DATA ACT

ELA INFORMATION NOTE

May 2025

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Introduction

On 11 January 2024, the Regulation (EU) 2023/2854 of the European Parliament and of the Council of 13 December 2023 on harmonised rules on fair access to and use of data and amending Regulation (EU) 2017/2394 and Directive (EU) 2020/1828 ("**Data Act**") entered into force.

The Data Act creates new rules for access and use of certain private sector data generated by connected products and related services. It aims to ensure that users of a connected product or related service in the EU, can access, in a timely manner, the data generated by the use of that connected product or related service and that those users can use the data, including by sharing them with third parties of their choice. It obliges data holders, e.g., the manufacturer of a product or provider of a related service, to make data available to users and third parties indicated by the user under certain circumstances. It also ensures that data holders make data available to data recipients under fair, reasonable and non-discriminatory terms and conditions and in a transparent manner. The Data Act further stipulates the obligation of the data holder to make product data and related service data including the relevant metadata available to a public sector body, the Commission, the European Central Bank or a Union body in cases of exceptional need.

The Data Act is horizontal EU legislation applicable across different industries, including the elevator and escalator ("**E&E**") industry.

As a regulation, the Data Act will be directly applicable in all EU Member States without separate implementation measures. Most of the obligations under the Data Act will apply from 12 September 2025. However, the "data access by design" obligation under Art. 3(1) of the Data Act, will apply to connected products and their related services supplied for distribution or use on the EU market after 12 September 2026.

This information note contains questions that have been identified by the ELA Legal Committee, ELA Codes and Standards Committee and ELA Digitalisation and Cybersecurity Committee as being of high importance to the E&E industry. Answers to the questions are drafted based on the ELA understanding of the text of the Data Act at the time of drafting of this information note.

This information note focuses on describing the terminology and the scope and extent of the data sharing obligations under the Data Act as understood by ELA and therefore from the perspective of an E&E manufacturer and service provider. In this information note not all parts of the Data Act, or questions or aspects of the data sharing obligations are addressed.

The questions and answers in this information note are divided into the following four categories:

1. Terms and Definitions
2. General questions in relation to data access and sharing obligations
3. Data retention, historical data and data holder's own rights to data
4. Other

Annexes of this information note contain:

1. List of references
2. Glossary

1 Terms and Definitions

1.1. What does "connected product" mean? Is the elevator installed in a building a connected product on its own, or is it only the sum of installed components which are themselves the connected products within the meaning of the Data Act?

Ref: Art. 2(5), Recitals: 14, 16

The definition of a connected product is broad and applies to various products across different industries. Essentially, a product that includes i) any kind of data generation functionality of its use or environment; and ii) any capability of communicating the generated data outside of the product would be considered a connected product.

However, if the product is designed primarily for the purpose of storing, processing, or transmitting data on behalf of someone other than the product's user, it would not fall within the scope of the definition. This may be the case with local servers, network switches, or other hardware elements that are essential to data flows but do not actually contribute to data generation by the product.

E&E products with connectivity and capability to transmit data via the cloud are clearly connected products.

Other E&E products are designed to collect and communicate at least some data via for example, on-site integrations, cable connections, land-based telephone networks or satellite-based networks, and are thus connected products even if they are not able to share the data online.

If data collection and communication capabilities are introduced to an E&E product at a later stage, for example through modernization, a product that was not originally a connected product can become a connected product.

Data collection and transmission units (“DTU”) that are added to an E&E product later are not themselves connected products because the DTUs primary purpose is collecting data, which has been generated by the use of the connected E&E product and processing or transmitting said data. Further, the DTU does not generally collect data on its own use or environment, but on the use or environment of the E&E product to which it is added.

Such DTUs may be added to existing E&E products to allow remote data access. However, in many cases the product in question would already have been a connected product, as it allowed data to be retrieved by physical connection or on-device access. Adding the DTU just means that the data are now accessible online, possibly triggering the obligation under Art. 4(1) to share readily available data with the user (if no data has been readily available prior adding such DTU) (see Q1.11).

Some E&E products have originally been designed so that they do not qualify as connected products, e.g., due to not generating data in a retrievable format. Installing a DTU with sensors that collect data on such E&E product and allowing (remote) retrieval of such data turns the E&E product into a connected product. The E&E product is now a connected product, and the relevant requirements of the Data Act are applicable.

Under the Data Act, E&E products should generally be understood as connected products on their own, even if the E&E product would consist of separate components capable of generating and communicating data, such as a DTU. The E&E manufacturer generally sells the entire elevator or escalator to the customer, not the individual components.

1.2. Who is the “user” of a connected product?

Ref: Art. 2(12), Recitals: 18, 21

User is the owner or other party to which temporary rights to use the connected product have been contractually transferred (for example, renter or lessee of the product). A product may have one user or multiple users. A user may be a natural person or a legal person such as a company or an association.

Elevators and escalators are usually a tangible part of a building and contractual rights to the E&E product are based on ownership or lease of the building. Therefore, the “user” in the E&E industry is typically the owner or lessor of the building where the E&E product is installed. In the E&E industry, the user may thus change over the lifetime of the product as the owner or lessor of the building changes.

Typically, the end-users of the E&E products, such as passengers in an elevator or on an escalator, do not own or rent the product or have other contractual rights to the products. Consequently, end-users or passengers of E&E products should not generally be understood as users under the Data Act. For the avoidance of doubt, a company engaging in servicing an E&E product is not considered a user solely due to the fact that it has access to the product.

1.3. What does "product data" mean?

Ref: Art. 2(15), Recitals: 15

Product data means data that are generated by the use of a connected product and that the manufacturer designed to be retrievable, via an electronic communications service, physical connection or on-device access by a user, data holder or a third party, including, where relevant, the manufacturer.

Data generated *by the use* of a connected product should be understood to include data that:

- are generated by the mere use;
- are recorded intentionally or which results indirectly from the user’s action, such as data about the connected product’s environment or interactions; and
- are generated by the connected product during times of inaction by the user, such as when the user chooses not to use a connected product for a given period of time and instead to keep it in stand-by mode or even switched off.

In the E&E industry, product data are:

- generated by the use of the E&E product (e.g., riding);
- status and other data on the E&E product or its components (e.g., doors, machines, controller, sensors, etc.) and operating systems when they are not in active use (e.g., out-of-order); or
- are intentionally recorded independent of use,

but in all cases only to the extent that the data have been designed to be retrievable by electronic communication service, physical connection or on device access. Data that is purely processed and communicated inside the device without possibility to extract it, is not retrievable data and thus not product data.

As explained in Q1.4 below, to qualify as product data, the data also need to be raw data or pre-processed data.

Parameters or settings are not product data as they are neither generated by the use of a connected product, nor are they recorded intentionally. They are part of the configuration of the product.

1.4. What is the difference between product data under the scope of the Data Act and further analysed data outside the scope of the Data Act?

Ref: Art 2(15), Recitals: 15

As explained in Q1.3, in order to be considered product data, the basic requirements are that the data in question are:

(i) generated by the product use; and
(ii) retrievable.

Further, the data must *not* have been substantially modified. In other words, product data only include *raw data* and data which have been *pre-processed* to make it understandable and useable.

However, if information is inferred or derived from raw or pre-processed data through *additional investments* into assigning values or insights from the data, such information (referred to here as *further analysed data*) is *out of scope* of the Data Act and consequently not subject to its sharing obligations. This includes (but is not limited to) information, which is the outcome of the application of *proprietary, complex algorithms* on data (for instance information derived from sensor fusion collected in the connected product). Such information can be created and/or retrieved either *in* the connected product or *outside* of it, e.g., in a cloud environment.

The table below shows some examples of elevator specific in scope/out of scope data:

Examples	**In scope**		**Out of scope**
	Raw data	**Pre-processed data**	**Further analysed data**
Physical quantity (e.g. temperature in elevator shaft)	Analog sensor output (electrical signals, such as voltages, currents or resistances) or digital sensor output (binary outputs, such as 0010010010101)	Converted analog or digital sensor output into interpretable physical quantities (e.g. temperature measurement values, such as degree Celsius / Fahrenheit)	Assessment of measured temperature values in comparison to historical values and experiences, e.g. using a dedicated algorithm, to predict a service need
Status of elevator (e.g. door is open)	Analog sensor output (electrical signals, such as voltages, currents or resistances) or digital sensor output (binary outputs, such as 001010101)provided to the main processor	Result of comparison (combination) of analog or digital sensor outputs against thresholds that are pre-set in the main processor, to determine a basic elevator status, e.g. whether door is open or closed	Insights gained through a complex analysis of several basic status data points, inferring specific conditions of the elevator and/or its service needs

1.5. What does "related service" mean? Can certain operations under maintenance service be considered a “related service” under the Data Act?

Ref: Art. 2(6), Recitals: 17

Related service means a digital service, other than an electronic communications service, including software, which is connected with the product at the time of the purchase, rent or lease in such a way that its *absence* would prevent the connected product from performing one or more of its functions, or which is subsequently connected to the product by the manufacturer or a third party to add to, update or adapt the functions of the connected product.

Further, the following services are *not* related services:

- a service which does not have an impact on the operation of the connected product;
- a service which does not involve the transmitting of data or commands to the connected product by the service provider (e.g., auxiliary consulting, analytics or financial services, or *regular repair and maintenance services*);
- a service to supply power or connectivity to the connected product.

Hence related services are digital services, which are connected with the product in a way that:

- their absence would prevent the product from performing one or more of its functions;
- they involve the exchange of data between the product and the service provider; and
- they are explicitly linked to the operation of the functions.

Those services are either connected already at the time of purchase, rent or lease or are subsequently connected with the product.

Maintenance services as such do not generally qualify as a related service even when performed in a digital manner. Maintenance services that are performed in a non-digital way, such as replacement of parts, visual checks or test, cleaning, lubrication, etc. are clearly not related services under the Data Act. Equally, even digital maintenance services, including monitoring services, cannot generally be considered as related service if they do not have an impact on the operation, e.g. by transmitting commands to the product. However, during the maintenance service the elevator may generate data that qualify as “product data” (see Q1.3 above), e.g., movement data due to technician testing or otherwise moving the elevator.

1.6. What does "related service data" mean?

Ref: Art. 2(16), Recitals: 15

Related service data means data representing the digitization of user’s actions or of events related to the product, *recorded intentionally by the user or generated as a by-product of the user’s actions* during the provision of a related service by the provider. This includes data resulting indirectly from a user´s action and shall include not only data, that a use took place, but all data generated by such use. All of this during times of the use, but also for times of inaction (of the related service).

As explained in Q1.4 above, the results and information, derived from related service data, which have been gained by the utilization of complex algorithms or other (proprietary) technologies analysing the data, do not fall under the data sharing obligations of the Data Act.

1.7. What does “metadata” mean?

Ref: Art. 2(2), Recitals: 15, 20

Metadata contains information about data and gives context to the product or related service data, e.g., source, timestamps, content description. Metadata is important for understanding the data. Metadata is in the scope of the Data Act to the extent it is necessary to interpret and use product data and related service data.

1.8. Who is the “data holder”? Who is the data holder when the maintenance of a connected product is provided not by the OEM but by another service provider?

Ref: Art. 2(13), Recitals: 6, 15, 20, 21

The data holder is the entity or person who has the right and obligation to use and make available data including, where contractually agreed, product data or related service data which it has retrieved or generated during the provision of a related service.

A product manufacturer qualifies as a data holder if it has the ability to retrieve data from the connected product and also has a right to do so and use the data.

However, other entities may also qualify as data holders. As long as an entity, irrespective of its role as a manufacturer or service provider, has established a right to use the data of a connected product and has the ability to retrieve said data, it qualifies as a data holder. In theory multiple entities can qualify as data holders for the same connected product at the same time, provided that each of them has an arrangement with the user allowing access to the data and has the ability to retrieve the data. The user can then exercise its rights under the Data Act against any data holder.

OEMs in the E&E industry are considered data holders if: i.) the OEM has the ability to retrieve data from the E&E product; and ii.) it has a right to do so.

Further, in the E&E industry, it is customary for service providers other than the OEM to provide maintenance services for E&E products. Depending on the scenario, a service provider may qualify as data holder or data recipient (see Q1.9 below). If such service provider has the ability to retrieve product data and/or related service data, and has established a right with the user to use or make the data available, the service provider would qualify as a *data holder*. If the service provider does not have the ability to retrieve product data from the product itself but receives the data from the data holder upon request of the user (product owner), the service provider qualifies as a *data recipient* (see Q1.9 below). If a service provider does not have the ability to retrieve product data from the product itself, but receives the product data from the user, the service provider is neither a data holder nor a data recipient.

1.9. Who is the “data recipient”?

Ref: Art. 2(14), Recitals: 33

Data recipient is an entity, operating in a professional capacity, to which data is made available by the data holder and which is distinct from the user.

A data recipient is a third-party that typically operates outside of the primary relationship between data holders and users. There are two main scenarios outlined in the Data Act in which third parties or other entities become data recipients: i.) the sharing of data with third parties at the request of a user; or ii.) the sharing of data with third parties as required by EU or EU Member State law.

For example, if an E&E product needs to be repaired, the user (such as building owner) may request the data holder to share data with a third party (as a data recipient), which is a company offering repair services for E&E products. This data recipient can place an offer to repair the E&E product taking into consideration the data it received from the data holder upon the user's request. As described in Q1.8 above, service provider may be data holder instead of a data recipient if it is able to retrieve data from the product itself and has established a right with the user to use the data or make it available.

1.10. Is the facility manager of a building a user or a data recipient?

Ref: Art. 2(12), 2(14), Recitals: 18

In the E&E industry, building owners regularly contract with facility managers ("FM") to manage and ensure the operation of, inter alia, the elevators in the building. Whether or not the FM would be considered a "user" or a "data recipient" requires a case-by-case analysis that could take into account several factors, including e.g. the contract between the FM and the building owner and whether the service contract for the E&E in the building is made with the FM or the building owner.

Depending on the particular circumstances, it is possible that the FM is not a user within the meaning of the Data Act if it has not been granted rights to *use* the E&E product (see Q1.2 on the definition of "user"). The FM should then be understood as a "data recipient" for whom the building owner may request data access from the data holder instead.

1.11. What does "readily available data" mean? Is modernization of old equipment to make data available required?

Ref: Art. 2(17), 4(1), 5(1) and 50, Recitals: 20

"Readily available data" are data that are required to be shared by request to the user pursuant to Art. 4(1) (see Q2.2) or to a third-party pursuant to Art. 5(1) (see Q2.3).

Readily available data refers to product data and related service data that a data holder lawfully obtains or can lawfully obtain from the connected product or related service, *without disproportionate effort going beyond a simple operation*. Readily available data does not include data generated by the use of a connected product where the design of the connected product does not provide for such data being stored or transmitted outside the component in which they are generated or the connected product as a whole.

In general, if there is investment or development work needed to make the data available, such as software development or sending service technicians to the installed product, the data would not be considered as readily available.

Some E&E products are designed to enable data transmission via cloud from where it is directly accessible to the data holder or the user. In such case, the transmitted data can be considered as readily available.

Other E&E products are designed to collect and transmit some data via on-site integrations or cable connections. Providing access to the data from such products would require visit to the product and such data would not be readily available and required to be shared pursuant to Art. 4(1) or 5(1).

The Data Act does not oblige the OEM to modify or modernize products already in use in order to make the data available under Art. 4(1) or 5(1).

It should be noted that the above in particular applies to products that have been placed on the market prior to 12 September 2026. After 12 September 2026, products placed on the market need to be manufactured and

designed so that, where relevant and technically feasible, the data is directly accessible to the user from the product (see Q2.1 and Q4.1 below).

2 General questions in relation to data access and sharing obligations

2.1 What is the “data access by design" requirement under Art. 3(1)?

Ref: Art. 3(1), 50(3)

Art. 3(1) requires that connected products are designed and manufactured, and related services are designed and provided, in such a manner that product data and related service data, including the relevant metadata necessary to interpret and use those data, are, by default accessible to the user in the following way:

- easily,
- securely,
- free of charge,
- in a comprehensive,
- structured,
- commonly used, and
- machine-readable format.

In addition, where relevant and technically feasible, such access must be direct.

This “data access by design” requirement applies to products and related services supplied for distribution or use to the EU market after 12 September 2026. In case product is placed on the market prior to 12 September 2026, only “data sharing by request” obligations under Art. 4(1) and 5(1) apply.

2.2 What is the “data sharing by request” obligation towards users under Art. 4(1)?

Ref: Art. 4(1), 50(2)

Art. 4(1) requires that *where data cannot be directly accessed by the user from the connected product* or related service, data holders shall make *readily available data*, as well as the relevant *metadata* necessary to interpret and use those data, accessible to the user without undue delay, of the same quality as is available to the data holder, easily, securely, free of charge, in a comprehensive, structured, commonly used and machine-readable format and, where relevant and technically feasible, continuously and in real-time. The data must be made available on the basis of a simple request through electronic means where technically feasible.

This “data sharing by request” obligation towards users applies from 12 September 2025. It obliges to share the readily available data that the product’s design is *currently* enabling to easily retrieve. Some data may be retrievable by online access, some may require on-site access as the data are stored within the product and not communicated to a cloud (for instance via a service tool) and some products may have no data available at all.

2.3 What is “data sharing by request” obligation towards third parties under Art. 5(1)?

Ref: Art. 5(1), 50(2)

Art. 5(1) requires that upon request by a user, or by a party acting on behalf of a user, the data holder shall make available *readily available data*, as well as the relevant *metadata* necessary to interpret and use those data, to a third party without undue delay, of the same quality as is available to the data holder, easily, securely, in a comprehensive, structured, commonly used and machine-readable format and, where relevant and technically feasible, continuously and in real-time.

In contrast to the obligation under Art. 4(1), the data holder may charge the third-party (but not the user) for the data. In parallel, the user may also share the data directly to the third-party without requirement to pay the data holder.

Like the data sharing requirement under Art. 4(1), this “data sharing by request” obligation towards third parties applies from 12 September 2025 and it obliges to share data that the product’s design is *currently* enabling to easily retrieve (i.e., readily available data).

2.4 What is the interconnection between the "data access by design" requirement laid down in Art. 3(1) and the "data sharing upon request" requirement laid down in Art. 4(1)? In case there is a data access provided to the user pursuant to Art. 3(1), can the data holder decline user’s request to access the data based on Art. 4(1)?

Ref: Art. 3(1), 4(1), Recitals: 20, 22

Whenever access to data is already available from a connected product or related service by its design under Art. 3(1), the right to request the same data from the data holder under Art. 4(1) does not exist.

In other words, whenever an E&E product allows for a direct data access, a data holder (such as the OEM) could reject the request to share the same data upon request of the user.

2.5 Is online data sharing mandatory to fulfil the "data access by design" requirement under Art. 3(1)?

Ref: Art. 3(1), Recitals: 22

Online data sharing is not a legal requirement under the Data Act - neither for already existing products and services nor for products and services, which will be supplied for distribution or use on the EU market after 12 September 2026. It is only one example of how the data can be made accessible to comply with Art. 3(1), which requires that the products and related services are designed so that the data is by default easily and securely accessible to a user, free of charge, in a comprehensive, structured, commonly used and machine-readable format.

The manufacturer of a connected product or the service provider of a related service must inform users of the scope and means of data access (which may be online sharing) before a contract is concluded.

2.6 If the data holder is already providing one method for fulfilling its obligations under the Data Act regarding data access and sharing for free towards the user, can it provide an alternative method not for free?

Ref: Art. 3(1), 4(1)

Within the E&E industry, products may have different data sharing capabilities that the data holder could utilize to fulfil the data access/sharing obligations towards the users, as explained in Q2.1 and Q2.2. Some products in scope of the Data Act communicate data via on-site integrations or cable connections. Other product designs could enable connectivity and data transmission via cloud on top of the aforementioned on-device data access methods.

Provided that multiple methods are compliant with the Data Act and can be utilized for provision of the data access, it seems to be up to the data holder to decide the method. Irrespective of the method by which the data access is provided to the user, the data holder would need to ensure that the access meets the requirements under Art. 3 or 4 of the Data Act, i.e., that the data is provided in the same data quality as to the data holder, easily, securely, free of charge, in a comprehensive, structured, commonly used and machine-readable format.

In any case, the Data Act does not prevent the data holder from offering a service consisting of providing insights or analytics, which have been derived from applying trade secrets, complex algorithms and likewise to the data, including providing such service against a fee.

3 Data retention, historical data and data holder's own rights to data

3.1 Are there any time periods specified for how long data must be retained and made available? To which extent can the data holder keep and use historical or "generic" data?

Ref: Art. 3(2)(c)-(d), 3(3)(a)-(b), Recitals: 24

If the E&E product is not capable of storing data on-device or on a remote server, the Data Act does not oblige introduction of storing capabilities.

Even when the E&E product is capable of storing data on-device or on a remote server, the data holder is not obliged to retain data indefinitely. The data holder must determine a reasonable retention period for which access to product data and related services data is given and communicate the retention period to the user.

Retention can be affected, e.g., by technical needs as E&E products are regularly equipped with fault logs and as with other products/industries, these fault logs may be cleared based on a technical need rather than on the expiry of a predefined retention period.

The Data Act does not stipulate any specific retention periods. The data holder can determine the reasonable retention period itself, however, it must take into account effective application of the data access rights under the Data Act and, if personal data is involved, the storage limitations for personal data under Art. 5(1)(e) of the GDPR.

The data holder may also use retained historical data itself if this has been agreed with the user. However, if the data is retained by the data holder, it can typically be considered readily available, and the data holder has to provide the user access to this data, unless, for example, the data is or was already accessible to the user by design of the connected product.

To the extent data is subsequently made "generic", i.e., processed in a way that it can no longer be linked to a specific connected product, there is no user or connected product for the data, and the data is no longer product data. In ELA's view, such data does not need to be provided to a user. In fact, the data holder would no longer know which data to provide to the user anyway.

3.2 Can the data holder be released from the obligation of sharing the data if it has not retained the raw data, but only the analyzed or further aggregated data?

Ref: Art. 3(2)(c)-(d), 3(3)(a)-(b), Recitals: 15, 24

The data holder has no obligation to retain data indefinitely for the needs of the user and no obligation to share data that are not in the scope of the data sharing obligations. If the data holder has analyzed the raw data generated from the product, and the raw data has thereafter been deleted in accordance with a reasonable retention policy, the data holder would not be under a data sharing obligation, provided that the remaining data is not in the scope of the Data Act. See Q1.3, Q1.4, Q1.6 and Q1.7 above regarding what type of data is in scope of the data sharing obligations.

The obligation to set a reasonable retention policy that allows for effective application of the data access rights (see Q2.1-2.3 above), means that the raw data that were retrievable cannot be deleted so quickly after the analysis that they are in practice not accessible to the user.

3.3 Does the obligation to implement a data retention policy apply to both personal and non-personal data?

Ref: Art. 3(2)(c), 3(3)(b), Recitals: 24

The obligation to implement a reasonable data retention policy applies to both personal and non-personal product data. If the product data contains personal data, the storage limitations for personal data under Art. 5(1)(e) of the GDPR must be taken into account (See Q3.1).

4 Other

4.1 When does the "data access by design" apply to connected products? How should "placing on the market" be understood?

Ref: Art. 2(21)-(22), 3(1), 50(3)

The "data access by design" requirement under Art. 3(1) of the Data Act will apply to connected products and related services placed on the market after 12 September 2026. This means that the design requirements under Art. 3(1) will be applicable for each individual connected product supplied for distribution or use after 12 September 2026, even if the underlying model was initially designed prior to 12 September 2026.

4.2 If an existing (for instance elevator maintenance) contract does not include a right for the maintenance service provider (e.g., OEM) to use the product data of the elevator, must the maintenance contract be updated with such right if the service provider wants to continue using the product data after 12 September 2025?

Ref: Art. 4(13), 50(2), Recitals: 25

Most of the obligations under the Data Act apply from 12 September 2025, including that the data holder may use the readily available data for its own purposes only with a sufficient legal basis.

A data holder aiming to use data as of 12 September 2025 and onwards for its own purposes, must establish a contractual right, if not already existing. This will require a case-by-case analysis of the relevant conditions, taking into account how transparency about the purposes of the use (for instance developing of new products/services or improvement of functions) can be ensured. In some cases, it may require an amendment to the existing agreements.

4.3 Under what conditions would the data holder be entitled to decline access to data based on trade secret protection?

Ref: Art. 4(6)-(8), 5(9)-(11), Recitals: 31

The data sharing obligations under the Data Act apply to raw data and data that have been pre-processed for the purpose of making the raw data understandable and usable prior to subsequent processing and analysis as well as meta data necessary to interpret and use those data. However, the Data Act provides certain protection for trade secrets contained in the product data. What constitutes a trade secret is based on national law in the country where the connected product is located, in particular, national law that implements the Trade Secrets Directive.

If the product data contains trade secrets, the data holder should identify the trade secrets prior to the disclosure and agree with the user or third party necessary measures to preserve the confidentiality of the trade secrets, e.g. through the use of model contract terms, confidentiality agreements, strict access protocols, technical standards or codes of conduct.

The data holder may: i) withhold or suspend the sharing of the product data identified as trade secrets if there is no agreement on the necessary measures to protect the trade secret or if a user or third party fails to implement agreed measures or undermines the confidentiality of the trade secrets; and ii) in exceptional circumstances and on a case-by-case basis, even refuse a request for the data in question if the data holder can demonstrate that, despite the technical and organisational measures taken by the user or third party, the disclosure of the trade secret would highly likely lead to serious economic damage.

If access to product data is denied based on trade secret protection, the data holder must notify the competent authority and inform the user or the third party.

Annexes

List of references

- Regulation (EU) 2023/2854 of the European Parliament and of the Council of 13 December 2023 on harmonised rules on fair access to and use of data and amending Regulation (EU) 2017/2394 and Directive (EU) 2020/1828 (Data Act)
    - https://eur-lex.europa.eu/eli/reg/2023/2854

- Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)
    - https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016R0679

- Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (Trade Secrets Directive)
    - https://eur-lex.europa.eu/eli/dir/2016/943/oj

Glossary

Term	Description
Data Act	Regulation (EU) 2023/2854 of the European Parliament and of the Council of 13 December 2023 on harmonised rules on fair access to and use of data and amending Regulation (EU) 2017/2394 and Directive (EU) 2020/1828
DTU	data collection and transmission units
E&E	elevator & escalator
EU	European Union
FM	facility manager
GDPR	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)
OEM	original equipment manufacturer
Trade Secrets Directive	Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure