Industry Data For Society PARTNERSHIP

DATA SHARING IN THE PRIVATE SECTOR

Open data sharing drives innovation, collaboration, and societal benefits, but companies often face challenges in the process. This resource highlights a few **legal considerations**, **tools**, and **resources** for drafting data use agreements that enable effective and impactful data sharing.

1 Legal considerations

Understanding the legal considerations for data sharing can be crucial to promote compliance with regulations, protect intellectual property, and mitigate risk.

PERSONAL DATA	SENSITIVE DATA	DATA USE TERMS
Organizations can strengthen trust and accountability by safeguarding privacy rights.	Legal agreements often include provisions to protect sensitive data, fostering secure and responsible use.	Defining data use terms, licensing, and usage rights is complex in multi-stakeholder collaborations.

SAMPLE LEGAL CONSIDERATIONS CHECKLIST

☐ Does the dataset contain any personally identifiable information (PII) such as names, email addresses, phone numbers, or IP addresses?

☐ Are there data privacy regulations (e.g., GDPR, CCPA, HIPAA) that apply to the data being shared?

☐ Is there sensitive information that needs to be redacted before sharing the data more broadly?

☐ What are the potential risks associated with sharing this data, and how can they be mitigated?

☐ Are there any indemnification clauses or liability concerns that need to be addressed in the legal agreements?

☐ What disclaimers or precautions should be included to protect against potential misuse or unintended consequences?

☐ Are there any licensing terms or intellectual property rights that need to be considered?

☐ Are there any third-party data vendors involved, and are the necessary permissions secured to share the data beyond the original use case?

☐ Are there any restrictions on the use of the data, such as non-commercial limitations or reciprocity requirements?

This is the first of four resources produced from the Private Sector Data Sharing Community of Practice hosted by Industry Data for Society Partnership.

Various tools can help streamline the data sharing process and promote compliance with legal requirements. When used responsibly, such tools can simplify approvals, identify sensitive information, and promote genuine open data sharing.

Technology-based approval platforms can significantly enhance the efficiency of the data sharing process. These platforms, which can be improved with the addition of responsibly designed generative AI technology, are becoming increasingly capable of identifying legal issues, routing approvals, and scrubbing sensitive information from datasets.

Data use agreements provide a framework for sharing and using shared data in line with express terms. Leveraging existing, community vetted agreements can streamline the approval process and promote compliance.

Evaluate whether you are being as open as possible with the data you are sharing. To encourage broader use and accessibility, consider avoiding vague or restrictive clauses that could unintentionally undermine openness.

USE TECHNOLOGY TO ISSUE SPOT AND ROUTE APPROVALS

LEVERAGE EXISTING DATA USE AGREEMENTS

CONSIDER BEING AS OPEN AS POSSIBLE

TERMS THAT CAN UNDERMINE OPENNESS

- Vague Good Faith Clauses
- Revocability Clauses
- Patent Assertion Risks
- Licensing Restrictions
- Vague Approval Mechanisms

- Exclusivity Or Geographical Limits
- Springing Conditions
- Reciprocity Requirements
- Defensive Termination
- Non-Commercial Limitations

SAMPLE TOOLS & TECHNIQUES CHECKLIST

❑ Can technology be used to identify and scrub sensitive information from the dataset before sharing?
❑ Are there existing data use agreements that can be leveraged to streamline the approval process?
❑ Does the data sharing agreement contain terms that can undermine openness?

Below are legal frameworks and practical guidelines that companies can use to help navigate the legal complexities for responsible data sharing while promoting collaboration and enabling innovation through data sharing.

- **Open Licenses by Yiu-Shing Pang, UK Power Networks**: Practical guidance on why and how to license open data

- **Open Data and the Law by Yiu-Shing Pang, UK Power Networks:** Legal considerations for regulated utilities

- **Open Data Policy Lab's Tools to Guide Data Sharing Agreements**: Moving from Idea to Practice: Three Resources to Streamline the Creation of Data Sharing Agreements

- **Legal Frameworks from Microsoft**: Data use agreements to govern data sharing, particularly in the context of training AI models

- **Handbook for Safeguarding Sensitive Personally Identifiable Information (PII) by the U.S. Department of Homeland Security**: How to identify and protect PII and SPII in different contexts and formats

- **Data Triage from Stream, a group of 16 water companies:** A process to identify and mitigate issues limiting a dataset's openness

- **Leverage Existing Licenses**: For example, Creative Commons developed a license chooser to help guide users through understanding and applying existing licenses or crafting their own.