i>(7a) Free flow of data within the Union will play an important role in achieving data-driven growth and innovation. Like businesses and consumers, the public authorities and bodies of Member States stand to benefit from increased freedom of choice regarding data-driven service</i>	(7a) This Regulation should not affect data processing in so far as it is part of an activity which falls outside the scope of Union law. In particular, in accordance with Article 4 of the Treaty on European Union, national security is the sole responsibility of	

		<p><i>providers, from more competitive prices and from a more efficient provision of services to citizens. Given the large amounts of data that public authorities and bodies handle, it is of the utmost importance that they lead by example by taking up data-processing services and that they refrain from making data localisation restrictions when they make use of data-processing services. Therefore public authorities and bodies should also be covered by this Regulation, including, without prejudice to Directive 2014/24/EU of the European Parliament and the Council, in the context of public procurement. At the same time, this Regulation creates no obligation for public entities to outsource data processing.</i></p>	<p>each Member State.</p>	
13.			<p>(7b) This Regulation is without prejudice to the internal organisation of Member States and should therefore not apply to laws, regulations, and administrative provisions allocating and providing for the implementation of powers and responsibilities for processing data among public authorities and bodies governed by public law. While public authorities are encouraged to consider the economic and other benefits of outsourcing to external service providers, there may be legitimate reasons to choose self-</p>	

			provisioning of services or insourcing within public administration. Consequently, nothing in this Regulation obliges Member States to contract out or externalise the provision of services that they wish to provide themselves or to organise by means other than public contracts.	
14.	(8) This Regulation should apply to legal or natural persons who provide data storage or other processing services to users residing or having an establishment in the Union, including those who provide services in the Union without an establishment in the Union.	<i>Idem</i>	(8) This Regulation should apply to legal or natural persons who provide data storage or other processing services to users residing or having an establishment in the Union, including those who provide services in the Union without an establishment in the Union. This Regulation should therefore not apply to processing taking place outside the Union and to data localisation requirements relating to such data.	
15.			(8a) This Regulation does not lay down rules relating to the determination of applicable law in commercial matters and is therefore without prejudice to Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I). In particular, to the extent that the law applicable to the contract has not been chosen in accordance with Article 3 of Regulation No 593/2008, a contract for the provision of services	

			shall in principle be governed by the law of the country where the service provider has his habitual residence.	
16.	(9) The legal framework on the protection of natural persons with regard to the processing of personal data, in particular Regulation (EU) 2016/679, Directive (EU) 2016/680 and Directive 2002/58/EC should not be affected by this Regulation.	(9) The legal framework on the protection of natural persons with regard to the processing of personal data, <i>and on respect for private life and the protection of personal data in electronic communications</i> , in particular Regulation (EU) 2016/679, Directive (EU) 2016/680 and Directive 2002/58/EC, are not affected by this Regulation	(9) The legal framework on the protection of natural persons with regard to the processing of personal data, in particular Regulation (EU) 2016/679, Directive (EU) 2016/680 and Directive 2002/58/EC should not be affected by this Regulation.	
17.	(10) Under Regulation (EU) 2016/679, Member States may neither restrict nor prohibit the free movement of personal data within the Union for reasons connected with the protection of natural persons with regard to the processing of personal data. This Regulation establishes the same principle of free movement within the Union for non-personal data except when a restriction or a prohibition would be justified for security reasons.	(10) Under Regulation (EU) 2016/679, Member States may neither restrict nor prohibit the free movement of personal data within the Union for reasons connected with the protection of natural persons with regard to the processing of personal data. This Regulation establishes the same principle of free movement within the Union for non-personal data except when a restriction or a prohibition would be justified for <i>public</i> security reasons. Regulation (EU) 2016/679 and this Regulation provide a coherent set of rules that cater for the free movement of different types of data. Where data sets contain both personal and non-personal data, Regulation (EU) 2016/679 should apply to the personal data part of the set, and this Regulation should apply to the non-	(10) Under Regulation (EU) 2016/679, Member States may neither restrict nor prohibit the free movement of personal data within the Union for reasons connected with the protection of natural persons with regard to the processing of personal data. This Regulation establishes the same principle of free movement within the Union for non-personal data except when a restriction or a prohibition would be justified for security reasons. The Regulation (EU) 2016/679 and this Regulation provide a coherent set of rules that cater for free movement of different types of data. In the case of mixed data sets, the Regulation (EU) 2016/679 will apply to the personal data part of the set, and this Regulation will apply to the non-personal data part of the set. Where	

		<p><i>personal data part of the set. Where non-personal and personal data in a mixed data set are inextricably linked, this Regulation should apply without prejudice to Regulation (EU) 2016/679. If technological advancements, such as artificial intelligence, machine learning, internet of things, and big data analysis, make it possible to turn anonymised data into personal data, such data are treated as personal data and Regulation (EU) 2016/679 applies accordingly. Furthermore, this Regulation does not impose an obligation to store the different types of data separately or an obligation to unbundle mixed data sets.</i></p>	<p>non-personal and personal data are inextricably linked, this Regulation should not prejudice the application of Regulation (EU) 2016/679. Furthermore, this Regulation does not impose an obligation to store the different types of data separately.</p>	
18.			<p>(10a) A large source of non-personal data is the expanding Internet of Things, for example as it is deployed in automated industrial production processes. Specific examples of non-personal data include aggregate and anonymized datasets used for big data analytics, data on precision farming that can help to monitor and optimise the use of pesticides and water, or data on maintenance needs for industrial machines.</p>	
19.	<p>(11) This Regulation should apply to data storage or other processing in the broadest sense, encompassing the usage of all types of IT systems, whether</p>	<p><i>Idem</i></p>	<p>(11) This Regulation should apply to data storage or other processing in the broadest sense, encompassing the usage of all types of IT systems, whether</p>	

	located on the premises of the user or outsourced to a data storage or other processing service provider. It should cover data processing of different levels of intensity, from data storage (Infrastructure-as-a-Service (IaaS)) to the processing of data on platforms (Platform-as-a-Service (PaaS)) or in applications (Software-as-a-Service (SaaS)). These different services should be within the scope of this Regulation, unless data storage or other processing is merely ancillary to a service of a different type, such as providing an online marketplace intermediating between service providers and consumers or business users.		located on the premises of the user or outsourced to a data storage or other processing service provider. It should cover data processing of different levels of intensity, from data storage (Infrastructure-as-a-Service (IaaS)) to the processing of data on platforms (Platform-as-a-Service (PaaS)) or in applications (Software-as-a-Service (SaaS)). These different services should be within the scope of this Regulation, unless data storage or other processing is merely ancillary to a service of a different type, such as providing an online marketplace intermediating between service providers and consumers or business users.	
20.	(12) Data localisation requirements represent a clear barrier to the free provision of data storage or other processing services across the Union and to the internal market. As such, they should be banned unless they are justified based on the grounds of public security, as defined by Union law, in particular Article 52 of the Treaty on the Functioning of the European Union, and satisfy the principle of proportionality enshrined in Article 5 of the Treaty on European Union. In order to give effect to the principle of free flow of non-personal data across borders, to ensure the swift removal of existing data localisation requirements	(12) Data localisation requirements represent a clear barrier to the free provision of data storage or other processing services across the Union and to the internal market. As such, they should be banned unless they are justified based on the <i>imperative</i> grounds of public security, as defined by Union law, in particular Article 52 of the Treaty on the Functioning of the European Union, and satisfy the principle of proportionality enshrined in Article 5 of the Treaty on European Union. In order to give effect to the principle of free flow of non-personal data across borders, to ensure the swift removal of existing data localisation	(12) Data localisation requirements represent a clear barrier to the free provision of data storage or other processing services across the Union and to the internal market. As such, they should be banned unless they are justified based on the grounds of public security, as defined by Union law, in particular within the meaning of Article 52 of the Treaty on the Functioning of the European Union, and satisfy the principle of proportionality enshrined in Article 5 of the Treaty on European Union. In order to give effect to the principle of free flow of non-personal data across borders, to ensure the swift removal of existing data	

	and to enable for operational reasons storage or other processing of data in multiple locations across the EU, and since this Regulation provides for measures to ensure data availability for regulatory control purposes, Member States should not be able to invoke justifications other than public security.	requirements and to enable for operational reasons storage or other <i>the</i> processing of data in multiple locations across the EU, and since this Regulation provides for measures to ensure data availability for regulatory control purposes, Member States should not be able to invoke justifications other than public security.	localisation requirements and to enable for operational reasons storage or other processing of data in multiple locations across the EU, and since this Regulation provides for measures to ensure data availability for regulatory control purposes, Member States should not be able to invoke justifications other than public security.	
21.		<i>(12a) The concept of ‘public security’, within the meaning of Article 52 TFEU, as interpreted by the Court of Justice, covers both the internal and external security of a Member State. It presupposes the existence of a genuine and sufficiently serious threat affecting one of the fundamental interests of society, such as a threat to the functioning of institutions and essential public services and the survival of the population, as well as the risk of a serious disturbance to foreign relations or to peaceful coexistence of nations, or a risk to military interests. The concept of ‘imperative grounds of public security’ presupposes a threat to public security that is of a particularly high degree of seriousness. In accordance with the principle of proportionality, data localisation requirements that are justified in exceptional cases by imperative grounds of public security should be suitable for attaining the objective pursued, and should not go</i>	(12a) The concept of ‘public security’, within the meaning of Article 52 of the TFEU and as interpreted by the Court of Justice, covers both the internal and external security of a Member State, as well as issues of public safety, in particular to allow for the investigation, detection and prosecution of criminal offences. It presupposes the existence of a genuine and sufficiently serious threat affecting one of the fundamental interests of society, such as a threat to the functioning of institutions and essential public services and the survival of the population, as well as by the risk of a serious disturbance to foreign relations or the peaceful coexistence of nations, or a risk to military interests.	

		<i>beyond what is necessary to attain that objective.</i>		
22.	(13) In order to ensure the effective application of the principle of free flow of non-personal data across borders, and to prevent the emergence of new barriers to the smooth functioning of the internal market, Member States should notify to the Commission any draft act that contains a new data localisation requirement or modifies an existing data localisation requirement. Those notifications should be submitted and assessed in accordance with the procedure laid down in Directive (EU) 2015/1535.	(13) In order to ensure the effective application of the principle of free flow of non-personal data across borders, and to prevent the emergence of new barriers to the smooth functioning of the internal market, Member States should notify immediately communicate to the Commission any draft act that contains a new data localisation requirement or modifies an existing data localisation requirement. Those notifications draft acts should be submitted and assessed in accordance with the procedure laid down in Directive (EU) 2015/1535.	(13) In order to ensure the effective application of the principle of free flow of non-personal data across borders, and to prevent the emergence of new barriers to the smooth functioning of the internal market, Member States should notify immediately communicate to the Commission any draft act that contains a new data localisation requirement or modifies an existing data localisation requirement. Those notifications Those draft acts should be submitted and assessed in accordance with the procedure laid down in Directive (EU) 2015/1535.	<i>Identical amendments</i>
23.	(14) Moreover, in order to eliminate potential existing barriers, during a transitional period of 12 months, Member States should carry out a review of existing national data localisation requirements and notify to the Commission, together with a justification, any data localisation requirement that they consider being in compliance with this Regulation. These notifications should enable the Commission to assess the compliance of any remaining data localisation requirements.	(14) Moreover, in order to eliminate potential existing barriers, during a transitional period of 12 months, Member States should carry out a review of existing national data localisation requirements and notify communicate to the Commission, together with a justification, any data localisation requirement that they consider being in compliance with this Regulation. These notifications communications should enable the Commission to assess the compliance of any remaining data localisation requirements, and to adopt decisions, where appropriate, requesting Member States to amend or to repeal such data	(14) Moreover, in order to eliminate potential existing barriers, during a transitional period of 12 24 months, Member States should carry out a review of existing national laws, regulations or administrative provisions of a general nature laying down data localisation requirements and notify communicate to the Commission, together with a justification, any such data localisation requirement that they consider being in compliance with this Regulation. These notifications This should enable the Commission to assess the compliance of any remaining data localisation	

		<i>localisation requirements.</i>	requirements.	
24.			(14a) The obligations to communicate existing measures data localisation requirements and draft acts to the Commission established by this Regulation should apply to regulatory measures data localisation requirements and drafts of a general nature and not to decisions addressed to a specific natural or legal person.	
25.	(15) In order to ensure the transparency of data localisation requirements in the Member States for natural and legal persons, such as providers and users of data storage or other processing services, Member States should publish on a single online information point and regularly update the information on such measures. In order to appropriately inform legal and natural persons of data localisation requirements across the Union, Member States should notify to the Commission the addresses of such online points. The Commission should publish this information on its own website.	(15) In order to ensure the transparency of data localisation requirements in the Member States for natural and legal persons, such as providers and users of data storage or other processing services, Member States should publish <i>details of such requirements</i> on a single online information point and or should provide such details to a Union-level information point established under another Union act, [such as Regulation (EU) No ... of the European Parliament and of the Commission the Digital Single Gateway]. <i>Member States should regularly update the this information on such measures.</i> In order to appropriately inform legal and natural persons of data localisation requirements across the Union, Member States should notify to the Commission the addresses of such	(15) In order to ensure the transparency of data localisation requirements in the Member States for natural and legal persons, such as providers and users of data storage or other processing services, Member States should publish on a single online information point and regularly update the information on such measures or provide those up-to-date details to an information point established under another Union act. In order to appropriately inform legal and natural persons of data localisation requirements across the Union, Member States should notify to the Commission the addresses of such online points. The Commission should publish this information on its own website.	

		online points. The Commission should publish this information on its own website, <i>along with a consolidated list of data localisation requirements in force in Member States. The Commission should, in addition, publish information on those requirements in its official working languages.</i>		
26.	(16) Data localisation requirements are frequently underpinned by a lack of trust in cross-border data storage or other processing, deriving from the presumed unavailability of data for the purposes of the competent authorities of the Member States, such as for inspection and audit for regulatory or supervisory control. Therefore, this Regulation should clearly establish that it does not affect the powers of competent authorities to request and receive access to data in accordance with Union or national law, and that access to data by competent authorities may not be refused on the basis that the data is stored or otherwise processed in another Member State.	(16) Data localisation requirements are frequently underpinned by a lack of trust in cross-border data storage or other processing, deriving from the presumed unavailability of data for the purposes of the competent authorities of the Member States, such as for inspection and audit for regulatory or supervisory control. Therefore <i>the security of data hosting systems should be reinforced in all Member States, and</i> this Regulation should clearly establish that it does not affect the powers of competent authorities to request and receive access to data in accordance with Union or national law, and that access to data by competent authorities may not be refused on the basis that the data is stored or otherwise processed in another Member State.	(16) Data localisation requirements are frequently underpinned by a lack of trust in cross-border data storage or other processing, deriving from the presumed unavailability of data for the purposes of the competent authorities of the Member States, such as for inspection and audit for regulatory or supervisory control. Such lack of trust cannot be overcome solely by the nullity of contractual terms prohibiting lawful access to data by competent authorities for the performance of their official duties. Therefore, this Regulation should clearly establish that it does not affect the powers of competent authorities to request and receive access to data in accordance with Union or national law, and that access to data by competent authorities may not be refused on the basis that the data is stored or otherwise processed in another Member State. Competent authorities could impose functional requirements to support access to data, such as requiring that	

			system descriptions and passwords have to be kept in the Member State concerned.	
27.	(17) Natural or legal persons who are subject to obligations to provide data to competent authorities can comply with such obligations by providing and guaranteeing effective and timely electronic access to the data to competent authorities, regardless of the Member State in the territory of which the data is stored or otherwise processed. Such access may be ensured through concrete terms and conditions in contracts between the natural or legal person subject to the obligation to provide access and the data storage or other processing service provider.		(17) Natural or legal persons who are subject to obligations to provide data to competent authorities can comply with such obligations by providing and guaranteeing effective and timely electronic access to the data to competent authorities, regardless of the Member State in the territory of which the data is stored or otherwise processed. Such access may be ensured through concrete terms and conditions in contracts between the natural or legal person subject to the obligation to provide access and the data storage or other processing service provider.	<i>Identical amendments</i> <i>See comment in Row 56</i>
28.	(18) Where a natural or legal person subject to obligations to provide data fails to comply with them and provided that a competent authority has exhausted all applicable means to obtain access to data, the competent authority should be able to seek assistance from competent authorities in other Member States. In such cases, competent authorities should use specific cooperation instruments in Union law or international agreements, depending on the subject matter in a given case, such as, in the area of police cooperation, criminal or civil justice or in administrative matters respectively,	(18) Where a natural or legal person subject to obligations to provide data fails to comply with them and provided that a competent authority has exhausted all applicable means to obtain access to data, the competent authority should be able to seek assistance from competent authorities in other Member States. In such cases, competent authorities should use specific cooperation instruments in Union law or international agreements, depending on the subject matter in a given case, such as, in the area of police cooperation, criminal or civil justice or in administrative matters respectively,	(18) Where a natural or legal person subject to obligations to provide data fails to comply with them and provided that a competent authority has exhausted all applicable means to obtain access to data , the competent authority should be able to seek assistance from competent authorities in other Member States. In such cases, competent authorities should use specific cooperation instruments in Union law or international agreements, depending on the subject matter in a given case, such as, in the area of police cooperation, criminal or civil justice or in administrative matters respectively,	

	Framework Decision 2006/960, Directive 2014/41/EU of the European Parliament and of the Council, the Convention on Cybercrime of the Council of Europe, Council Regulation (EC) No 1206/2001, Council Directive 2006/112/EC and Council Regulation (EU) No 904/2010. In the absence of such specific cooperation mechanisms, competent authorities should cooperate with each other with a view to provide access to the data sought, through designated single points of contact, unless it would be contrary to the public order of the requested Member State.	Framework Decision 2006/960, Directive 2014/41/EU of the European Parliament and of the Council, the Convention on Cybercrime of the Council of Europe, Council Regulation (EC) No 1206/2001, Council Directive 2006/112/EC and Council Regulation (EU) No 904/2010. In the absence of such specific cooperation mechanisms, competent authorities should cooperate with each other with a view to provide access to the data sought, through designated single points of contact, unless it would be contrary to the public order of the requested Member State.	Framework Decision 2006/960, Directive 2014/41/EU of the European Parliament and of the Council, the Convention on Cybercrime of the Council of Europe, Council Regulation (EC) No 1206/2001, Council Directive 2006/112/EC and Council Regulation (EU) No 904/2010. In the absence of such specific cooperation mechanisms, competent authorities should cooperate with each other with a view to provide access to the data sought, through designated single points of contact, unless it would be contrary to the public order of the requested Member State.	
29.	(19) Where a request for assistance entails obtaining access to any premises of a natural or legal person including to any data storage or other processing equipment and means, by the requested authority, such access must be in accordance with Union or Member State procedural law, including any requirement to obtain prior judicial authorisation.		(19) Where a request for assistance entails obtaining access to any premises of a natural or legal person including to any data storage or other processing equipment and means, by the requested authority, such access must be in accordance with Union or Member State procedural law, including any requirement to obtain prior judicial authorisation.	<i>Identical amendments</i> <i>See comment in Row 56</i>
30.			(19a) This Regulation should not allow users to attempt to evade the application of national legislation. Provision should therefore be made for the imposition by Member States of effective, proportionate and dissuasive penalties on users which	

			prevent competent authorities from receiving access to their data necessary for the performance of the competent authorities' official duties under Union and national law.	
31.	(20) The ability to port data without hindrance is a key facilitator of user choice and effective competition on markets for data storage or other processing services. The real or perceived difficulties to port data cross-border also undermine the confidence of professional users in taking up cross-border offers and hence their confidence in the internal market. Whereas natural persons and consumers benefit from existing Union legislation, the ability to switch between service providers is not facilitated for users in the course of their business or professional activities.		(20) The ability to port data without hindrance is a key facilitator of user choice and effective competition on markets for data storage or other processing services. The real or perceived difficulties to port data cross-border also undermine the confidence of professional users in taking up cross-border offers and hence their confidence in the internal market. Whereas natural persons and consumers benefit from existing Union legislation, the ability to switch between service providers is not facilitated for users in the course of their business or professional activities. Consistent technical requirements across the Union, whether through technical harmonisation, mutual recognition or voluntary harmonisation also contribute to developing a competitive an internal market for data processing services.	
32.	(21) In order to take full advantage of the competitive environment, professional users should be able to make informed choices and easily compare the individual components of various data storage or other processing services offered in the internal market,	(21) In order to take full advantage of the competitive environment, professional users should be able to make informed choices and easily compare the individual components of various data storage or other processing services offered in the internal market,	(21) In order to take full advantage of the competitive environment, professional users should be able to make informed choices and easily compare the individual components of various data storage or other processing services offered in the internal market,	

	<p>including as to the contractual conditions of porting data upon the termination of a contract. In order to align with the innovation potential of the market and to take into account the experience and expertise of the providers and professional users of data storage or other processing services, the detailed information and operational requirements for data porting should be defined by market players through self-regulation, encouraged and facilitated by the Commission, in the form of Union codes of conduct which may entail model contract terms. Nonetheless, if such codes of conduct are not put in place and effectively implemented within a reasonable period of time, the Commission should review the situation.</p>	<p>including as to the contractual conditions of porting data upon the termination of a contract. In order to align with the innovation potential of the market and to take into account the experience and expertise of the providers and professional users of data storage or other processing services, the detailed information and operational requirements for data porting should be defined by market players through self-regulation, encouraged, and monitored by the Commission, in the form of Union codes of conduct which may entail model contract terms. <i>Codes of conduct should be comprehensive, should make clear that vendor lock-in is not an acceptable business practice, should provide for trust-increasing technologies, and should be regularly updated in order to keep pace with technological developments. Nonetheless, if The Commission should ensure that all relevant stakeholders, including small and medium-sized enterprises and start-ups are consulted throughout the process. The Commission should evaluate the development, and the effectiveness of the implementation, of such codes of conduct. are not put in place and effectively implemented within a reasonable period of time, the Commission should review the situation.</i></p>	<p>including as to the contractual conditions of porting data upon the termination of a contract. In order to align with the innovation potential of the market and to take into account the experience and expertise of the providers and professional users of data storage or other processing services, the detailed information and operational requirements for data porting should be defined by market players through self-regulation, encouraged and facilitated by the Commission, in the form of Union codes of conduct which may entail model contract terms. Nonetheless, if such codes of conduct are not put in place and effectively implemented within a reasonable period of time, the Commission should review the situation.</p>	
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33.	<p>(22) In order to contribute to a smooth cooperation across Member States, each Member State should designate a single point of contact to liaise with the contact points of the other Member States and the Commission regarding the application of this Regulation. Where a competent authority in one Member State requests assistance of another Member State to have access to data pursuant to this Regulation, it should submit a duly motivated request to the latter's designated single point of contact, including a written explanation of its justification and legal bases for seeking access to data. The single point of contact designated by the Member State whose assistance is requested should facilitate the assistance between authorities by identifying and transmitting the request to the relevant competent authority in the requested Member State. In order to ensure effective cooperation, the authority to which a request is transmitted should without undue delay provide assistance in response to a given request or provide information on difficulties in meeting a request of assistance or on its grounds of refusing such request.</p>	<i>Idem</i>	<p>(22) In order to contribute to a smooth cooperation across Member States, each Member State should designate a single point of contact to liaise with the contact points of the other Member States and the Commission regarding the application of this Regulation. Where a competent authority in one Member State requests assistance of another Member State to have access to data pursuant to this Regulation, it should submit, through a designated single point of contact, a duly motivated request to the latter's designated single point of contact, including a written explanation of its justification and legal bases for seeking access to data. The single point of contact designated by the Member State whose assistance is requested should facilitate the transmission of the request assistance between authorities by identifying and transmitting the request to the relevant competent authority in the requested Member State. In order to ensure effective cooperation, the authority to which a request is transmitted should without undue delay provide assistance in response to a given request or provide information on difficulties in meeting a request of assistance or on its grounds of refusing such request.</p>	

34.	(23) In order to ensure the effective implementation of the procedure for assistance between Member State competent authorities, the Commission may adopt implementing acts setting out standard forms, languages of requests, time limits or other details of the procedures for requests for assistance. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.	<i>Idem</i>	(23) In order to ensure the effective implementation of the procedure for assistance between Member State competent authorities, the Commission may adopt implementing acts setting out standard forms, languages of requests, time limits or other details of the procedures for requests for assistance. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.	
35.	(24) Enhancing trust in the security of cross-border data storage or other processing should reduce the propensity of market players and the public sector to use data localisation as a proxy for data security. It should also improve the legal certainty for companies on applicable security requirements when outsourcing their data storage or other processing activities, including to service providers in other Member States.		(24) Enhancing trust in the security of cross-border data storage or other processing should reduce the propensity of market players and the public sector to use data localisation as a proxy for data security. It should also improve the legal certainty for companies on applicable security requirements when outsourcing their data storage or other processing activities, including to service providers in other Member States.	<i>Identical amendments</i> <i>See comment in Row 56</i>
36.	(25) Any security requirements related to data storage or other processing that are applied in a justified and proportionate manner on the basis of Union law or national law in compliance with Union law in the Member State of residence or establishment of the natural or legal		(25) Any security requirements related to data storage or other processing that are applied in a justified and proportionate manner on the basis of Union law or national law in compliance with Union law in the Member State of residence or establishment of the natural or legal	<i>Identical amendments</i> <i>See comment in Row 56</i>

	persons whose data is concerned should continue to apply to storage or other processing of that data in another Member State. These natural or legal persons should be able to fulfil such requirements either themselves or through contractual clauses in contracts with providers.		persons whose data is concerned should continue to apply to storage or other processing of that data in another Member State. These natural or legal persons should be able to fulfil such requirements either themselves or through contractual clauses in contracts with providers.	
37.	(26) Security requirements set at national level should be necessary and proportionate to the risks posed to the security of data storage or other processing in the area in scope of the national law in which these requirements are set.		(26) Security requirements set at national level should be necessary and proportionate to the risks posed to the security of data storage or other processing in the area in scope of the national law in which these requirements are set.	<i>Identical amendments</i> See comment in Row 56
38.	(27) Directive 2016/1148 provides for legal measures to boost the overall level of cybersecurity in the Union. Data storage or other processing services constitute one of the digital services covered by that Directive. According to its Article 16, Member States have to ensure that digital service providers identify and take appropriate and proportionate technical and organisational measures to manage the risks posed to the security of network and information systems which they use. Such measures should ensure a level of security appropriate to the risk presented, and should take into account the security of systems and facilities, incident handling, business continuity management, monitoring, auditing and		(27) Directive 2016/1148 provides for legal measures to boost the overall level of cybersecurity in the Union. Data storage or other processing services constitute one of the digital services covered by that Directive. According to its Article 16, Member States have to ensure that digital service providers identify and take appropriate and proportionate technical and organisational measures to manage the risks posed to the security of network and information systems which they use. Such measures should ensure a level of security appropriate to the risk presented, and should take into account the security of systems and facilities, incident handling, business continuity management, monitoring, auditing and	<i>Identical amendments</i> See comment in Row 56

	testing, and compliance with international standards. These elements are to be further specified by the Commission in implementing acts under that Directive.		testing, and compliance with international standards. These elements are to be further specified by the Commission in implementing acts under that Directive.	
39.	(28) The Commission should periodically review this Regulation, in particular with a view to determining the need for modifications in the light of technological or market developments.	(28) The Commission should periodically review submit a report on the implementation of this Regulation, in particular with a view to determining the need for modifications in the light of technological or market developments, such as artificial intelligence, machine learning, internet of things, and big data analysis. Such report should in particular evaluate the experience gained in applying this Regulation to mixed data sets, in order to ensure that innovation flourishes, and should evaluate the implementation of the public security exception. The Commission should also publish guidelines, before the other rules of this Regulation apply, on how it applies to mixed data sets, in order for companies, including SMEs, to better understand the interaction between this Regulation and Regulation (EU) 2016/679.	(28) The Commission should periodically review this Regulation, in particular with a view to determining the need for modifications in the light of technological or market developments- and to assessing the experience gained in applying this Regulation to mixed data sets.	
40.	(29) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, and should be interpreted and applied in accordance	<i>Idem</i>	<i>Idem</i>	<i>Idem</i>

	with those rights and principles, including the rights to the protection of personal data (Article 8), the freedom to conduct a business (Article 16), and the freedom of expression and information (Article 11).			
41.	(30) Since the objective of this Regulation, namely to ensure the free movement of non-personal data in the Union, cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.	<i>Idem</i>	<i>Idem</i>	<i>Idem</i>
42.	HAVE ADOPTED THIS REGULATION:	<i>Idem</i>	<i>Idem</i>	<i>Idem</i>
43.	Article 1 Subject matter	<i>Idem</i>	<i>Idem</i>	<i>Idem</i>
44.	This Regulation seeks to ensure the free movement of data other than personal data within the Union by laying down rules relating to data localisation requirements, the availability of data to	<i>Idem</i>	<i>Idem</i>	<i>Idem</i>

	competent authorities and data porting for professional users.			
45.	Article 2 Scope	<i>Idem</i>	<i>Idem</i>	<i>Idem</i>
46.	1. This Regulation shall apply to the storage or other processing of electronic data other than personal data in the Union, which is	1. This Regulation shall apply to the storage or other processing of electronic data other than personal data in the Union, which is	1. This Regulation shall apply to the storage or other processing of electronic data other than personal data in the Union, which is	<i>Identical amendments</i>
47.	(a) provided as a service to users residing or having an establishment in the Union, regardless of whether the provider is established or not in the Union or	<i>Idem</i>	<i>Idem</i>	<i>Idem</i>
48.	(b) carried out by a natural or legal person residing or having an establishment in the Union for its own needs.	(b) carried out by a natural or legal person residing or having an establishment in the Union for its own needs. <i>In the case of mixed data sets, this Regulation shall apply to the non-personal data part of the set. Where personal and non-personal data in a mixed data set are inextricably linked, this Regulation shall apply without prejudice to Regulation (EU) 2016/679.</i>	(b) carried out by a natural or legal person residing or having an establishment in the Union for its own needs.	

49.	2. This Regulation shall not apply to an activity which falls outside the scope of Union law.	2. This Regulation shall not apply to an activity which falls outside the scope of Union law.	2. This Regulation shall not apply to:	
50.			(a) an activity which falls outside the scope of Union law; or	
51.			(b) laws, regulations, and administrative provisions relating to the internal organisation of Member States allocating and providing for the implementation of powers and responsibilities for processing data among public authorities and bodies governed by public law as defined in point 4 of Article 2(1) of Directive 2014/24/EU.	
52.	Article 3 Definitions	<i>Idem</i>	<i>Idem</i>	<i>Idem</i>
53.	For the purposes of this Regulation, the following definitions shall apply:	<i>Idem</i>	<i>Idem</i>	<i>Idem</i>
54.	1. 'data' means data other than personal data as referred to in Article 4(1) of Regulation (EU) 2016/679;	<i>Idem</i>	<i>Idem</i>	<i>Idem</i>
55.		1a. 'mixed data set' means a data set composed of both personal		

		<i>and non-personal data;</i>		
56.	2. 'data storage' means any storage of data in electronic format;	2. 'data storage' means any storage of data in electronic format; ¹ ¹ <u>The part of this amendment deleting the words 'data storage' applies throughout the text. Adopting it will necessitate corresponding changes throughout</u>	2. 'data storage' means any storage of data in electronic format;	<i>Identical amendments</i>
57.		2a. 'processing' means any operation or set of operations which is performed on data or on sets of data in electronic format, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;	2a. 'processing' means any operation or set of operations which is performed on data or on sets of data in electronic format, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;	<i>Identical amendments</i>
58.	3. 'draft act' means a text formulated with the aim of having it enacted as a law, regulation or administrative provision of a general nature, the text being at the stage of preparation at which substantive amendments can still be made by the notifying Member State;	3. 'draft act' means a text formulated with the aim of having it enacted as a law, regulation or administrative provision of a general nature, the text being at the stage of preparation at which substantive amendments can still be made by the notifying Member State;	3. 'draft act' means a text formulated with the aim of having it enacted as a law, regulation or administrative provision of a general nature, the text being at the stage of preparation at which substantive amendments can still be made by the notifying Member State;	

59.	4. 'provider' means a natural or legal person who provides data storage or other processing services;	4. 'provider' means a natural or legal person who provides data storage or other processing services;	4. 'provider' means a natural or legal person who provides data storage or other processing services;	<i>Identical amendments</i>
60.	5. 'data localisation requirement' means any obligation, prohibition, condition, limit or other requirement provided for in the laws, regulations or administrative provisions of the Member States, which imposes the location of data storage or other processing in the territory of a specific Member State or hinders storage or other processing of data in any other Member State;	5. 'data localisation requirement' means any obligation, prohibition, condition, limit or other requirement provided for in the laws, regulations or administrative provisions, or resulting from the administrative practices , of the Member States and their emanations, including in the field of public procurement , which imposes the location of data storage or other processing in the territory of a specific Member State or hinders the storage or other processing of data in any other Member State;	5. 'data localisation requirement' means any obligation, prohibition, condition, limit or other requirement provided for in the laws, regulations or administrative provisions of the Member States or resulting from general and consistent administrative practices in the Member States , which imposes the processing of data in location of data storage or other processing in the territory of a specific Member State or hinders storage or other processing of data in any other Member State;	
61.	6. 'competent authority' means an authority of a Member State that has the power to obtain access to data stored or processed by a natural or legal person for the performance of its official duties, as provided for by national or Union law;	6. 'competent authority' means an authority of a Member State that has the power to obtain access to data stored or processed by a natural or legal person for the performance of its official duties, as provided for by national or Union law;	6. 'competent authority' means an authority of a Member State or any other entity authorised by national law to perform a public function or exercise public authority that has the power to obtain access to data stored or processed by a natural or legal person for the performance of its official duties, as provided for by national or Union law;	
62.	7. 'user' means a natural or legal person using or requesting a data storage or other processing service;	7. 'user' means a natural or legal person, including a public sector entity , using or requesting a data storage or other processing service;	7. 'user' means a natural or legal person using or requesting a data storage or other processing service;	

		processing service;		
63.	8. 'professional user' means a natural or legal person, including a public sector entity, using or requesting a data storage or other processing service for purposes related to its trade, business, craft, profession or task.	8. 'professional user' means a natural or legal person, including a public sector entity, using or requesting a data storage or other processing service for purposes related to its trade, business, craft, profession or task.	8. 'professional user' means a natural or legal person, including a public sector entity, using or requesting a data storage or other processing service for purposes related to its trade, business, craft, profession or task.	<i>Identical amendments</i>
64.	Article 4 Free movement of data within the Union	<i>Idem</i>	<i>Idem</i>	<i>Idem</i>
65.	1. Location of data for storage or other processing within the Union shall not be restricted to the territory of a specific Member State, and storage or other processing in any other Member State shall not be prohibited or restricted, unless it is justified on grounds of public security.	1. Location of data for storage or other processing within the Union shall not be restricted to the territory of a specific Member State, and storage or other processing in any other Member State shall not be prohibited or restricted, Without prejudice to paragraph 3 and to data localisation requirements laid down on the basis of existing Union law, data localisation requirements shall not be prohibited or restricted, unless, on an exceptional basis, and in compliance with the principle of proportionality, they are it is justified on imperative grounds of public security.	1. Location of data for storage or other processing within the Union shall not be restricted to the territory of a specific Member State, and storage or other processing in any other Member State shall not be prohibited or restricted, Without prejudice to paragraph 3 and to data localisation requirements laid down on the basis of existing Union law, data localisation requirements shall not be prohibited or restricted, unless these are justified on grounds of public security.	
66.	2. Member States shall notify to the Commission any draft act which introduces a new data localisation requirement or makes changes to an existing data localisation requirement in accordance with the procedures set out in the national law implementing	2. Member States shall notify immediately communicate to the Commission any draft act which introduces a new data localisation requirement or makes changes to an existing data localisation requirement in accordance with the procedures set out	2. Member States shall notify immediately communicate to the Commission any draft act which introduces a new data localisation requirement or makes changes to an existing data localisation requirement in accordance with the procedures set out	<i>Identical amendments</i> <i>EP - Articles 5, 6 and 7</i> <i>Council – Articles 5 to 7</i>

	Directive (EU) 2015/1535.	in the national law implementing Articles 5, 6 and 7 of Directive (EU) 2015/1535.	in the national law implementing Articles 5 to 7 of Directive (EU) 2015/1535.	
67.	<p>3. Within 12 months after the start of application of this Regulation, Member States shall ensure that any data localisation requirement that is not in compliance with paragraph 1 is repealed. If a Member State considers that a data localisation requirement is in compliance with paragraph 1 and may therefore remain in force, it shall notify that measure to the Commission, together with a justification for maintaining it in force.</p>	<p>3. Within By ... [12 months after the start of application date of entry into force of this Regulation], Member States shall ensure that any data localisation requirement that is not in compliance with paragraph 1 is has been repealed. By ... [12 months after the date of entry into force of this Regulation], if if a Member State considers that a data localisation requirement is in compliance with paragraph 1 and may therefore remain in force, it shall notify communicate that measure to the Commission, together with a justification for maintaining it in force.</p> <p><i>Without prejudice to Article 258 TFEU, the Commission shall, within a period of three months from the date of receipt of such communication, examine the compliance of that measure with paragraph 1 and shall, where appropriate, adopt a decision requesting the Member State in question to amend or repeal the measure.</i></p>	<p>3. Within 12 24 months after the start of application of this Regulation, Member States shall ensure that any existing data localisation requirement, laid down in a law, regulation or administrative provision of a general nature, that is not in compliance with paragraph 1 is repealed. If a Member State considers that an existing data localisation requirement is in compliance with paragraph 1 and may therefore remain in force, it shall notify communicate that measure to the Commission, together with a justification for maintaining it in force.</p>	

68.	4. Member States shall make the details of any data localisation requirements applicable in their territory publicly available online via a single information point which they shall keep up-to-date.	4. Member States shall make the details of any data localisation requirements applicable in their territory publicly available online via a single information point which they shall keep up-to-date, <i>or, where available, via a Union-level information point established under another Union act.</i>	4. Member States shall make the details of any data localisation requirements, laid down in a law, regulation or administrative provision of a general nature , applicable in their territory publicly available online via a national single information point which they shall keep up-to-date, or provide those up-to-date details to a central information point established under another Union act.	
69.	5. Member States shall inform the Commission of the address of their single information point referred to in paragraph 4. The Commission shall publish the links to such points on its website.	5. Member States shall inform the Commission of the address of their single information point referred to in paragraph 4. The Commission shall publish the links to such points on its website, <i>along with a regularly updated consolidated list of all data localisation requirements referred to in paragraph 4, including information on those requirements in its official working languages.</i>	5. Member States shall inform the Commission of the address of their single information point referred to in paragraph 4. The Commission shall publish the link(s) to such point(s) on its website.	
70.	Article 5 Data availability for competent authorities	<i>Idem</i>	<i>Idem</i>	<i>Idem</i>
71.	1. This Regulation shall not affect the powers of competent authorities to request and receive access to data for the performance of their official duties in accordance with Union or national	1. This Regulation shall not affect the powers of competent authorities to request and receive access to data for the performance of their official duties in accordance with Union or national	1. This Regulation shall not affect the powers of competent authorities to request and receive access to data for the performance of their official duties in accordance with Union or national	<i>Identical amendments</i> <i>See comment in Row 56</i>

	law. Access to data by competent authorities may not be refused on the basis that the data is stored or otherwise processed in another Member State.	law. Access to data by competent authorities may not be refused on the basis that the data is stored or otherwise processed in another Member State.	law. Access to data by competent authorities may not be refused on the basis that the data is stored or otherwise processed in another Member State.	
72.	2. Where a competent authority has exhausted all applicable means to obtain access to the data, it may request the assistance of a competent authority in another Member State in accordance with the procedure laid down in Article 7, and the requested competent authority shall provide assistance in accordance with the procedure laid down in Article 7, unless it would be contrary to the public order of the requested Member State.	2. Where a competent authority has exhausted all applicable means to obtain does not receive access to the data after having contacted the user of the data processing service, and if no specific cooperation mechanism exists under Union law or international agreements to exchange data between competent authorities of different Member States, that competent authority it may request the assistance of a competent authority in another Member State in accordance with the procedure laid down in Article 7, and The requested competent authority shall provide assistance in accordance with the that procedure laid down in Article 7, unless it would be contrary to the public order of the requested Member State.	2. Where a competent authority has exhausted all applicable means to obtain access to the data, it may request the assistance of a competent authority in another Member State in accordance with the procedure laid down in Article 7, and the requested competent authority shall provide assistance in accordance with the procedure laid down in Article 7, unless it would be contrary to the public order of the requested Member State.	
73.			2a. Where a competent authority does not receive access to data pursuant to paragraph 1 and if no specific cooperation mechanism exists under Union law or international agreements to exchange data between competent authorities of different Member States, a competent authority may request the assistance from a competent authority of another Member State in accordance	

			with the procedure set out in Article 7.	
74.	3. Where a request for assistance entails obtaining access to any premises of a natural or legal person including to any data storage or other processing equipment and means, by the requested authority, such access must be in accordance with Union or Member State procedural law.	3. Where a request for assistance entails obtaining access to any premises of a natural or legal person including to any data storage or other processing equipment and means, by the requested authority, such access must be in accordance with Union law or Member State procedural law <i>of the Member State in which the premises or equipment is located.</i>	3. Where a request for assistance entails obtaining access to any premises of a natural or legal person including to any data storage or other processing equipment and means, by the requested authority, such access must be in accordance with Union or Member State procedural law.	
75.			3a. Member States may impose effective, proportionate and dissuasive sanctions for failure to comply with an obligation to provide data, in accordance with Union and national law. In case of abuse of right by a specific user, such sanctions imposed on the specific user may include measures temporarily derogating from Article 4, Paragraph 1.	
76.	4. Paragraph 2 shall only apply if no specific cooperation mechanism exists under Union law or international agreements to exchange data between competent authorities of different Member States.	4. Paragraph 2 shall only apply if no specific cooperation mechanism exists under Union law or international agreements to exchange data between competent authorities of different Member States.	4. Paragraph 2 shall only apply if no specific cooperation mechanism exists under Union law or international agreements to exchange data between competent authorities of different Member States.	<i>Identical amendments</i>

77.	Article 6 Porting of data	Idem	Idem	Idem
78.	1. The Commission shall encourage and facilitate the development of self-regulatory codes of conduct at Union level, in order to define guidelines on best practices in facilitating the switching of providers and to ensure that they provide professional users with sufficiently detailed, clear and transparent information before a contract for data storage and processing is concluded, as regards the following issues:	1. The Commission shall encourage and facilitate the development of self-regulatory codes of conduct at Union level, in order to define contribute to a competitive data economy, that are based on the principle of transparency and that establish guidelines covering inter alia on best practices in facilitating the switching of providers and to ensure that they provide professional users with sufficiently detailed, clear and transparent information before a contract for data storage and processing is concluded, as regards the following issues:	1. The Commission shall encourage and facilitate the development of self-regulatory codes of conduct at Union level in order to contribute to a competitive data economy, in order to define guidelines on best practices in facilitating the switching of providers and to ensure that they provide professional users with sufficiently detailed, clear and transparent information before a contract for data storage and processing is concluded, as regards based on the principle of interoperability and taking due account of open standards, covering inter alia the following issues aspects :	
79.		<i>(-a) best practices for facilitating the switching of providers and porting data in a structured, commonly used, interoperable and machine-readable format, including open standard formats where required or requested by the service provider receiving the data;</i>	(aa) best practices in facilitating the switching of providers and porting data in a structured, commonly and machine-readable format allowing sufficient time for professional users to switch or port the data; and	
80.	(a) the processes, technical requirements, timeframes and charges that apply in case a professional user wants to switch to another provider or port data back to its own IT systems, including the processes and location of any data back-up, the available data	<i>(a) minimum information requirements to ensure that professional users are provided with sufficiently detailed, clear and transparent information before a contract for data storage and processing is concluded, regarding the</i>	(a) minimum information requirements to ensure that professional users are provided with sufficiently detailed, clear and transparent information before a contract for data processing is concluded, regarding the processes,	

	formats and supports, the required IT configuration and minimum network bandwidth; the time required prior to initiating the porting process and the time during which the data will remain available for porting; and the guarantees for accessing data in the case of the bankruptcy of the provider; and	processes, technical requirements, timeframes and charges that apply in <i>the case that</i> a professional user wants to switch to another provider or port data back to its own IT systems, including the processes and location of any data back up, the available data formats and supports, the required IT configuration and minimum network bandwidth; the time required prior to initiating the porting process and the time during which the data will remain available for porting; and the guarantees for accessing data in the case of the bankruptcy of the provider.; and	technical requirements, timeframes and charges that apply in case a professional user wants to switch to another provider or port data back to its own IT systems, including the processes and location of any data back-up, the available data formats and supports, the required IT configuration and minimum network bandwidth; the time required prior to initiating the porting process and the time during which the data will remain available for porting; and the guarantees for accessing data in the case of the bankruptcy of the provider; and	
81.	(b) the operational requirements to switch or port data in a structured, commonly used and machine-readable format allowing sufficient time for the user to switch or port the data.	(b) the operational requirements to switch or port data in a structured, commonly used and machine-readable format allowing sufficient time for the user to switch or port the data.	(b) — the operational requirements to switch or port data in a structured, commonly used and machine-readable format allowing sufficient time for the user to switch or port the data	<i>Identical amendments</i>
82.			(c) approaches to certification schemes for data processing products and services for professional users, taking into account established national or international norms, facilitating the comparability of these products and services. Such approaches may include inter alia	

			quality management, information security management, business continuity management and, environmental management.	
83.		<i>1a. The Commission shall ensure that the codes of conduct referred to in paragraph 1 are developed in close cooperation with all relevant stakeholders, including associations of small and medium-sized enterprises and start-ups, users and providers of cloud services.</i>		
84.	2. The Commission shall encourage providers to effectively implement the codes of conduct referred to in paragraph 1 within one year after the start of application of this Regulation.	2. The Commission shall encourage providers to complete the development of the codes of conduct referred to in paragraph 1 by ...[12 months after the date of publication of this Regulation], and to effectively implement them by ... [24 months after the date of publication of this Regulation]. within one year after the start of application of this Regulation.	2. The Commission shall encourage providers to effectively implement the codes of conduct referred to in paragraph 1 within one year after the start of application of this Regulation.	
85.	3. The Commission shall review the development and effective implementation of such codes of conduct and the effective provision of information by providers no later than two years after the start of application of this Regulation	3. The Commission shall review the development and effective implementation of such codes of conduct and the effective provision of information by providers no later than two years after the start of application of this Regulation.	3. The Commission shall review the development and effective implementation of such codes of conduct and the effective provision of information by providers no later than two years after the start of application of this Regulation.	

86.	<i>Article 7 Single points of contact</i>	<i>Idem</i>	<i>Article 7 Single points of contact Procedure for cooperation between authorities</i>	
87.	1. Each Member State shall designate a single point of contact who shall liaise with the single points of contact of other Member States and the Commission regarding the application of this Regulation. Member States shall notify to the Commission the designated single points of contact and any subsequent change thereto.	<i>Idem</i>	<i>Idem</i>	<i>Idem</i>
88.	2. Member States shall ensure that the single points of contact have the necessary resources for the application of this Regulation.	<i>Idem</i>	2. Member States shall ensure that the single points of contact have the necessary resources for the application of this Regulation.	
89.	3. Where a competent authority in one Member State requests assistance of another Member State to have access to data pursuant to Article 5 paragraph 2, it shall submit a duly motivated request to the latter's designated single point of contact, including a written explanation of its justification and legal bases for seeking access to data.	<i>Idem</i>	3. Where a competent authority in one Member State requests assistance of another Member State to have access to data pursuant to Article 5 paragraph 2a, it shall submit a duly motivated request to the latter's designated single point of contact, including a written explanation of its justification and legal bases for seeking access to data.	
90.	4. The single point of contact shall identify the relevant competent authority of its Member State and transmit the request received pursuant	<i>Idem</i>	4. The single point of contact shall identify the relevant competent authority of its Member State and transmit the request received pursuant	

	to paragraph 3 to that competent authority. The authority so requested shall, without undue delay:		to paragraph 3 to that competent authority.	
91.			4a. The authority so requested shall, without undue delay and within the timeframe proportionate to the urgency of the request, provide a response communicating the data requested or informing the requesting competent authority that it does not consider the conditions for requesting assistance under this Regulation to have been met.	
92.	(a) respond to the requesting competent authority and notify the single point of contact of its response and	<i>Idem</i>	(c) respond to the requesting competent authority and notify the single point of contact of its response and	
93.	(b) inform the single point of contact and the requesting competent authority of any difficulties or, in the event the request is refused or responded to in part, of the grounds for such refusal or partial response.	<i>Idem</i>	(d) inform the single point of contact and the requesting competent authority of any difficulties or, in the event the request is refused or responded to in part, of the grounds for such refusal or partial response.	
94.	5. Any information exchanged in the context of assistance requested and provided under Article 5 paragraph 2 shall be used only in respect of the matter for which it was requested.	<i>Idem</i>	5. Any information exchanged in the context of assistance requested and provided under Article 5 paragraph 2a shall be used only in respect of the matter for which it was requested.	
95.	6. The Commission may adopt implementing acts setting out standard forms, languages of requests, time	<i>Idem</i>	6. The Commission may adopt implementing acts setting out standard forms, languages of requests, time	

	limits or other details of the procedures for requests for assistance. Such implementing acts shall be adopted in accordance with the procedure referred to in Article 8.		limits or other details of the procedures for requests for assistance. Such implementing acts shall be adopted in accordance with the procedure referred to in Article 8.	
96.		6a. The single points of contact shall provide users with general information on this Regulation, and in particular on the drawing up of codes of conduct, as referred to in Article 6.		
97.	<i>Article 8 Committee</i>	<i>Idem</i>	<i>Article 8 Committee</i>	
98.	1. The Commission shall be assisted by the Free Flow of Data Committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.	<i>Idem</i>	1. The Commission shall be assisted by the Free Flow of Data Committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.	
99.	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.	<i>Idem</i>	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.	
100.	<i>Article 9 Review</i>	<i>Article 9 Review Evaluation and guidelines</i>	<i>Article 9 Review</i>	
101.	1. No later than [5 years after the date mentioned in Article 10(2)], the Commission shall carry out a review of this Regulation and present a report on the main findings to the European	1. No later than [5 3 years and 6 months after the date mentioned in Article 10(2) of publication of this Regulation], the Commission shall carry out a review of this Regulation	1. No later than [5 years after the date mentioned in Article 10(2)], the Commission shall carry out a review of this Regulation and present a report on the main findings to the European	

	Parliament, the Council and the European Economic and Social Committee.	and present submit a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee evaluating the implementation of this Regulation, in particular in respect of:	Parliament, the Council and the European Economic and Social Committee.	
102.		<i>(a) the application of this Regulation to mixed data sets, especially in the light of market developments and technological developments which may expand the possibilities for deanonymising data;</i>		
103.		<i>(b) the implementation by Member States of Article 4(1), in particular the public security exception; and</i>		
104.		<i>(c) the development and effective implementation of the codes of conduct referred to in Article 6 and the effective provision of information by providers.</i>		
105.	2. Member States shall provide the Commission with the necessary information for the preparation of the report referred to in paragraph 1.	<i>Idem</i>	<i>Idem</i>	<i>Idem</i>
106.		<i>2a. By [6 months after the date of publication of this Regulation] the Commission shall publish guidelines on the interaction of this Regulation and Regulation (EU) 2016/679 as regards mixed data sets.</i>		

107.	<i>Article 10 Final provisions</i>	<i>Idem</i>	<i>Idem</i>	<i>Idem</i>
108.	1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	<i>Idem</i>	<i>Idem</i>	<i>Idem</i>
109.	2. This Regulation shall apply six months after its publication.	2. This Regulation shall apply six months after its publication. <i>However, Article 9(2a) shall apply from ... [1 day after entry into force of this Regulation].</i>		
110.	This Regulation shall be binding in its entirety and directly applicable in all Member States.	<i>Idem</i>	<i>Idem</i>	<i>Idem</i>
111.	Done at Brussels,	<i>Idem</i>	<i>Idem</i>	<i>Idem</i>