

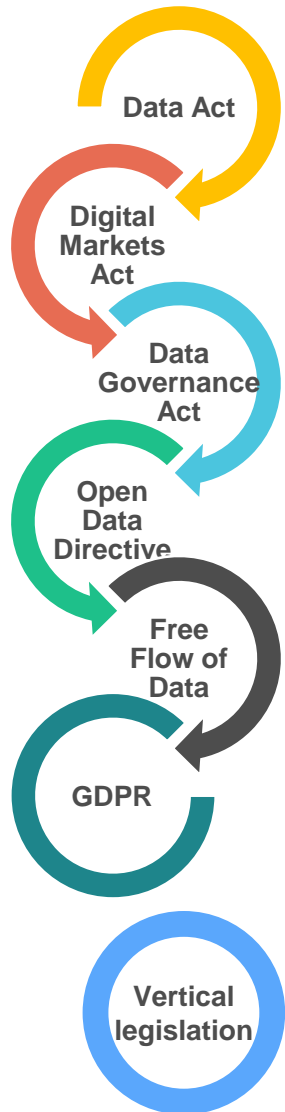


# Legislative activities in the field of data

Anna LUDIN, Policy Officer - DG CNECT.G1

*First Potsdam talk about the Data Economy – 23 February 2022*

# Interaction with other instruments



Aim	Data Covered	Regulated Actors
Ensure <b>FAIRNESS</b> in the allocation of data value among the actors of the data economy	Private sector data, personal and non-personal data, and co-generated (IoT) data	Businesses, public sector bodies, cloud and other data processing service providers
Tackle imbalances caused by the <b>MARKET POWER</b> of gatekeepers	Personal data and private sector data held by online platforms and originating from the users	Cloud and other data processing service providers, large data platforms
Ensure <b>TRUST</b> in data transactions	Public and private non-personal data, and personal data voluntarily made available by data holders	Data intermediation service providers, public sector bodies, (Recognised) Data Altruism Organisations
Promote use of <b>OPEN DATA</b>	Data in an open format that can be freely used, re-used and shared by anyone for any purpose	Public sector bodies, bodies governed by public law, public undertakings, universities
Ensure <b>FREE FLOW OF DATA</b> other than personal data within the Union	Non-personal data	Member States, competent authorities, professional users
Ensures a high-level of <b>DATA PROTECTION</b> and free flow of personal data in the Union	Personal data	Data controller, data processor, data subject, DPO, supervisory authorities, EDPB
Promote a competitive market according to <b>SECTOR-SPECIFIC</b> rules where necessary	Personal and non-personal data	Individuals and private and public sector bodies

# Data Act proposal

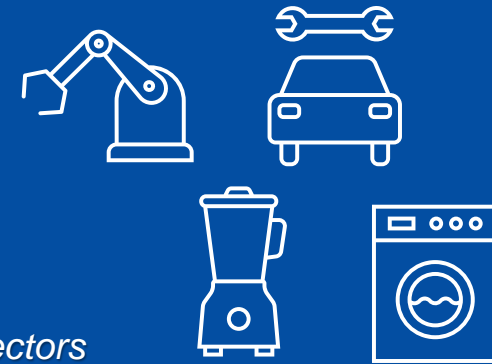
## Better access to IoT data

Manufacturers of IoT objects need to allow access & can use the data

Users of IoT objects get right to access and port data

3<sup>rd</sup> parties can use the data to offer services (SMEs get special conditions)

*Rules for IoT data also frame data sharing in other sectors*



## Tackle contractual unfairness



Companies are prohibited from unilaterally imposing unfair contractual clauses related to data sharing on SMEs

## Make business data available for the common good



Companies must make data available to public sector bodies in case of emergencies and other exceptional needs

## Easier switching between cloud services



Cloud service providers must ensure easy switching conditions for customers

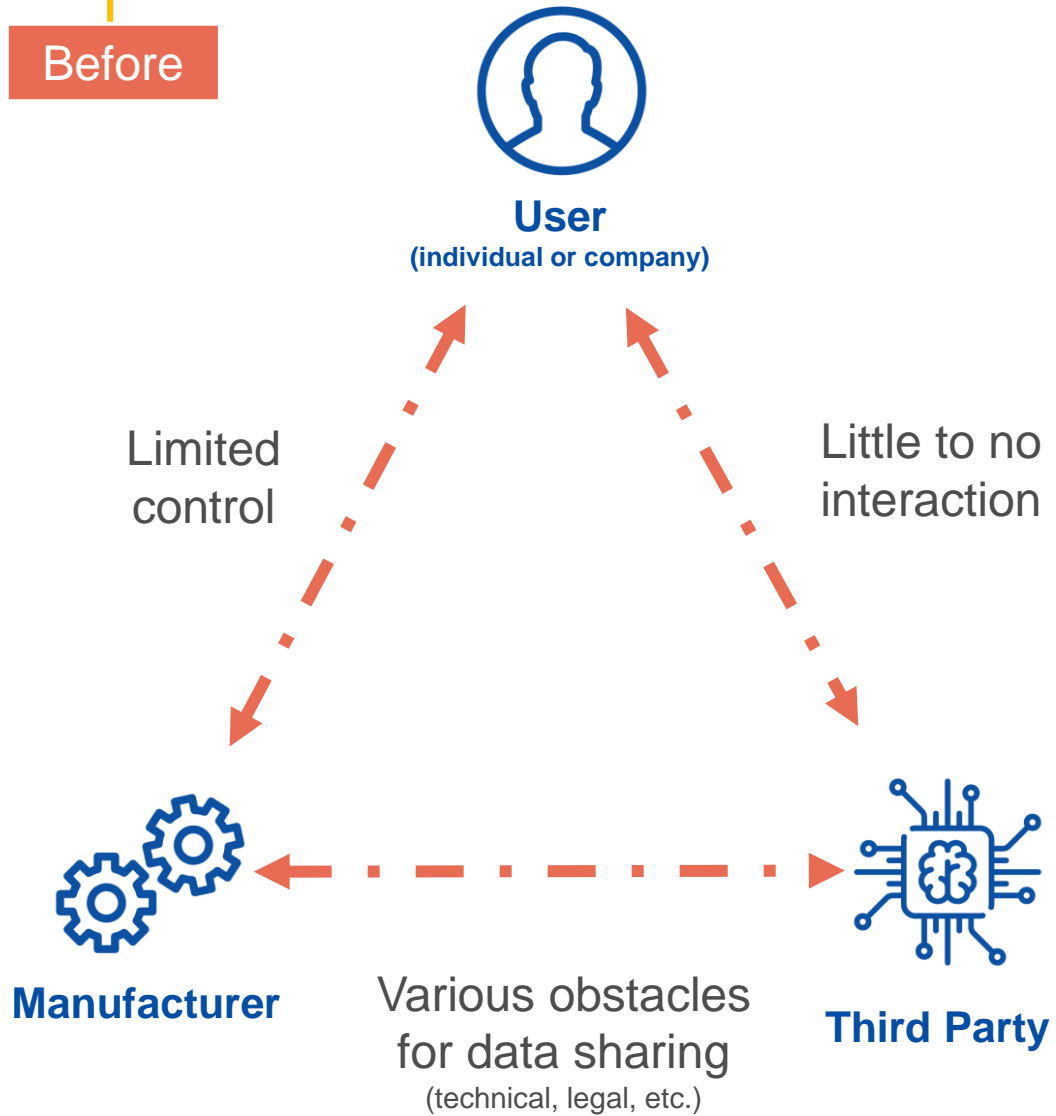


## Facilitate data flows through technical standards and interoperability

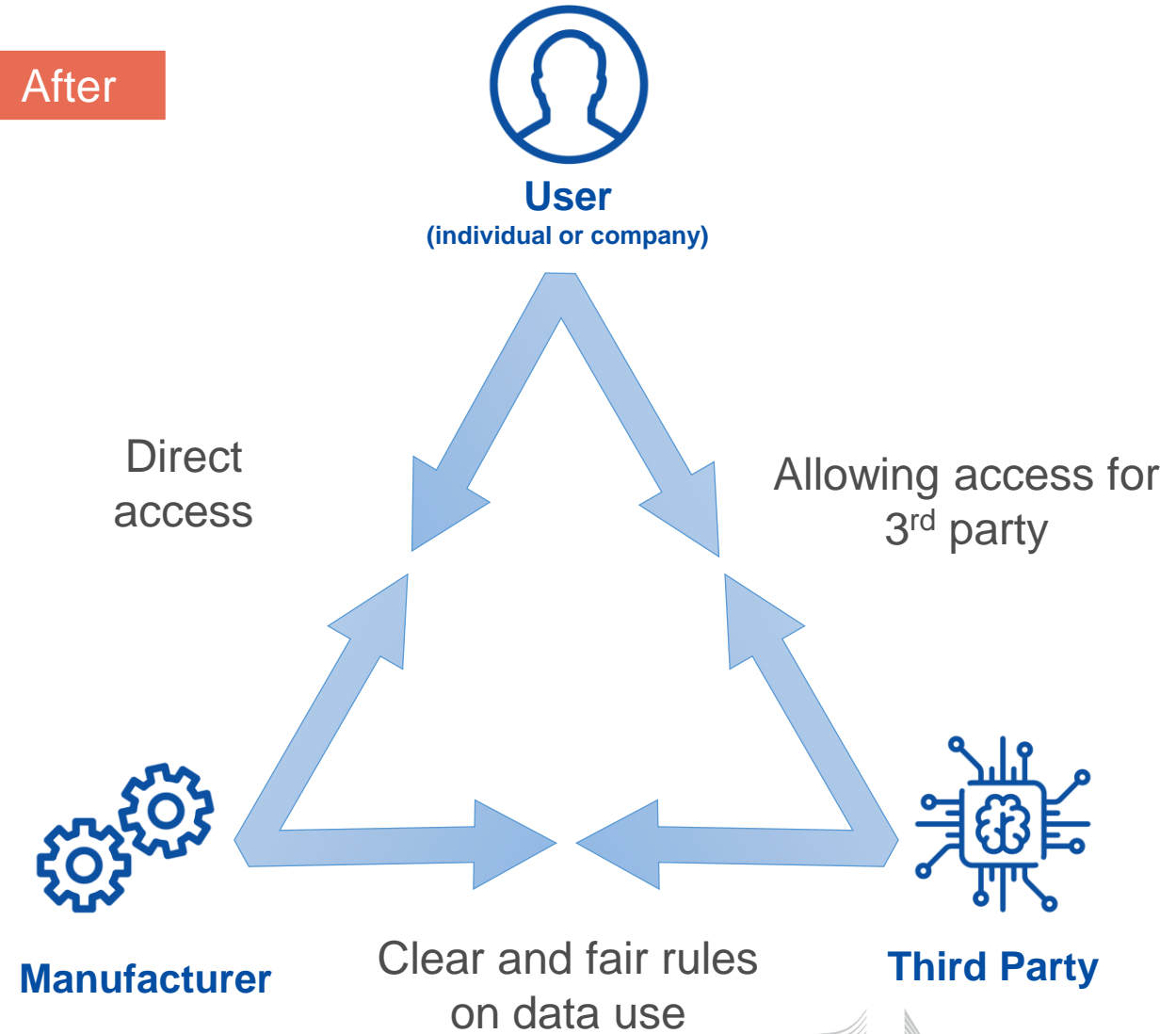
The European Commission may adopt technical specifications if necessary to ensure interoperability

# Data in an Internet-of-Things context

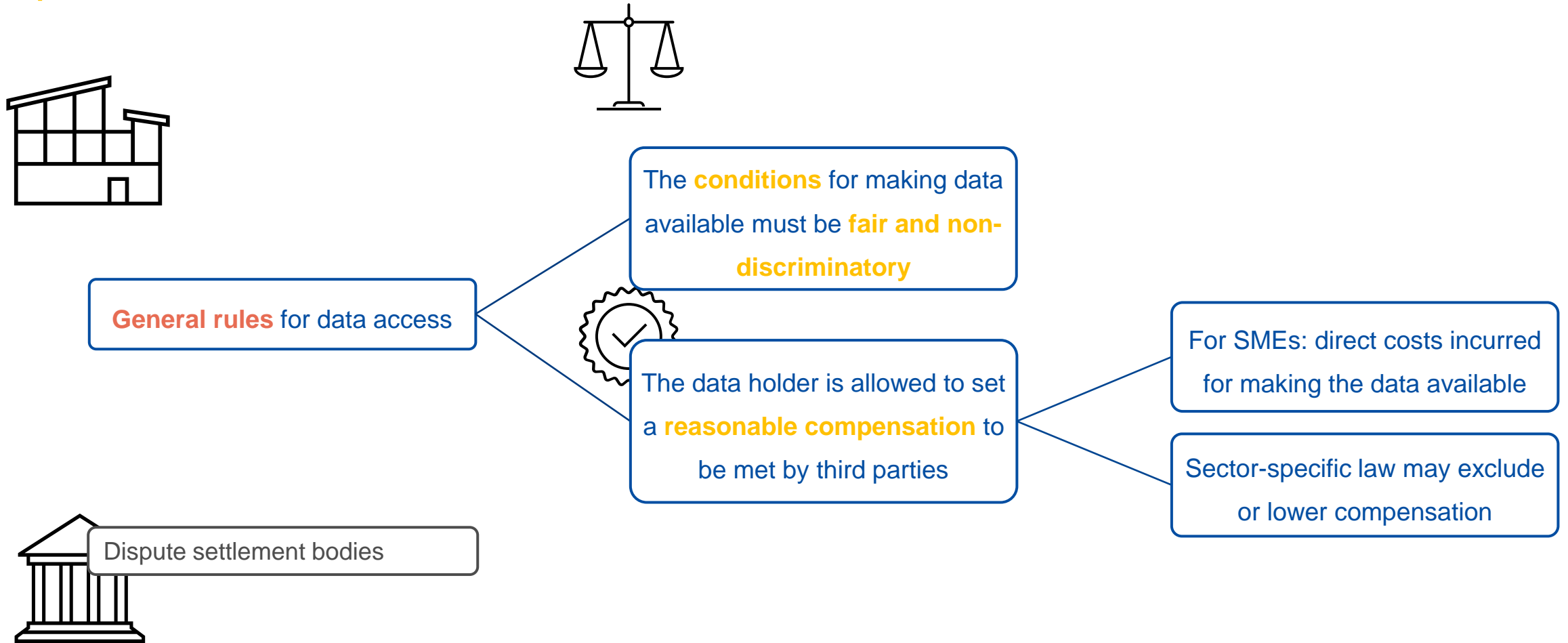
Before



After

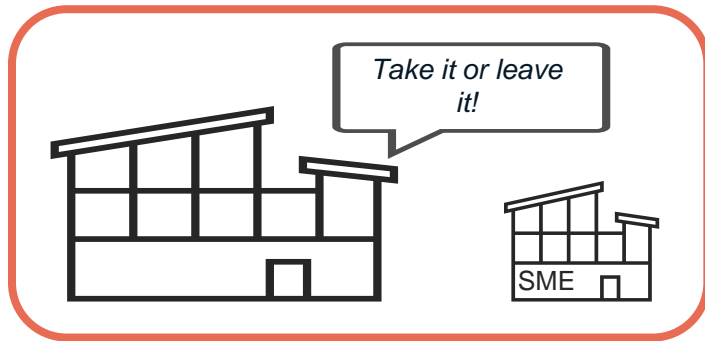


# General rules for making data available between businesses

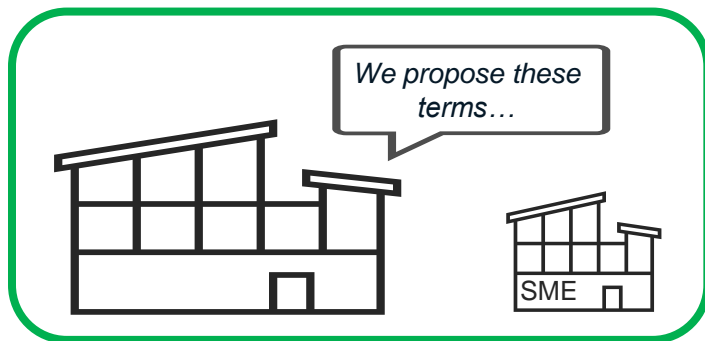


## B2B data sharing contractual agreements

“**Unfair contractual terms** unilaterally imposed on a micro, small or medium-sized enterprise **are non-binding.**”



*From this situation...*



*...to an actual negotiation.*

Essentially, unfair contractual terms

Grossly deviate from good commercial practice in data access and use, or are contrary to good faith and fair dealing.

Examples

- Liability or termination rules
- Prohibitive access to the data

# Business-to-government data sharing

Data is requested based on an exceptional need:

- a) to respond to a public emergency (*free*)
- b) to prevent a public emergency (*reasonable margin*)
- c) for other exceptional needs (*reasonable margin*)

Public sector body must demonstrate the exceptional need

Existing and future reporting obligations (incl. for law enforcement purposes) continue to apply

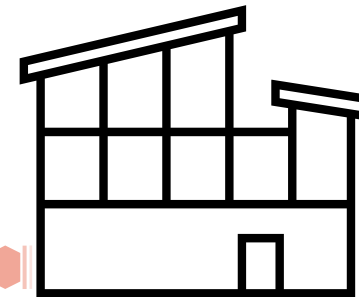


Public sector

Public sector body requests data based on an exceptional need



Private sector body makes data available



Private sector

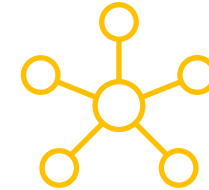
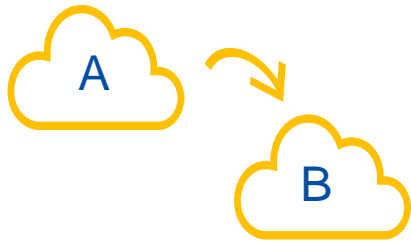


# Cloud & interoperability

**Data processing services**

&

**Interoperability and standards**



Requirements will ensure **easier switching** between providers of data processing services for customers

Providers of data processing services must **prevent unlawful third-party data access** and transfer from outside the EU

Increase **interoperability** by facilitating the development of common specifications to address the lack of harmonised **standards**



# Thank you



© European Union 2020

The reuse of this presentation is authorised under the [CC BY 4.0](https://creativecommons.org/licenses/by/4.0/) license. For any use or reproduction of elements that are not owned by the EU, permission may need to be sought directly from the respective right holders.

