

DA.129 Right vs holder to nondiscriminatory sharing

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Art. 8 (1) Data Act - Trialogue Agreement

Where, in business-to-business relations, a data holder is obliged to make data available to a data recipient under Article 5 or under other Union law or national legislation adopted in accordance with Union law, it shall agree, with a data recipient the modalities for making the data available and shall do so under fair, reasonable and non-discriminatory terms and in a transparent manner in accordance with the provisions of this Chapter and Chapter IV.

Art. 8 (3) Data Act - Trialogue Agreement

A data holder shall not discriminate with respect to the **modalities of making data available** between comparable categories of data recipients, including partner enterprises or linked enterprises, as defined in Article 3 of the Annex to Recommendation 2003/361/EC, of the data holder, when making data available. Where a data recipient considers the conditions under which data has been made available to it to be discriminatory, the data holder shall without undue delay **provide** the data recipient, upon its reasoned request, with **information** showing that there has been no discrimination.

Art. 9 (1) Data Act - Trialogue Agreement

Any **compensation** agreed upon between a data holder and a data recipient for making data available in business-to-business relations shall be **non-discriminatory** and reasonable and may include a margin.

Art. 11 (1) Data Act - Trialogue Agreement

A data holder may apply appropriate technical protection measures, including smart contracts and

encryption, to prevent unauthorised access to the data, including metadata, and to ensure compliance with Articles 5, 6, 8, and 9, as well as with the agreed contractual terms for making data available. Such **technical protection measures** shall **neither discriminate between data recipients**, nor hinder the user's right to effectively obtain a copy, retrieve, use or access data or provide data to third parties pursuant to Article 5 or any right of a third party under Union law or national legislation implementing Union law as referred to in Article 8(1). Users and third parties shall not alter or remove such technical protection measures unless agreed by the data holder.