



Data Act – new rules for B2B data sharing in the context of IoT market

25 October 2024

CECE Congress – Technical forum

António BIASON
Legal and Policy Officer, Data Policy and Innovation Unit
DG CNECT, European Commission

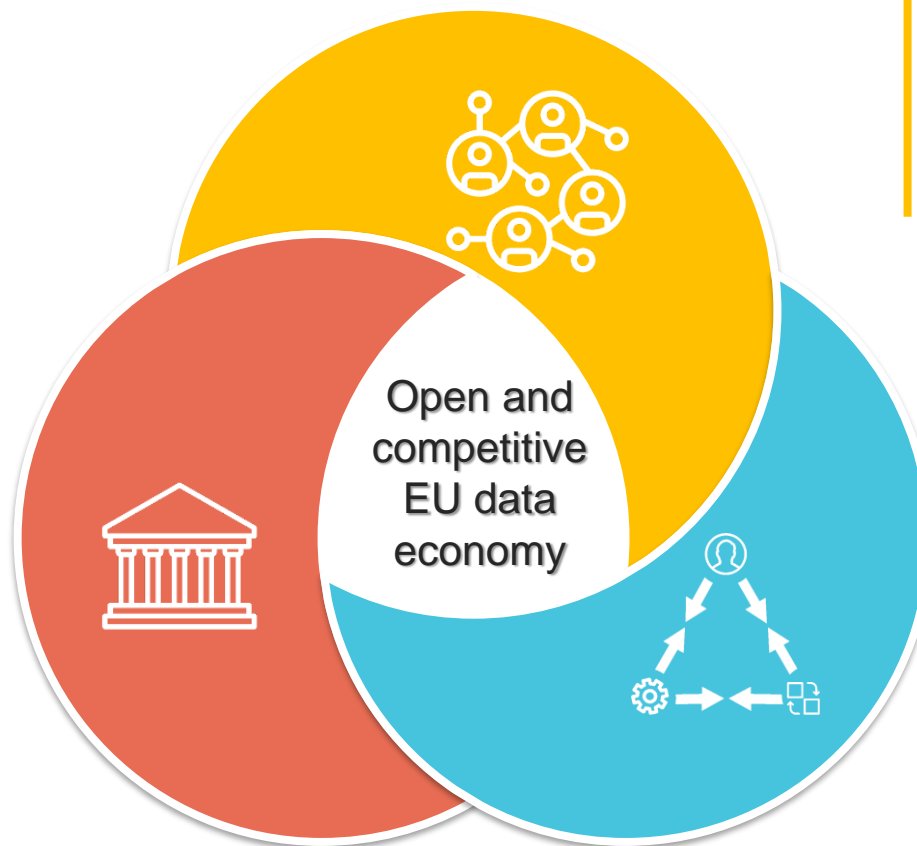
Structure of presentation

1. Introduction to the Data Act
2. Who is a data holder?
3. Direct vs. indirect access to data
4. Application of the “soft” design obligation under Article 3(1)
5. Multiple users and identification of legitimate user
6. Next steps
7. State-of-play of the Model Contractual Terms

European Strategy for Data (February 2020)

Enabling legislation

Unlocking a wealth of industrial data in Europe, creating a solid and fair data-driven economy



Deployment of data spaces

Support and establish EU-wide common and interoperable data spaces for voluntary data sharing in strategic sectors



Mobilize funding

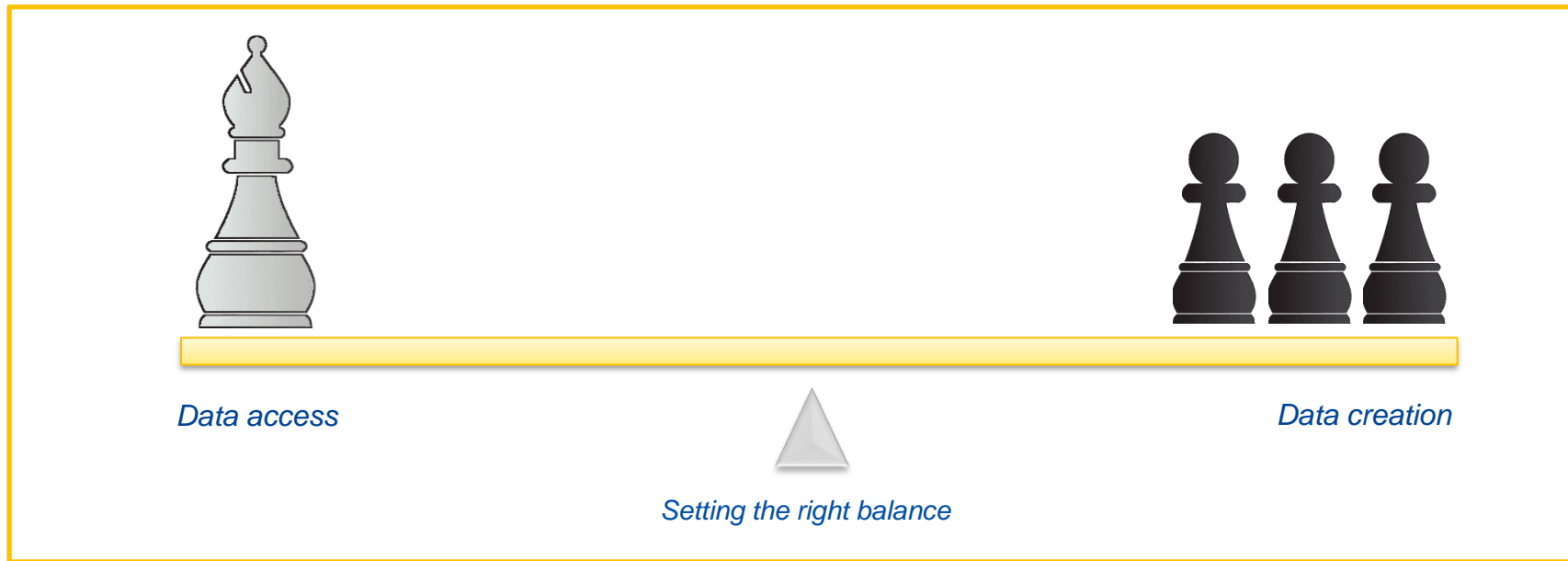
Strengthen Europe's data infrastructure and technologies

Why a Data Act?

- Potential of data, particularly industrial data, is *not fully realised*
- Lack of clarity as to *who* can create value from *what* data, under *which* conditions
- Risk of *fragmentation* in the EU market, which leads to higher compliance costs



Balance the interests of those who invest in data technologies with those who contribute to data generation



Data Act *(fairness in data access and use)*

Entry into application 12 September 2025



Better access to **IoT data**

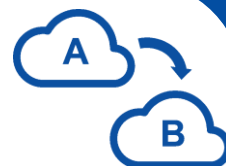
Rules for IoT data also frame data sharing in other sectors



Tackle **contractual unfairness** in B2B data sharing



Make **business data available** for the common good (B2G)



Easier **switching** between cloud services

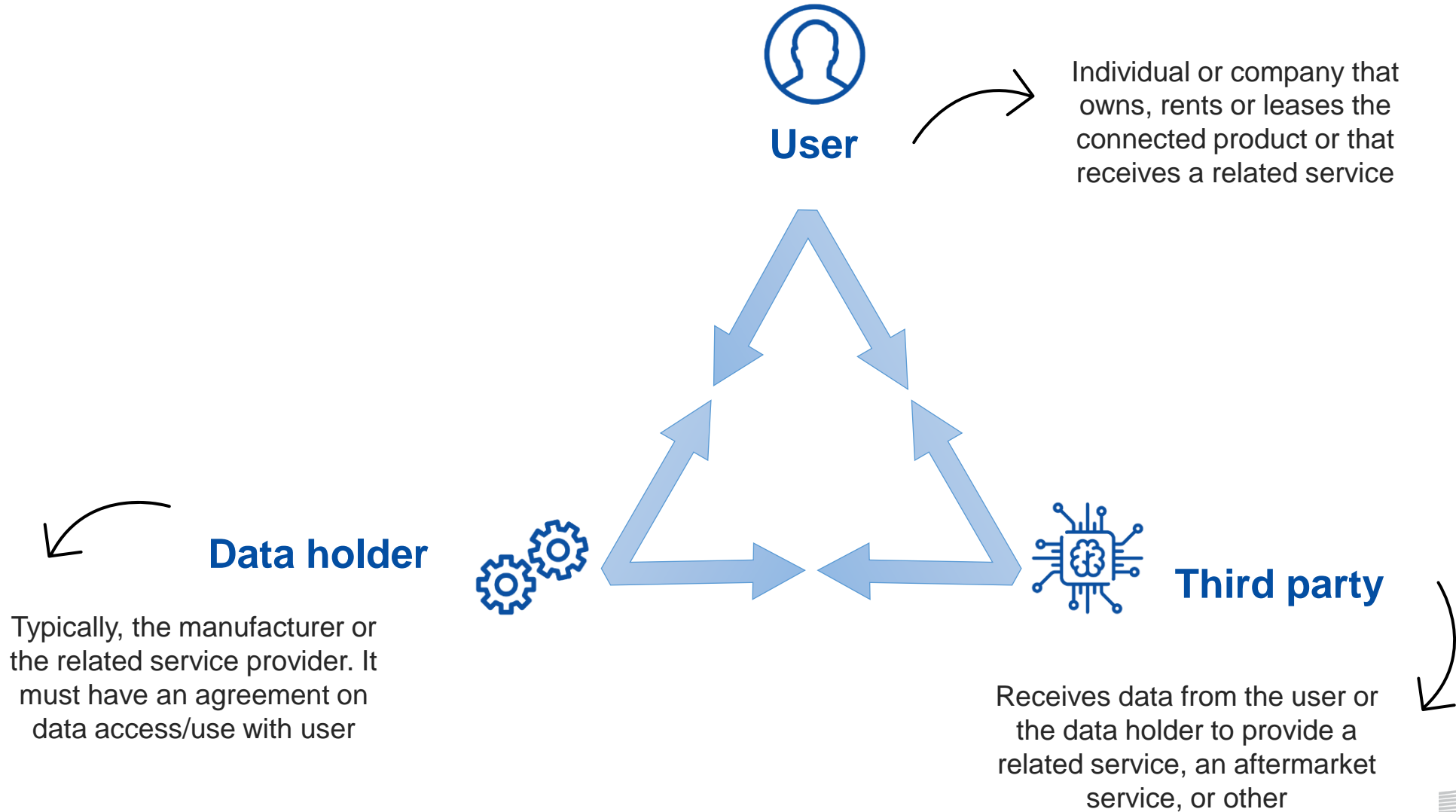


Facilitate data flows through **standards** and **interoperability**, in particular for data spaces

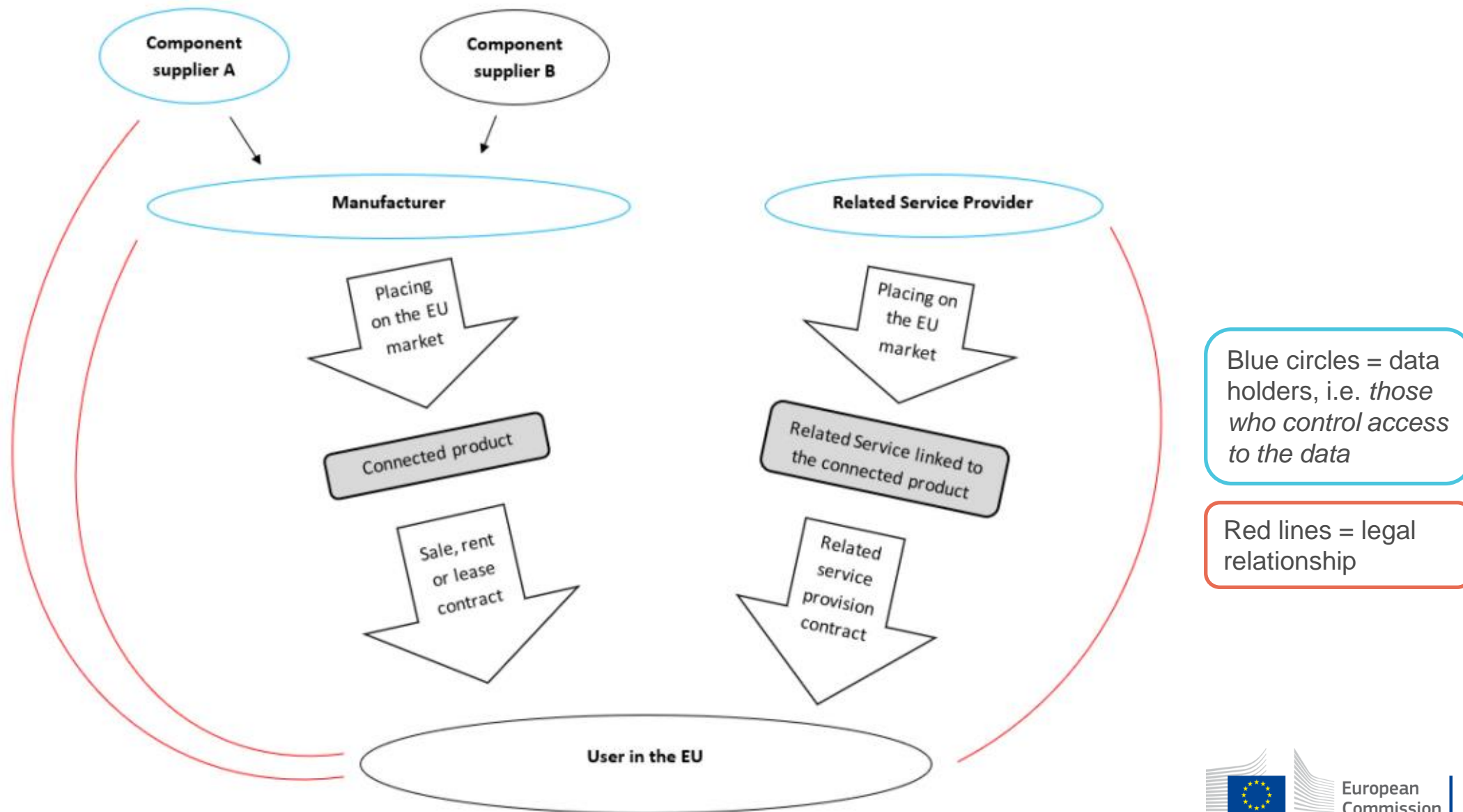
Frequently Asked Questions

Data Act

Who is a data holder?



An example of role distribution



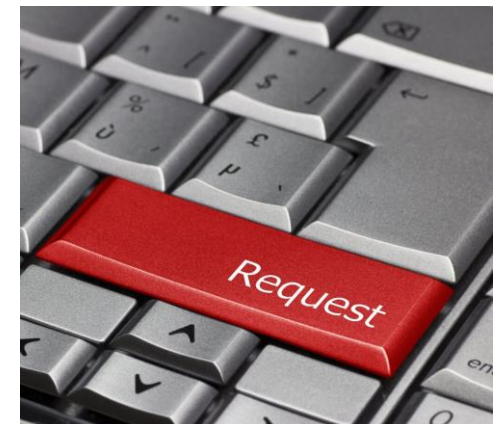
Access: direct, indirect or hybrid

Direct access: the user has the technical means to access, stream or download the data in question without having to request the data holder to do so.

E.g.: a connected product has a digital interface where the user has control over the access mechanism, controlling the interface and workflows, and where the user can directly extract data from the connected product.

Indirect access: the connected product or related service is designed in such a way that the user is required to ask the data holder for access (i.e. an approval process).

E.g.: a web portal where the user can submit a request to access data.



Not all data are created equally –
hybrid access solutions are possible,
as long as data are made available.

“Soft” design obligation in Article 3(1)

19) Does Article 3(1) oblige manufacturers of connected products to design or redesign their connected products so that users can access the data directly?

No. Article 3(1) does not oblige manufacturers to grant **direct access** to data in all situations and for all connected products. Data should be ‘**directly accessible**’ to the user ‘**where relevant and technically feasible**’.

The formulation ‘**where relevant and technically feasible**’ is meant to reinforce the manufacturers’ discretion to decide whether to design a connected product in a way that provides users with ‘uncontrolled’ access (i.e. without any intervention by any other party) or in a way that provides access with additional controls (typically via a remote server). For this purpose, a manufacturer may assess, for example, whether direct access is technically possible; the costs of potential technical modifications; and the difficulty of protecting trade secrets or IP, or of ensuring the connected product’s security. One could also consider whether direct access is relevant in a specific scenario from the perspective of the connected product, user, or data holder. Based on this assessment, manufacturers may choose to design the connected product in such a way that all or part of the product data is directly accessible or may enable only indirect access. If agreed upon, data holders can also access product data made directly accessible to a user.

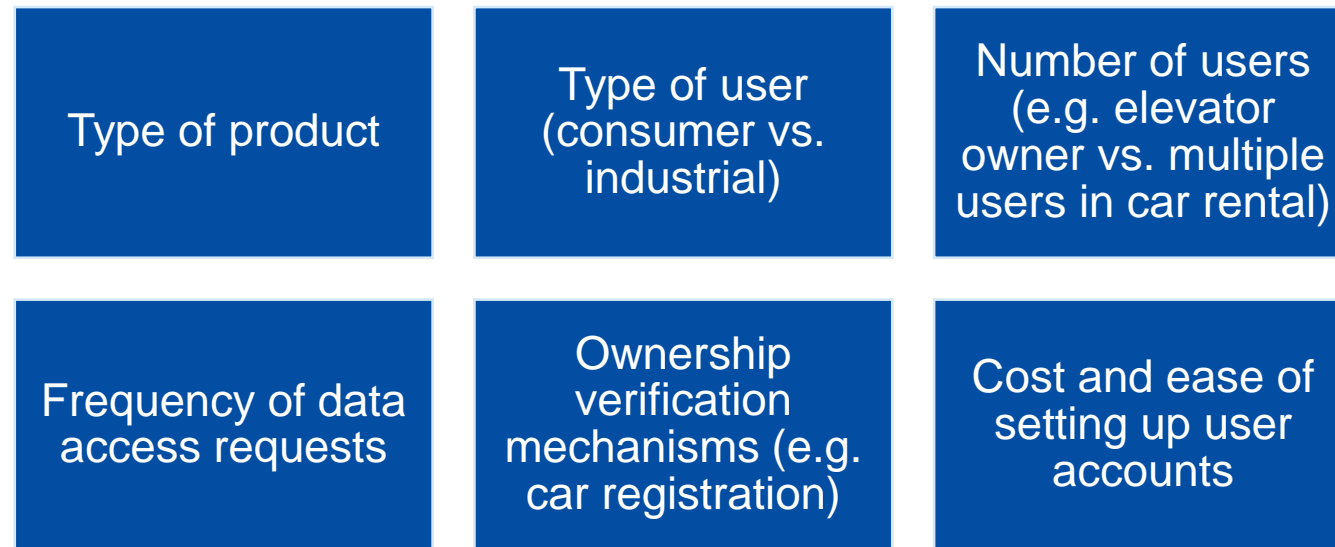
Multiple users for a single connected product

- Multiple data-sharing arrangements and mechanisms can be established to accommodate diverse user scenarios (Recital 21).
- Importance of the transparency obligation in Article 3(2) and (3).
 - *The user must always know who to turn to in order to access their data, as well as modalities to access and user generated data.*



How to identify a legitimate user

- Data holders have the flexibility to establish their own process for identifying users, while adhering to Articles 4(4) and (5). Some factors to consider:

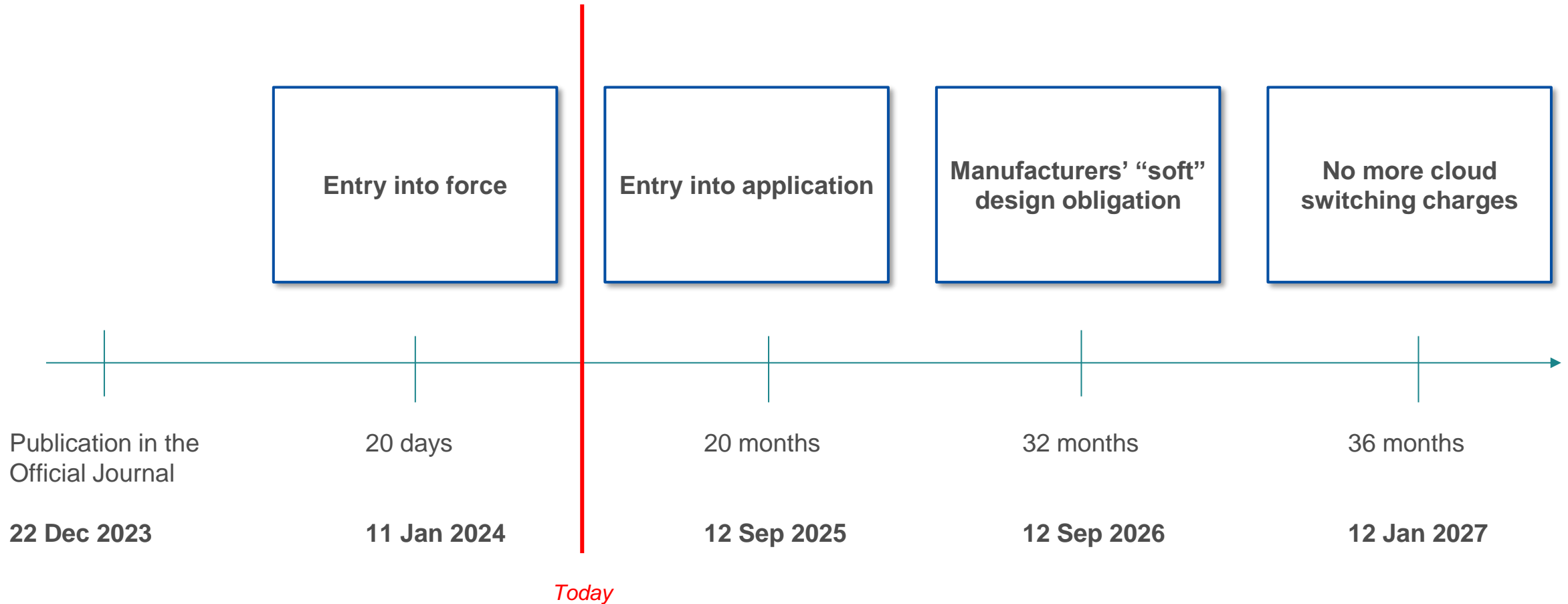


Someone who owns a connected product or to whom temporary rights to use the connected product have been transferred



- Solutions like the EU Digital Identity Wallet could be useful.

Data Act timeline



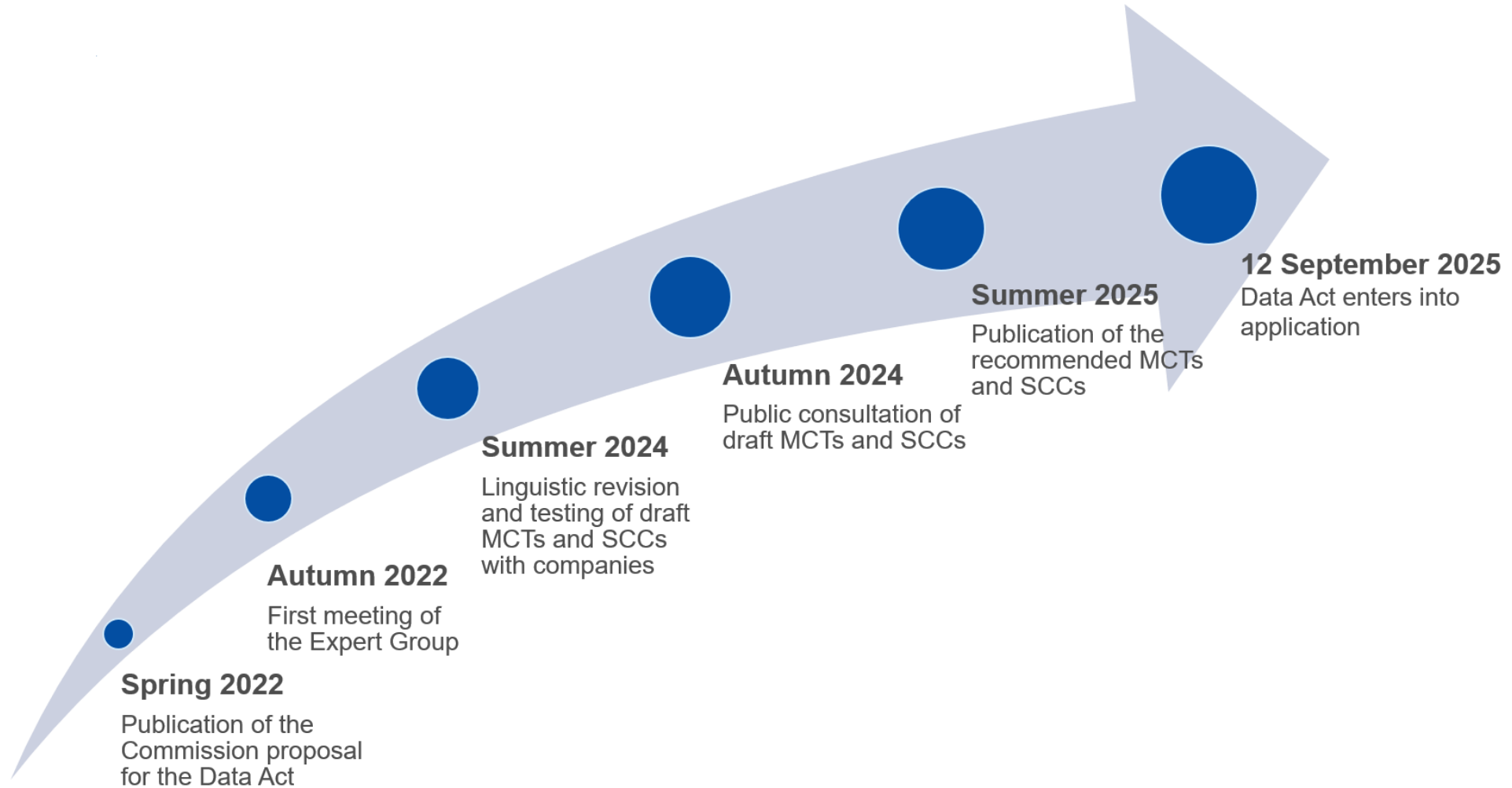
Enforcement

Each Member State designates one or more competent authorities to carry out the function of application and enforcement

- 'Data coordinators' now act as the single point of contact
- Can be already existing bodies or structures
- DPA's competences over data protection are respected
- Sectoral authorities' competences respected



Tentative timeline for MCTs and SCCs



Shaping Europe's digital future

[Home](#) | [Policies](#) | [Activities](#) | [News](#) | [Library](#) | [Funding](#) | [Calendar](#) | [Consultations](#) | [AI Office](#)

[Home](#) > [Calendar](#) > [Series of webinars: The Data Act in contracts](#)

EVENT | Publication 15 October 2024

Series of webinars: The Data Act in contracts

 **20 November 2024 - 05 December 2024**

Help us develop model contractual terms for data sharing and standard contractual clauses for switching between data processing services (cloud computing contracts) by sharing your opinion.

Before the [Data Act](#) starts applying from 12 September 2025, the Commission will recommend model contractual terms for data access and use and standard contractual clauses for cloud computing. The Commission has set up an Expert Group to develop these models, which will form the basis for the Commission Recommendation in 2025. These models intend to help especially small and medium-size companies and other organisations which may lack resources to draft and negotiate fair contractual clauses for data sharing or for cloud computing.

In November and December 2024, the Commission will be hosting a series of 6 webinars with businesses, policymakers, lawyers, and experts to discuss the development of both the draft Standard Contractual Clauses (SCCs) for cloud computing contracts and the draft Model



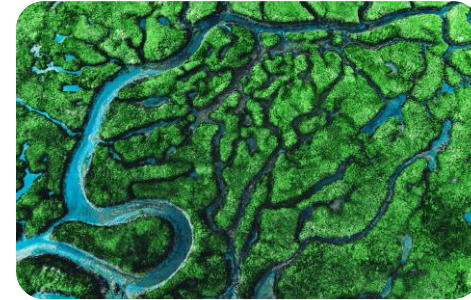
Organiser

European Commission

Contact

Conclusions

- There are new obligations, but also opens **many opportunities**
- Overall **balance** between making data available for innovation and protecting the legitimate interests of companies was **kept**
- All elements of European Data Strategy are in place: **focus** is now on **implementation**



Thank you!