

# DATA SHARING & DATA POOLING

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# AUGMENTED ROLE OF DATA IN THE DIGITAL ECONOMY

## Data as “lifeblood of digital economy”

- Data ubiquitous, not single-purpose, heterogenous, non-rivalrous
- Increasing economies of scale and scope
- Low costs in collection or simply a by-product

## Data in competitive assessment

- Key input capability for innovation
- Barrier to entry reinforcing market power and foreclosing new entrants



Voluntary data pooling & sharing in digital era: Right balance between increasing efficiencies and innovation and fencing off anti-competitive practices?

# GUIDANCE ON DATA POOLING BY REPORTS

## EU Special Advisory Report, April 2019

- Emphasis on pro-competitive aspects of data sharing & pooling:
  - Fuller realization of innovation potential, better products and services, resolve data bottlenecks etc.
- Principles for Art. 101 TFEU assessment of data pools:
  - Start with analysis and recognition of efficiencies in the context of Art. 101 (1) and under Art. 101 (3)
  - Determining the risks of anti-competitive conduct:
    - By object: commercially sensitive information, algorithmic collusion
    - By effect: leading to significant alignment of costs or product features
  - Data pools with market power may have duty to grant FRAND access

# GUIDANCE ON DATA POOLING BY REPORTS

## Wettbewerbsrecht 4.0 Report, September 2019

- General importance of cooperation of business undertakings in the digital area:
  - Data exchange and data pooling being prime example
  - Less legal certainty in relation to novel cooperation models:
    - Limited precedents, no use guidance letters or of finding of inapplicability (Art. 10 Reg.1/2003)
  - Suggestion: new voluntary EU notification with short decision deadlines
- Framework for collection and usage of data of the public sector and from the delivery of public services
- The establishment of data trustees: individuals bundle their data with “data-intermediaries” to strengthen countervailing power

# GUIDANCE ON DATA POOLING BY REPORTS

## Furman Report, March 2019

- Data sharing in controlled environment:
  - Data openness regime based on common standards developed with industry involvement
  - Enable personal data mobility empowering individuals

## Stigler Report, Mai 2019

- Data sharing rules in the context of market power and data protection breach
- Enabling open standards and consumer control of their data

## Portuguese Report, July 2019

- Self-regulating codes and data portability to ensure contestability

# COMPETITION POLICY & ENFORCEMENT IMPLICATIONS

## Data sharing/pooling and the review of the Horizontal Guidelines and BERs

- Create more legal certainty and flexibility to increase uptake of data pools:
  - Strengthen analysis of pro-competitive aspects under Art. 101 (1)?
  - Update characteristics of data for digital markets and associated sharing assumptions?
  - Increase the use of guidance letters in new, dynamic markets?
  - Create a separate data pooling/sharing BERs?

## Standardisation and Interoperability

- Seamless exchange of data is necessary to allow efficient data pooling and overcome network effects of closed ecosystems
- First step to maximize value extraction of data should be tackling technical obstacles of sharing by encouraging standardization and interoperability

# INTERNATIONAL DATA SPACES ASSOCIATION (IDSA)

1

ecosystem

5

working groups

20+

use cases

100+

companies and organizations



**INTERNATIONAL DATA SPACES ASSOCIATION**

Development of IDS architecture through  
**Fraunhofer ISST**

**Deutsche Telekom member since 2017**

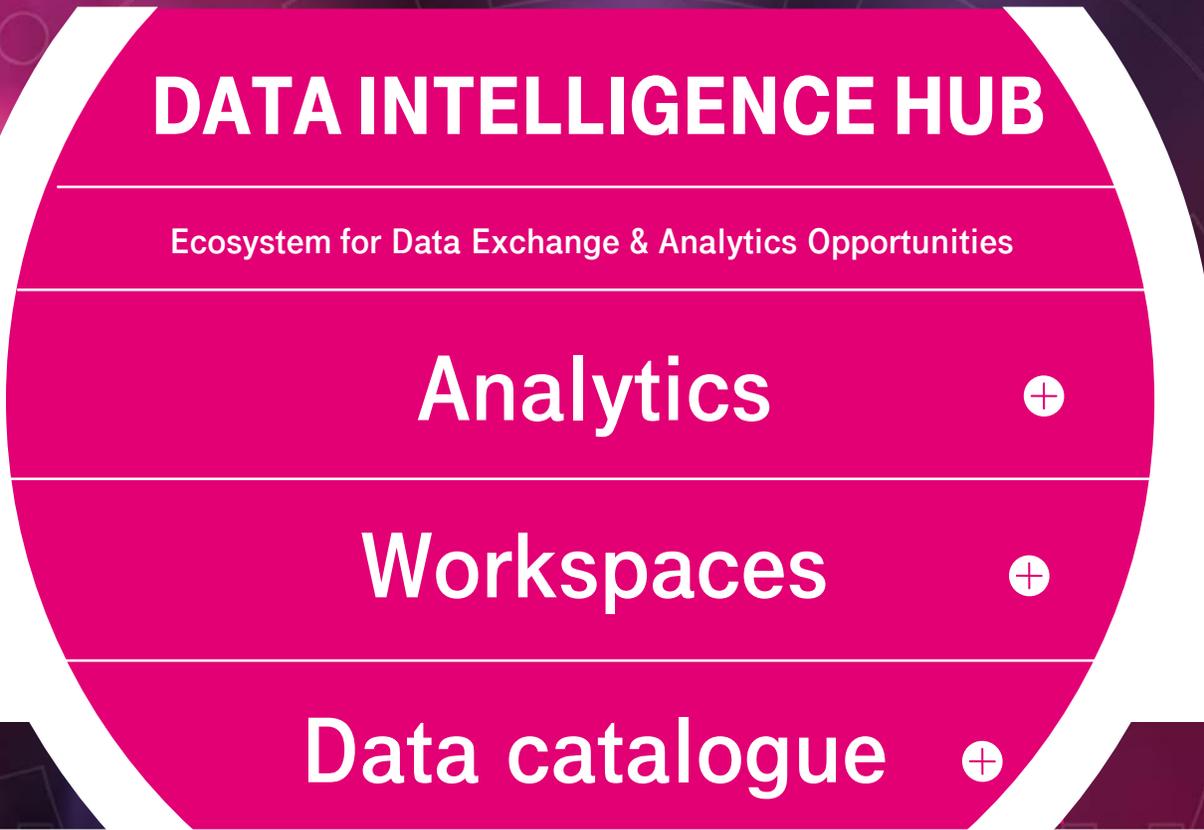
- Data Intelligence Hub is the first implementation of the reference architecture
- Data sovereignty is technically and legally secured



# DEUTSCHE TELEKOM 'S DATA MARKETPLACE

Provider

Purchaser



## Trust

Secure, smooth data exchange based on standards

## Open

Neutrality for all participants, overcoming organizational silos



## Data sovereignty

Data "owner" retains control over data flow and use



ERLEBEN, WAS VERBINDET.