

Deutsche Börse Group

Comments on EC's communication towards

„A European strategy for data“

Frankfurt am Main, 29 May 2020

I. General remarks

Deutsche Börse Group (DBG) appreciates the opportunity to respond to the consultation “A European strategy for data” by the European Commission. We agree with the Commission’s conclusion that data is key for the digital transformation and the use of data will affect all EU citizens significantly.

DBG in its capacity as a financial market infrastructure (FMI) provider uses modern IT and technological solutions to operate, and service the financial sector worldwide.

DBG’s technologies are at the core of its operations, where they are used to organize the regulated markets, are an integral part of the regulated services we operate. We ensure trust in markets and the efficient functioning of these markets; including but not limited to market data, stock exchange indices, clearing, securities custody, etc.

Regarding new technologies, we are currently working on the use of cloud technology, AI and distributed ledger technology (DLT) /blockchain as well as automation of processes. We use these technologies in a rather gradual, granular and tested manner, hence continuing to guarantee transparency, stability and investor protection at all times.

DBG generally supports the idea of the European Commission to evaluate and implement an overarching data strategy in order to support the evolution of the Digital Market within the EU. As digitalization and data, as a new resource, are getting more and more important in the current and future economy, we welcome the consultation on the EU Data Strategy at this early stage to support innovation. The digital economy depends on the possibility to use data for its development. We encourage the Commission’s approach to enable the EU to become an attractive, secure and dynamic data-agile economy.

Greater availability of data can benefit health, the environment as well as public services to name just a few. However, greater availability of data may also contain risks such as cybersecurity risks, risks to the personal data of the individual and risks to the business model of data driven businesses. The provision of and the access to data should – taking into account data protection requirements – be based on the principle of freedom of contract on a voluntary basis. Existing data sets are of greatest benefit if companies cooperate voluntarily and cooperatively when using them on a commercial basis. All regulatory measures need to be proportionate and a responsible handling of data needs to be ensured.

II. Key Messages on the EU Data Strategy

EU Data Strategy: We support the idea that the European Union needs an overarching data strategy in order to achieve the benefits of the single market and avoid fragmentation.

Harmonized approach: We are strongly in favor of a harmonized approach in order to speed up the processes with the use of innovative technologies and not lagging behind with regard to innovation/applying new technologies globally.

Data classification: We see the need for developing a clear definition /glossary of “data” which could foster a common understanding in the industry and lead to efficiency gains. In our view, it is important to develop a classification of data which on a high /meta level could identify necessary information on its origin, sector, timely availability, etc.:

- **Source of data:** data generated by private persons; data generated by companies; further differentiation between retail (C2B)/wholesale data (B2B)
- **Data quality:** raw processed/altered data
- **Data pricing:** free versus commercial/”monitarisable” data
- **Availability:** for free/fee/user fee etc.
- **Time stamp:** data for free to public after a certain amount of time; those who generate business out of data should pay

Details would need to be elaborated together with the industry. DBG stands ready for this purpose.

No “One-size fits all” approach: As the nature of data is extremely diverse and complex, we do not think that a “one-size fits all strategy” is possible or suitable. Given the differences across industries, sectors and consumers, targeted measures within some areas are more likely to be successful at the beginning.

Commercial use of data: Business which produces and commercializes data must still be possible within the EU, to provide incentives for companies to stay innovative and develop new data related services. While we support the idea to make data more

available, other issues have to be taken into consideration as well: sustainability, innovation, trade secrets, risk prevention, fair competition, data quality and sufficient incentivization to invest into data quality, responsibility and liability. Especially, as EU companies are competing on a global scale.

Data should be generally available for new businesses: Data enables companies to refine their business models, to improve and individualize their offers or to develop completely new business models. Therefore, data should be made available to interested parties, business models and application scenarios. Especially certain types of start-ups depend on the availability of data. There may be options to explore of a differentiated data license model with a special focus on SMEs/start-ups. At the same time data protection laws have to secure to privacy and informational self-determination of citizens (sovereignty of personal data), are important as well as trade secrets protection.

Data as a “common good”: in order to allow analyses for the better of societies to monitor public developments, data might be common goods, however: to stay innovative, not all data could be defined as “common good” here a clear classification is needed to differentiate categories of data. In this context we deem it important for regulators to keep in mind as well the rights of individuals, being it as regards personal data, but as well those of taxpayers or other parties, when it comes to the funding of a common good. It is important as well that the concept of common good is not overly expanded and misused by companies promoting it, for their own business interests, while the bill is being paid by the taxpayer or any other third party. To stay innovative, not all data could be defined as “common good” here a clear classification is needed to differentiate categories of data.

Investments in innovations necessary: Companies will only invest in the collection and analysis of data if they expect this investment to have an economic or competitive advantage. If such an advantage cannot be achieved or is at risk because e.g. produced data must be shared with competitors, the companies will stop or limit the investment or the production of the data (free-rider problem). No company would invest in the production of data if it then simply had to make the results of these efforts available to the

competition free of charge. This would counteract the political strategy of the Commission to become the leader in the data economy and would further prohibit the sharing of data between companies.

Therefore, companies should be allowed to “upgrade” raw data and develop products/services on these data and ask for fees/charges, in full recognition of the existing property/contractual rights and obligations. Otherwise, this would send negative incentives towards data collection/standardization and product developments: i.e. “commercialization of data” should be allowed. To facilitate data sharing amongst companies, we see the need for a new enabling environment supported by data infrastructures. A possible example in this regard might be the “Financial Big Data Cluster” (FBDC) initiative, see below.

Compensation for data providers: As recommended by the EU Commission, the contribution of data to the public should be promoted, but the application of license fees or any other compensations should be allowed further. Especially, when the data source is depending on the income for data. The fees should be reasonable and shall be proportionate to the value which the data represents to the purchaser/user. The value of data depends primarily on its usefulness for a business model or on the possibility of gaining usable and affordable information from it.

When measuring the value of data, particular attention should be paid to whether the use /further processing of data creates significant added value for the customer. If considerable commercial values can be achieved through the use of data, this can be taken into account in the price calculation for data. This approach has been established by the Court of Justice of the European Union (CJEU), as the price must be commensurate with the economic value of a service rendered (among other things CJEU, judgment of 14 February 1978, case 27/76 - United Brands).

Balance between data accessibility and contractual rights of companies: We are of the opinion that an unconditional claim to data access or a corresponding obligation to grant data access must be rejected. The principle of freedom of contract ensures sufficient access to data. Through this factual assignment of data to the data producer, the data

producer has the necessary control right over the data, which he can control by means of contract law. Data can be made available to any interested party under a license agreement which ensures companies that invested in the production and/ or collection of data not to expect economic disadvantage. This approach ensures a proportionate balance between making data accessible to the public while ensuring the rights of the companies that invested in the production of data.

Data interoperability: We agree with the Commission's observation that an effective data interoperability and high quality of data is important to ensure an easy exchange of data in the market. Barriers to entry the market with the aim of enhance obstacles to competition need to be addressed. Ensuring high quality data is also a must as only high-quality data brings high value for multiple parties. Low quality data on the other hand leads to ill-informed decision and contains risks for the data user/purchaser and should also not be "mixed" with high quality data sets. This would reduce the overall quality of the data and increase costs (USD 3.1 trillion, this is [IBM's estimate](#) of the yearly cost of poor-quality data, in the US alone, in 2016). Furthermore, data must be provided in a structured and machine-readable format in order to gather and process data from different sources in a coherent manner.

Individual/personal data: DBG has no position, as we are in the B2B business and not dealing with individuals.

Data literacy: As a supporter of "financial literacy" we would support any educative measures in this new field (data literacy).

Difficulties in the use of data: difficulties with regard of the use of data due to restrictive EU regulations e.g. banking secrecy versus developing big data solutions to fight anti-money-laundering. We see the need for clarification to comply with existing rules and simultaneously to develop further solutions, e.g. via criteria for the use of anonymized or pseudonymized data in order to facilitate broader analysis. AI needs per se more data and should be allowed to use data on an aggregated level. It is important to find a careful balance between "data privacy" and use of data for public interests.

Smart machines: A clear guidance on the scope of the term “smart machine” would be helpful.

Sector specific EU data space: we see the political interest, however one “single common EU data space” would not lead to innovation; a competitive approach would be preferable. One harmonized approach across different industry sectors might be too complex as well. We would prefer to start with “meaningful content clusters” within sectors and develop standards for those data, as this leaves sufficient flexibility to evolve.

Build on existing regulation: In order to achieve a comprehensive Data Strategy, we are in favor to build upon already existing rules and regulations related to data in general (e.g. GDPR, competition law) as well as sector specific frameworks (e.g. MiFID II /MiFIR, SFTR, trade secrets directive).

Copyrights: through digitization new ways of access to and onward distribution of valuable content/data with copy- or other rights have evolved often to the detriment of the originator. While there is value in innovation, we deem it very important that necessary rights to generated information is being protected under the EU Digital Agenda and the Data Strategy of the EU.

Data protection: GDPR is a very good example that an EU-unified rule-set with high standards increases legal certainty, even if the common understanding /interpretation /application on national /regional level could still be further aligned during time. These EU “data protection” rules are signaling customers around the world that high standards are applied within the EU.

Standardisation: we would prefer standard setting by industry bodies who know the details and work on common standards on a voluntary basis. Standards vary across industries in line with the different data/needs within each sector.

High-value data sets: Clear definition of scope necessary will be necessary, rights and duties of the data sources need to be considered. This includes the rights and liabilities of those re-using the data. It must be clear who is responsible within the user chain in case of damages caused.

Cloud market: The cloud market offers technological solutions in financial markets to innovate and should be supported.

Levels of protection with cloud: While the level of protection is already high, further advancements are required mainly in the areas of: a) Extending encryption technologies to data being in use /in memory b) Add end-to-end encryption where possible c) Consistently implementing customer lockbox /consent requirements before data is accessed d) Agreements between EU and other jurisdictions (e.g. US) needed to strongly regulate cross border access and activities.

Problems /risks of the current cloud market: Asymmetry of power of negotiation between customer and CSPs, i.e. high efforts and time are required to agree regulatory compliant contracts with CSPs in the financial sector. Therefore, we actively support the EU´s work designing “Voluntary Standard Contract Clauses” to facilitate future negotiations. Also, it is very difficult to procure/adopt new and innovative cloud solutions, as it takes a long time to ensure that these new services are regulatory compliant. Often, new solutions are not meeting regulatory expectations right from the start.

Self-regulatory approaches: Even as we support self-regulatory approaches (due to market knowledge), we suggest that regulators should provide more guidance.

Sustainability: As the global data volume will grow due to the increased importance and usage of data, it is important to take sustainability targets into account in the EU Data Strategy going forward. Especially as a growth of data, its generation, storage, distribution and use would have a significant impact on global emissions, unless these issues are properly addressed.

III. Additional response to specific questions

Q1 Do you agree that the European Union needs an overarching data strategy to enable the digital transformation of the society?

DBG Answer to the multiple-choice question: yes

DBG generally supports the idea that the European Union develops an overarching data strategy in order to achieve dedicated benefits of the single market and avoid further fragmentation across Members States.

We agree as well with the Commission's conclusion that data is one key for the digital transformation and the use of data in many areas will affect EU citizens. We further encourage the Commission's approach to enable the EU to become an attractive, secure and dynamic data-agile economy based on the existing values in the EU.

Broad availability of relevant data sets such as in the area of health and the environment as well as public services may benefit the development of the digital area, but the mere availability will not provide for a guarantee. The EU may focus on developing the EU Digital Market in various ways:

- a) defining data governance rules and standards, while taking into consideration that data and data standards may differ across sectors;
- b) developing the data infrastructure on a technological level, either by investments, or by guidance and rules and regulations;
- c) developing the data space for data to be available to interested users, based on the basic principles of the EU, either by making certain data technically available, or by rules and regulations.

In any case, a "one-size" fits all solution does not suit in the data space, which is very diverse within and across industries and sectors. Furthermore, it is important to understand that in any case, even if data once produced can be replicated rather easily, data always produces ongoing cost (including environmental cost) just by making and holding it available for the use of third parties as well as through the electronic use of it. These costs must be considered by the EU as well as they would need to be financed by somebody.

In case of private companies being required to contribute to a data pool without being compensated, may as well weaken companies' positions within the global economy as well to the detriment of the EU economy. DBG considers, that data access should be based on the principle of freedom of contract and thus on voluntary contributions. Existing data sets are of greatest benefit if companies cooperate voluntarily and cooperatively when using them. All regulatory measures need to be proportionate and a responsible handling of data needs to be ensured. Data or better content availability is important, but it usually goes hand in hand the way it is being made available and or consumed.

Greater standardization may support the EU's digital agenda but it also contains risks such as enhanced cybersecurity risks in a system based on same standards, risks to personal data or risks to the business model of data driven businesses. It may as well include a higher emission footprint, unless efficiency gains outweigh the additional energy use for the provision of data. It needs to be seen if the higher emissions through additional energy consumption of a digital economy may be mitigated by innovations emerging.

In this context, DBG considers it relevant that dedicated rules and regulations are in place to ensure the availability of data where appropriate, while promoting the use of data in line with the specialties of the different sectors in the EU.

GDPR is a very good example that an EU-unified ruleset with high standards increases legal certainty, even if the common understanding/interpretation/application on national/regional level could still be further aligned during time. These EU "data protection" rules are signaling customers around the world that high standards are applied within the EU.

Data quality is of significant importance and we would recommend that the focus would need to be on the provision of reliable and secure sets of data rather than cheap/free of charge data. In a study from IBM, IBM referred to a damage of USD 3,1 trillion Dollar on the US economy due to the use of low quality and unreliable data.

The reason bad data costs so much is that decision makers, managers, knowledge workers, data scientists and others must accommodate in their day to day work. Doing so is both time consuming and costly. This does not yet take into account ill-informed decisions on the basis of bad quality data. DBG considers it essential to ensure high quality data availability above and beyond cheap data.

Supporting free access to data on the cost of quality, may finally prove counterproductive. Therefore, due care has to be applied that the data available to users are reliable and trustworthy.

IT infrastructures as such may be seen as the railway of the 21st century, enabling the transmission of data similar to the way rails enabled long way transport in the 19th century and ongoing. We are therefore in favor of a harmonized approach to speed up the processes with the use of innovative technologies and not lagging behind with regard to innovation/applying new technologies.

As an example, in this regard: together with the regional government of the German state of Hesse and others, DBG develops a Financial Big Data Cluster (FBDC). Given that the financial sector is facing disruptive technological developments, with regard to data-based and also AI-driven business models. Big Data and AI play a crucial role in the development of new business models and changes in the value chain.

The FBDC initiative comprises the step-by-step establishment of a central, cloud-based data platform (e.g. in the form of a data warehouse, data lakes, data vaults or a combination of structures), which is optimized for the development of AI systems. The IT infrastructure for this cloud system requires a closed, secure data vault that fully and completely complies with legal and regulatory requirements. The focus of the step-by-step approach is on the integration of data of the financial sector.

Further, we see the need for developing a clear definition /glossary of “data” which could foster a common understanding in the industry and lead to efficiency gains. In our view, it is important as well to develop a classification of data which on a high /meta level could identify necessary information on its origin, sector, timely availability, etc. Details would need to be elaborated together with the industry. DBG stands ready for this purpose.

Q2 “More data should be available for the common good, for example for improving mobility, delivering personalised medicine, reducing energy consumption and making our society greener.” To what extent do you agree with this statement?

DBG Answer to the multiple-choice question: Somewhat disagree

DBG generally supports the idea of the European Commission to further foster the common good spirit in selected areas within the EU such as health, sustainability and civil service.

However, we need to point out as well that the creation, use, storage and maintenance of data especially of large data sets always comes at a cost, even in case of open data in the context of the Open Data Directive.

This is the same in the case of roads, public parks, police protection, clean air and clean water, as well as the system of property. In the end somebody has to pay the cost for making the data available and the maintenance thereof, often it is the taxpayer.

In this context we deem it important for regulators to keep in mind as well the rights of individuals, being it as regards personal data, but as well those of taxpayers or other parties, when it comes to the funding of a common good. It is important as well that the concept of common good is not overly expanded and misused by companies promoting it, for their own business interests, while the bill is being paid by the taxpayer or any other third party. To stay innovative, not all data could be defined as “common good” here a clear classification is needed to differentiate categories of data.

Furthermore, companies should be allowed to “upgrade” raw data and develop products/services on these data and ask for fees/charges otherwise these would send negative incentives towards data collection/standardization and product developments: i.e. “commercialization of data” should be allowed.

Q3 Do you think that it should be made easier for individuals to give access to existing data held about them, e.g. by online platform providers, car manufacturers, producers of wearables, voice assistants or smart home appliances, to new services providers of their choosing, in line with the GDPR?

DBG Answer to the multiple-choice question: No answer

DBG has no position, as we are in the B2B business and not dealing with individuals.

Q4 Which mechanism(s) do you think would help achieve this?

DBG Answer to the multiple-choice question: No answer

DBG has no position, as we are in the B2B business and not dealing with individuals.

Q5 If additional rights in law, please specify

DBG Answer to the multiple-choice question: No answer

DBG has no position, as we are in the B2B business and not dealing with individuals.

Q6 If other, please specify

DBG Answer to the multiple-choice question: No answer

DBG has no position, as we are in the B2B business and not dealing with individuals.

Q7 Have you faced difficulties in recruiting data professionals (workers who collect, store, manage, analyse, interpret and visualise data as their primary or as a relevant part of their activity) during the last 2 years?

DBG Answer to the multiple-choice question: No

No difficulties so far, however when the technology is used in broader spectrum, then there might be a run on/scarcity of experts.

Q8 'General data literacy across the EU population is currently insufficient for everyone to benefit from data-driven innovation and to become more active agents in the data economy.' To what extent do you agree with this statement?

DBG Answer to the multiple-choice question: Neutral

DBG has no position on “data literacy”. As a supporter of “financial literacy” we would support any educative measures in this new field.

Q9 Have you had difficulties in using data from other companies?

DBG Answer to the multiple-choice question: No

DBG itself uses various data sources as well as data vendors to provide the data. In our day to day life we have not experienced any problems as regards access to necessary data. However, we are aware that data availability in terms of making data available to interested parties is still a problem in some areas.

The EU Commission itself states that the data sharing between companies has not taken off at sufficient scale due to a lack of economic incentives and the lack of trust that the data is used properly and fairly. In fact, companies will only invest in the creation, collection and analysis of data if they expect this investment to have an economic or competitive advantage. If such an advantage cannot be achieved or is at risk because e.g. created or collected data must be shared with competitors, the companies will stop or limit the investment or the generation of the data. No company would or can invest in the production of data if it then simply had to make the results of these efforts available to the public and as such to the competition free of charge. This would counteract the political strategy of the Commission to become the leader in the data economy.

As recommended by the EU Commission on page 5 the contribution of data to the public by private companies should be incentivized for example by applying license fees. Fees needs to be reasonable and shall be proportionate to the value which the data represents to the purchaser/user. The value of data depends primarily on its usefulness for a business, or user or on the possibility of gaining usable and affordable information from it.

When measuring the value of data, particular attention should be paid to whether the further processing of data creates significant added value for the customer. If considerable

commercial values can be achieved through the use of data, this can be taken into account in the price calculation for data. This approach has been established by the CJEU, as the price must be commensurate with the economic value of a service rendered (among other things CJEU, judgment of 14 February 1978, case 27/76 - United Brands).

We are of the opinion that an unconditional claim to data access or a corresponding obligation to grant data access should not be granted. The principle of freedom of contract ensures sufficient access to data. Data can be made available to any interested party under a license agreement which ensures companies that invested in the production and/ or collection of data not to expect economic disadvantage. This approach ensures a proportionate balance between making data accessible to the public while ensuring the rights of the companies that invested in the production of data.

Further difficulties with regard of the use of data could result due to restrictive rules/Regulations e.g. banking secrecy versus developing big data solutions to fight anti-money-laundering. It is an open question on how to comply and develop further solutions in this context. A possible solution would be to develop criteria for the use of anonymized/pseudonymized data for greater analysis.

In general, AI needs per se more data and should be allowed to use data on an aggregated level. Therefore, it is important to find a careful balance between “data privacy” and use of data for public interests.

Q10 What was the nature of such difficulties?

DBG Answer to the multiple-choice question: Other

DBG considers that data availability needs to be further incentivized: there are vast data pools across different private sectors within the EU, which could be carefully tapped for the digital agenda in close alignment with the industry. In this context DBG considers general data availability to interested parties to be the most important issue. This means that any interested party, including competitors, may be granted access to the data of a particular data source, unless there are good reasons to not share the data (e.g. trade secrets). It does not mean, though, that the data should be made available for free or being declared a common good by law. If that would be the case companies would stop

investing into data production/generation which would be counterproductive with the digital agenda and the goal of the data strategy of the EU.

Diverse data license structures enable fair data sharing within the industry: as a means for an efficient data economy, it would be reasonable that data availability should be promoted further within the EU, but on a voluntary basis from the data producer. It is important that the freedom to run a business in the EU is further protected as well as the right of fair competition. The application of data license fees (which shall allow for discrimination between different customer groups) would ensure that data production continues to be incentivized while a broad use and availability of data within the EU would be ensured, while SMEs or special use cases could be supported this way.

The fee needs to be reasonable and shall be proportionate to the value which the data represents to the purchaser/user. The value of data depends primarily on its usefulness for a business model or on the possibility of gaining usable and affordable information from it. When measuring the value of data, particular attention should be paid to whether the further processing of data creates significant added value for the customer. If considerable commercial values can be achieved through the use of data, this can be taken into account in the price calculation for data. This approach has been established by the CJEU, as the price must be commensurate with the economic value of a service rendered (among other things CJEU, judgment of 14 February 1978, case 27/76 - United Brands).

Free float of data across the EU supported for non-critical data: DBG generally supports the free float of data across the EU, meaning that there should not be any local storage requirements on Member State level. As of now, some data has to be stored/contained physically in one-country (e.g. in paper form, due to historic reasons). Nonetheless, these rules should be thought through and /or re-designed carefully for the digital age. However, we do consider that there should be exemptions to the rule, e.g. as regards critical infrastructures such as electronic evidence for law enforcement or critical energy infrastructure.

Furthermore, in case of perceived prohibitive data fees, DG Competition would be well prepared to look into any shortcomings in a dedicated way.

Q11 If other, please specify

See above

Q12 'It is currently challenging to define solutions on the allocation of the rights to use data coming from smart machines or devices that are fair for all parties concerned'. To what extent do you agree with this statement?

DBG Answer to the multiple-choice question: don't know

DBG tends to only partially agree with this statement, as in our view there are various legal concepts available in this context, be it the Database Directive, the Trade Secret Directive as well as contractual agreements between the parties. It should be noted as well, that rights usually correspond with duties and liabilities as well, which would need to be considered in this context as well.

Further, it has to be elaborated what defines a “smart machine”. Is this only relevant in the context of “internet of things” or also for smart contracts?

Q13 'The EU should make major investments in technologies and infrastructures that enhance data access and use, while giving individuals as well as public and private organisations full control over the data they generate.' To what extent do you agree with this statement?

DBG Answer to the multiple-choice question: somewhat agree

Agreement on investments – need to move fast (example FBDC), however “full control of data” needs to be defined carefully. Reference to GDPR helpful? Contributing companies should still “own” the data and have access

DBG supports EU data strategy to be built on EU values: DBG strongly agrees that the EU’s digital agenda should be promoted, facilitated and reflect the values of the EU and its Members States. In this context we tend to agree with the EC’s statement that control over data should be executed by those who produce /generate the data in line with current EU rules and regulations. This would – in our view - be in line with the freedom to run a business in the EU as well as fair competition. Therefore, the right incentivization should

be protected respectively implemented within the EU for encouraging investments in reliable data and the sharing of such data with any interested party at fair terms for both sides. At the same time DBG sees considerable opportunities in digitization of various work-streams within the government/community area.

EU Investments in the area of public domain are necessary. DBG would see significant value for EU Member States or the EU itself to invest into technologies supporting digitization and data sharing within and across EU Member States and communities, generating efficiencies and reduce current spending and debt on community /government level.

Benefits could be achieved as regards tax processing, renewal of passports, and other work on community level. In such cases GDPR would be one important legal basis, which would provide single persons with their right to their personal data, which is an important value within the EU. DBG supports the GDPR. In this context we would like to point out that the use of anonymized data, from an overall group of people could be beneficial to use for analysis in order to get a full view of an issue in question.

EU investments in the area of private businesses seem not necessary, but clear guidance would be helpful. DBG would consider it extremely helpful, if EU would provide for a reliable legal and regulatory setting, fair for all affected parties to collaborate in the evolution of the digital economy in the EU.

In case the EU would consider it helpful to invest into technologies and infrastructures, we would consider that only key sectors should be considered which would allow the EU to better collaborate on specific areas, such as crime prevention, health care or civil services to name a few.

The EU might like to support as well special areas which indeed would support the common good principles, such as sustainability and in the same context of the non-financial reporting directive (NFRD). NFRD data will be of essence in the context of sustainable indices and investments in sustainable companies. It would be helpful if NFRD's would be made available in machine readable format for easy use of any interested party. EU regulators may even play an important role in this case. However, DBG considers that once the rules and regulations are clear and applied (e.g. machine readability for NFD), private business companies will be able to provide for appropriate and efficient solutions.

Q14 'The development of common European data spaces should be supported by the EU in strategic industry sectors and domains of public interest (industry /manufacturing, Green Deal, mobility, health, finance, energy, agriculture, public administration, skills).' To what extent do you agree with this statement?

DBG Answer to the multiple-choice question: somewhat agree

We see the political interest, however one “single common EU data space” would not lead to innovation; a competitive approach would be preferable. One harmonized approach across different industry sectors might be too complex as well. We would prefer to start with “meaningful content clusters” within sectors and develop standards for those data, as this leaves sufficient flexibility to evolve.

Therefore, DBG somewhat agrees with the statement, as we would see value in the space of sustainability and EU business administration, but as well as regards health and healthcare.

DBG cautions, however, against a mandatory public data space within the private sector, without the consent of the respective data provider. The values of the EU are based as well on the freedom to conduct a business, and various companies focus their business on data generation and licensing. These EU values should continue to be respected as well under the EU Data Strategy.

We are, furthermore, of the opinion that an unconditional claim to data access or a corresponding obligation to grant data access should not be granted. The principle of freedom of contract ensures sufficient access to data. Data can be made available to any interested party under a license agreement which ensures companies that invested in the production and/ or collection of data not to expect economic disadvantage.

This approach ensures a proportionate balance between making data accessible to the public while ensuring the rights of the companies that invested in the production of data. In the context of the above made comments on maintenance cost, we would furthermore question the logic behind “free” data spaces within the financial industry, finally being funded by the taxpayer.

Q15 Are there general comments you would like to make about the data strategy?

The data strategy should encompass overarching EU data governance, including general rules and regulations fit for purpose on sectoral level, while being interoperable within an EU framework. E.g. NFD's should be machine readable, in line in specific ISO requirements, and available within potential future EU cloud solutions.

We would like to highlight again the need for a sectoral or even sub-sectoral approach as a starting, as this mitigates the risk to create large infrastructures investments and data pools, which may not be used by companies. Further there should be areas identified and data spaces piloted where the demand for data sharing is already high /useful (e.g. health, sustainability, government administration, non-financial data as well as fraud protection and KYC).

As lined out above we consider the existing values and rules within the EU as being the basis for the EU economy and worthwhile to be protected.

Q16 'Data governance mechanisms are needed to capture the enormous potential of data in particular for cross-sector data use.' To what extent do you agree with this statement?

DBG Answer to the multiple-choice question: strongly disagree

From our point of view, starting with cross-sectoral data governance might be too complex. It would be more beneficial to start with reasonable sized and coherent clusters (e.g. health or environmental cluster).

A one size fits all approach might not be the right way forward as different standards might already apply within bespoke sectors and changing them may lead to unintended cost and consequences amidst a highly uncertain future. Indeed, one of the most advanced data spaces as far as we are aware are the data space of health/pharmaceuticals.

Careful top-down approach with voluntary data governance guidelines: With regard to horizontal data governance mechanisms across sectors, DBG suggests starting with a step-by-step approach and with voluntary data governance mechanisms. General principles of data governance could provide for an overarching set of predominantly voluntary rules, which might facilitate harmonization between industry sectors. However, there are

significant differences as regards data, data standards and rules across industry sectors, which require a more customized approach on data per sector.

Standardised data: Interoperability issues may impede the combination of data from different sources within sectors, and even more so between sectors, which may be dependent on different standards already. A particular issue is the absence of a consistent description of the data, including information on how it has been gathered. This can impact on data discoverability and on the capacity to evaluate data quality. Another issue is the differences between data models used for similar or identical information assets. This constitutes a barrier for re-users, both commercial and from academia. Standardisation is one of the means to respond to these challenges.

Furthermore, data should ideally be provided in a structured and machine-readable format in order to gather and process data from different sources in a coherent manner.

Q17 'The re-use of data in the economy and society would benefit greatly from standardisation to improve interoperability.' To what extent do you agree with this statement?

DBG Answer to the multiple-choice question: somewhat agree

From our point, we would agree, given that the (business-related) data is contained in the meaningful clusters mentioned above. Also, it is important that, as some data sets have a commercial value and function at a certain time, not all data should be available immediately/real-time for free in a common data pool for re-use purposes. Otherwise, companies are less likely to invest in the production of data. A possible solution would be a “timestamp” for data-sets, so that “historical” business data sets are available after a certain time for re-use by other companies. Further, exceptions for important societal tasks should be made (e.g. to support COVID-19-research).

Furthermore, as the current economy is set on different standards across the industry used within the industry. Any changes to established standards would have major impact, not only on the data sources, but as well to the overall ecosystem around the data source, e.g. the industry sector it total. Therefore those changes have to be thought through carefully and implemented in a step-by-step approach.

Also, please define “re-use” more specifically and under which conditions.

Q18 'Future standardisation activities need to better address the use of data across sectors of the economy or domains of society.' To what extent do you agree with this statement?

DBG Answer to the multiple-choice question: neutral.

On the one-hand, we generally support standardization, ideally with market-led initiatives, but as we would prefer reasonable industry clusters, we are skeptical towards cross-sector standardization.

Q20 If other, please specify

DBG Answer to the multiple-choice question: metadata schema + metadata variables + common data models + application programming interfaces (APIs)

DBG supports the application of data standards, which may vary per sector (e.g. financial markets: ISIN, ISO, MMT). Flexibility is of significant importance in the context of innovation as well.

Q21 What role should EU or national government bodies take in standardisation?

DBG Answer to the multiple-choice question: Take an active role in the prioritization and coordination of standardization needs, creation and updates

We would prefer standard setting by industry bodies (e.g. [CENELEC](#)) who know the details and work on common standards on a voluntary basis.

Q23 'Public authorities should do more to make available a broader range of sensitive data for R&I purposes for the public interest, in full respect of data protection rights.' To what extent do you agree with this statement?

DBG Answer to the multiple-choice question: somewhat agree

We agree, but only for data which is already generated by public authorities.

Q24 Which of the following should public authorities do to facilitate data re-use:

DBG Answer to the multiple-choice question: Be able to provide anonymisation of specific data for concrete use-cases + Offer the possibility to process data within a secure environment it makes available, so that the user does not need to obtain a copy of the data

We agree, but only for data which is already generated by public authorities.

Q34 ‘Such intermediaries are useful enablers of the data economy.’ To what extent do you agree with this statement?

DBG Answer to the multiple-choice question: somewhat agree

Q35 'The establishment of a list of high-value datasets, to be made available free of charge, without restrictions and via APIs, is a good way to ensure that public sector data has a positive impact on the EU's economy and society.' To what extent do you agree with this statement?

DBG Answers to the multiple-choice question: Neutral

DBG generally supports the EU’s Digital Agenda, including an underlying data strategy. In this context we would like to highlight that any data availability requires ongoing investments and as such funding not only on the data provision, but as well on the data storage, maintenance and access. On top inquiries by data users need to be covered, which will require the funding of the respective support.

As it may be unclear if and if so, which data may be of general use, we would like to suggest the application of demand driven pilots upfront, which may contain some data samples for the respective public space. Only in case there would be sufficient and comprehensive ongoing demand, the public sector providing the data would need to invest accordingly. Funding of the investment may be generated from those using the data, rather than by the taxpayer only in our view.

Q36 Apart from the potential to generate socio-economic benefits, please indicate the relevance of the following additional factors to be taken into account when selecting datasets for the future list of high value datasets:

DBG Answers to the multiple-choice question: neutral, I don't know, relevant, relevant

Q37 If other factors: please specify

Given that it would be very complex to create a “one-size fits all” approach for all “industry”-sectors, a diverse approach based on interoperability of datasets could be necessary. Different use-cases may need different data-formats. In case high value data sets would be for free, who would carry the costs? Who would be responsible to carry out the maintenance upgrade /unification of the data for the benefit of other users?

Q38 Under the Open Data Directive, specific high-value datasets will have to be available free of charge, in a machine-readable format, provided via APIs and, where relevant, provided as a bulk download. Please indicate the relevance of each of the other arrangements indicated below to improve the re-usability of specific high-value datasets.

DBG Answers to the multiple-choice question: very relevant, relevant, neutral, relevant

Q39 If other arrangements, please specify:

DBG would be cautions against a mandatory transfer of private companies' data into a public data space, without the consent of the respective data provider. The values of the EU are based as well on the freedom to conduct a business, and various companies focus their business on data generation and licensing. These EU values should continue to be respected as well under the EU Data Strategy.

We are, furthermore, of the opinion that an unconditional claim to data access or a corresponding obligation to grant data access should not be granted. The principle of freedom of contract ensures sufficient access to data. Data can be made available to any interested party under a license agreement which ensures companies that invested in the production and/ or collection of data not to expect economic disadvantage. This approach ensures a

proportionate balance between making data accessible to the public while ensuring the rights of the companies that invested in the production of data.

In the context of the above made comments on maintenance cost, we would furthermore question the logic behind free data spaces within the financial industry, finally being funded by the taxpayer.

Q40 Please specify which specific technical arrangements for dissemination:

Technical arrangements may differ with the nature of the data as well as the respective use cases.

Q41 EU programmes may provide funding to enhance the availability and re-use of high value datasets across Europe. For each of the following activities, please indicate how relevant it is to support them.

DBG Answers to the multiple-choice question: Very relevant, very relevant, very relevant

Q44 Does your organisation use and/or provide cloud or edge services?

DBG Answers to the multiple-choice question: Yes, my organisation uses cloud or edge services

Q45 Does your organisation use:

DBG Answers to the multiple-choice question: Cloud

Q47 Please explain why you do not use cloud, edge or neither of the two:

We do not use edge technology so far, as our business applications are performed out of data centers. Further, our focus is on business-to-business activities, which do not require (hand-held) devices relevant for IoT.

Q48 Do you believe the cloud market currently offers the technological solutions that you need to grow and innovate your business?

DBG Answers to the multiple-choice question: yes

Q49 Do you feel that your organisation's sensitive data is adequately protected and secured by the cloud services you use?

DBG Answers to the multiple-choice question: yes

Q50 Please specify the problems

While the level of protection is already high, further advancements are required mainly in the areas of:

- Extending encryption technologies to data being in use /in memory
- Add end-to-end encryption where possible
- Consistently implementing customer lockbox /consent requirements before data is accessed
- Agreements between EU and other jurisdictions (e.g. US) needed to strongly regulate cross border access and activities

Q51 Have you experienced problems in the context of the current functioning and constitution of the market for cloud services in Europe?

DBG Answers to the multiple-choice question: yes

Q52 Do these problems relate to:

DBG Answers to the multiple-choice question: Asymmetry of power of negotiation between customer and provide, please specify

Q53 Please specify

Regarding the asymmetry of power in negotiations, high efforts and time are required to agree regulatory compliant contracts with CSPs in the financial sector. Therefore, we actively support the EU's work designing Voluntary Standard Contract Clauses to facilitate future negotiations.

Q54 Do you perceive risks emerging from the current functioning and constitution of the market for cloud services in Europe?

[DBG Answers to the multiple-choice question: yes](#)

Q55 Do these risks relate to:

[DBG Answers to the multiple-choice question: Asymmetry of power of negotiation between customer and provide, please specify](#)

Q56 Please specify

See above.

Q57 Does your organisation have flexibility to procure/adopt new and innovative cloud solutions if they emerge on the market?

[DBG Answers to the multiple-choice question: yes](#)

Q58 Is this related to:

[DBG Answers to the multiple-choice question: Legal/contractual barriers](#)

Q60 If legal/contractual barriers, please specify

From our experience, it is very difficult to procure/adopt new and innovative cloud solutions, as it takes a long time to ensure that these new services are regulatory compliant. Often, new solutions are not meeting regulatory expectations right from the start.

Q64 Is your organisation aware of self-regulatory schemes for cloud/edge services (for example, codes of conduct or certification schemes)?

DBG Answers to the multiple-choice question: yes

Q70 If other, please specify

Even as we support self-regulatory approaches in general, we think that regulators should provide guidance in order to support, as a self-regulatory approaches could take too long.