



# E.DSO Feedback to Data Act

Brussels, 6 May 2022

E.DSO welcomes the opportunity to provide feedback to the European Commission's Data Act proposal. E.DSO fully endorses the Commission's view that the availability of and access to data holds immense potential for innovation and value creation, and that this will greatly contribute to the recovery and resilience of the society post COVID-19 pandemic.

Representing the leading Distribution System Operators in Europe (DSOs), E.DSO provides below some suggestions to ensure that the Data Act will promote more data sharing and help EU to unlock the potential of data-driven innovation, encourage customers to make greater choices, and allow DSOs to develop new content and services. Due to the energy transition, DSOs are becoming data recipients that depend on external information to cost-effectively plan and operate their networks. There are many types of data which shall be available to the DSOs, including those related with the resources participating in flexibility mechanism. As this data is to support the operation of the public service, it should be understood as mandatory, and not subject market-based services.

**Smart meters:** The scope of the proposed Regulation is applicable to DSOs, defined as 'data holders' in **Article 2 (6)** and to smart meters defined as 'products' in **Article 2 (2)**. E.DSO is concerned about the fact that smart meters are being defined as "product" under this Regulation since data exchange processes with eligible parties, including data consent management for metering and consumption data, are being considered in the dedicated Implementing Regulation (*soon expected to be finalised*). More concretely, Articles 23 and 24 Electricity Directive (EU) 2019/944 required countries to adopt "Implementing Acts on interoperability and data access" in fields such as consumption and production, demand response, switching and other services.

The Electricity Directive constitutes secondary legislations to an interoperable framework for an easier energy data access and exchange using harmonised EU standards. The work on the Implementing Regulation is supported by a wide group of experts from the energy sector and shall serve as a reference for smart meters data exchange in the energy sector – for instance the way how smart meters data should be shared with third parties. Thus, specific legislation on data access is in preparation, as mandated by the recast Electricity Directive. Therefore, **E.DSO recall the Commission to take into consideration that for the energy sector, the sectorial legislation on data access and use, is already developed and sufficient.**

**Real time data:** Metering data are very often *not made available in real time* as required in Article 4 of the proposed Regulation. Moreover, the current draft of the *Implementing Act on interoperability requirements and non-discriminatory and transparent procedures for access to metering and consumption data* stipulates the conditions for the establishment of a reference model and minimum



requirements for access to validated historical metering and consumption data, as well as for access to near real-time metering data directly from smart meters, without any reference to real time data. Therefore, **E.DSO will be in favor of making this requirement optional.**

*Availability:* Concerning data availability and reuse for research data, E.DSO advice to build on the fair data principles, which stipulate that such data should in principle be findable, accessible, interoperable, and re-usable. DSOs hold a lot of data as part of their business, that are available to different stakeholders, including public sector bodies. We do fully understand the need to make data available in cases of public emergency, however this shall be under very strict criteria.

Due to potential breaches in security (grid data) or privacy (meters data), E.DSO advice to be very careful with the trade-offs involved. In that respect, the possibility to make data available to public sector bodies, as an exception to the core principle of non-availability for re-use, (**Article 17 (2)**), with the aim to transmit the data to individuals or organisations for research or to statistical use (**Article 21 (1)**) shall be carefully assessed.

Moreover, Article 6 provides clear rules on obligations of third parties receiving data at the request of the user, criteria which are not reflected in the current Impact assessment. Thus, E.DSO consider important to avoid multiple, potentially, conflicting rules.

In addition, **E.DSO believes that the definition of public sector body** (enshrined in Article 2 (9) Article 15(c) and Article 21) **is quite extensive and shall be limited to avoid extensive availability of data.**