

EU Data Act 2026: From Compliance Requirements to Implementation

Practical Lessons and Best Practices from EU Data Act Implementations



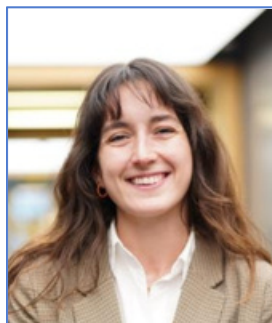
Bas Overtoom
Global Technical Director, AI Governance, Nemko Digital



Mónica Fernández Peñalver
Digital and AI Governance Lead, Nemko Digital

With you today

Mónica Fernández
Digital and AI Governance Lead
Nemko Digital



- **Digital trust advocate:** Actively engaged in research, education, and policy to promote trustworthy AI.
- **Ethical AI and data researcher:** Explored ethical, legal, and social challenges of AI fairness before joining Nemko Digital.
- **Strong academic background:** Holds a master's in AI from Radboud University and a bachelor's in Neuroscience from the University of Edinburgh.
- **Digital trust & strategy:** Helps shape Nemko Digital's Trust offerings, ensuring fairness, safety, and effectiveness.
- **Strategic leadership:** Developing a Digital Trust vision, roadmap, and services.

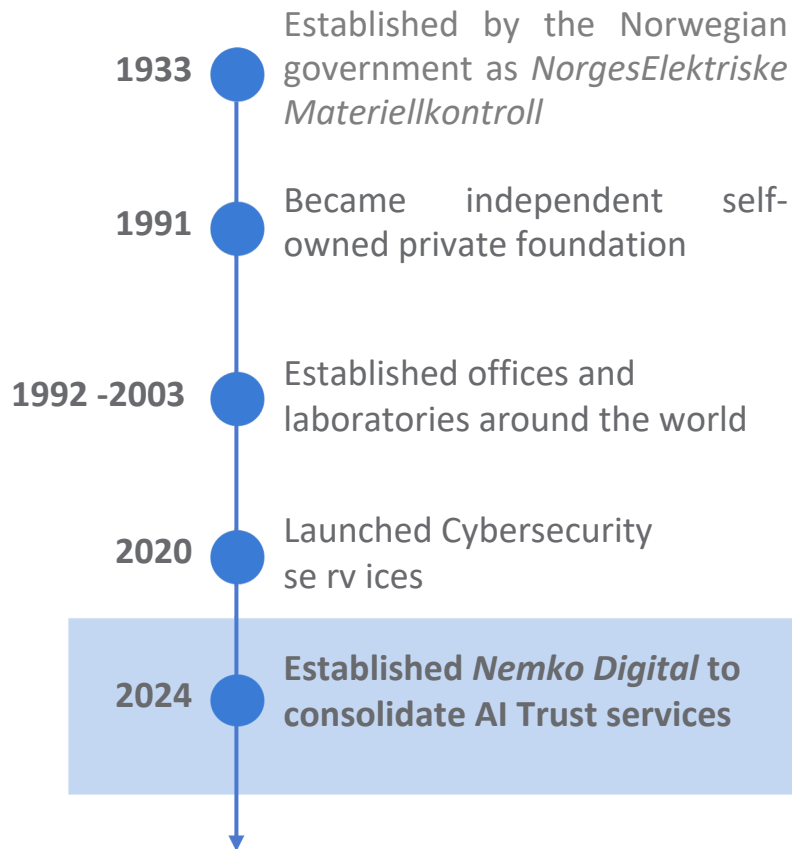
Bas Overtoom
Sr. AI Trust Expert
Nemko Digital



- **Experienced AI & Data Executive:** >10 years of consultancy experience, driving AI and data transformations for top global organizations.
- **Responsible AI Advocate:** Passionate about RAI to address business, social, and environmental challenges.
- **Global Business Expertise:** Strong international background i.e., 7 years in Asia, fostering cross-cultural collaboration. Leads global BD at Nemko Digital, promoting AI Trust worldwide.
- **VC Advisor for AI Scale-Ups:** Supports AI startups within a prominent Dutch VC fund to achieve global growth.

Nemko: Compliance without Complexity

Strong heritage



Global reach & local presence

28 locations on **3** continents
Over **850** employees worldwide.
Offering services in more than **150** countries
Serving **7,000** customers across **80** countries.

In June 2025, Nemko signed a strategic partnership with KSA to shape the future of AI certification and trust in Korea and beyond



Proven track record

Roster of clients and services (not exhaustive)



What is top-of-mind for our clients?

We deliver Digital Trust through end-to-end compliance and advisory support, combining technical, regulatory, and process expertise.



Regulatory Compliance

AI, data,
cyber



Technical Assurance / AI Testing



ISO Readiness

ISO 42001, ISO 27001...

AI, data,
cyber



AI Assurance Tools



Global Market Access

AI, data,
cyber



Governance Maturity

AI, data,
cyber



Nemko AI Trust Mark



Strategy and roadmaps

AI, data,
cyber



The background is a solid blue color. On the left side, there is a large, stylized geometric logo composed of several light blue rectangular bars of varying lengths and orientations, creating a sense of depth and movement. On the right side, there is a faint, dotted circular graphic that appears to be a stylized representation of a globe or a network, with dots forming a circular pattern that tapers off towards the right edge.

EU Data act deepdive

Objectives of the Data act



Give **users of connected products** (businesses or individuals) **greater control** over the data they generate



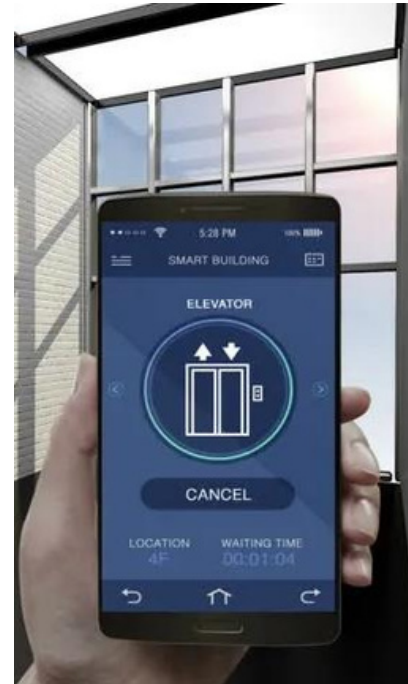
Maintain incentives for **those who invest** in data technologies



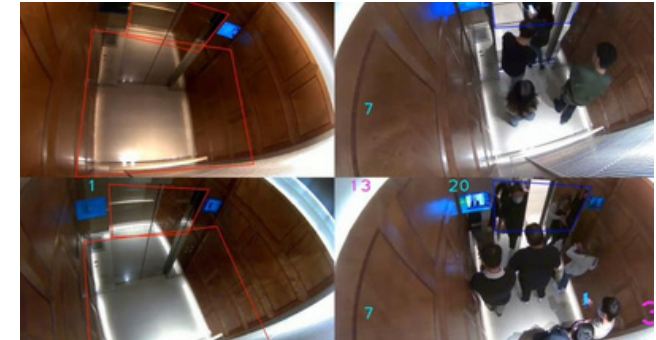
Lay down conditions for when a business has a **legal obligation to share data** with another business

Imagine a smart elevator

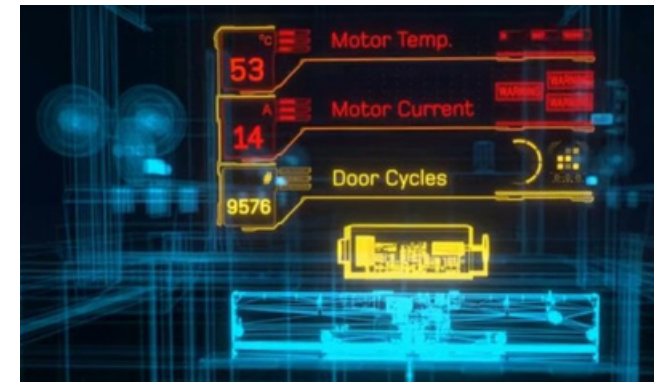
Generated data



App data



Camera footage



Sensor readings

Interested parties



Elevator company



Property manager



Tenant of the building



Maintenance service provider



Users of the building



Key concepts in the Data Act



Relevant products and services

A **connected product** is an item that obtains, generates or collects data concerning its use or environment and that is able to communicate product data via an electronic communications service, physical connection or on-device access, and whose primary function is not the storing, processing or transmission of data on behalf of any party other than the user.



A **related service** is a service (not communication or software) connected to the product, and which is essential for the functioning of the product.

Key concepts in the Data Act



Relevant actors

User: owns a connected product, has temporary contractual rights to use it, or receives related services.

Data holder: has retrieved or generated the data from a connected product and has the obligation to make it available

Data recipient: entity (user or third party) to whom the data holder makes data available



The thematic pillars

General Provisions	Scope and definitions (Ch. I, Arts. 1–2)
Data Access & Sharing	Rights for users and businesses (Ch. II–III, Arts. 3–12)
Fair Contracts	Protect weaker parties (Ch. IV, Art. 13)
Public Sector Access	Exceptional circumstances (Ch. V, Arts. 14–22)
Cloud Switching & Interoperability	Portability, no lock-in (Ch. VI–VIII, Arts. 23–36)
International Transfers	Protect against unlawful access (Ch. VII, Art. 32)
Enforcement & Safeguards	Complaints, penalties (Ch. IX, Arts. 37–42)
Database Rights & Final Provisions	Adapt existing law (Ch. X, Art. 43, Ch. XI, Arts. 44–50)

Important dates



12 Sep

- **Users have the right to request access to** data generated during the operation of these products since this date
- Data Act **contract terms apply** to contracts concluded after this date



12 Sep

- **New connected products must have data access designed in**



12 Jan

12 Sep

- **Cloud/data-transfer switching** charges are due to be eliminated
- **Contract terms apply to older contracts** (indefinite contracts and contracts concluded on or before September 2025)



A question for you!

How far are you in Data Act implementation?

-  We haven't started
-  We're assessing our scope and obligations
-  We're implementing —contracts/processes/technology are being updated
-  We're largely implemented, with a few gaps remaining
-  We're fully implemented and monitoring ongoing compliance
-  We're still unsure whether/how the Data Act applies to us



Important dates



12 Sep

- New connected products must have data access designed in

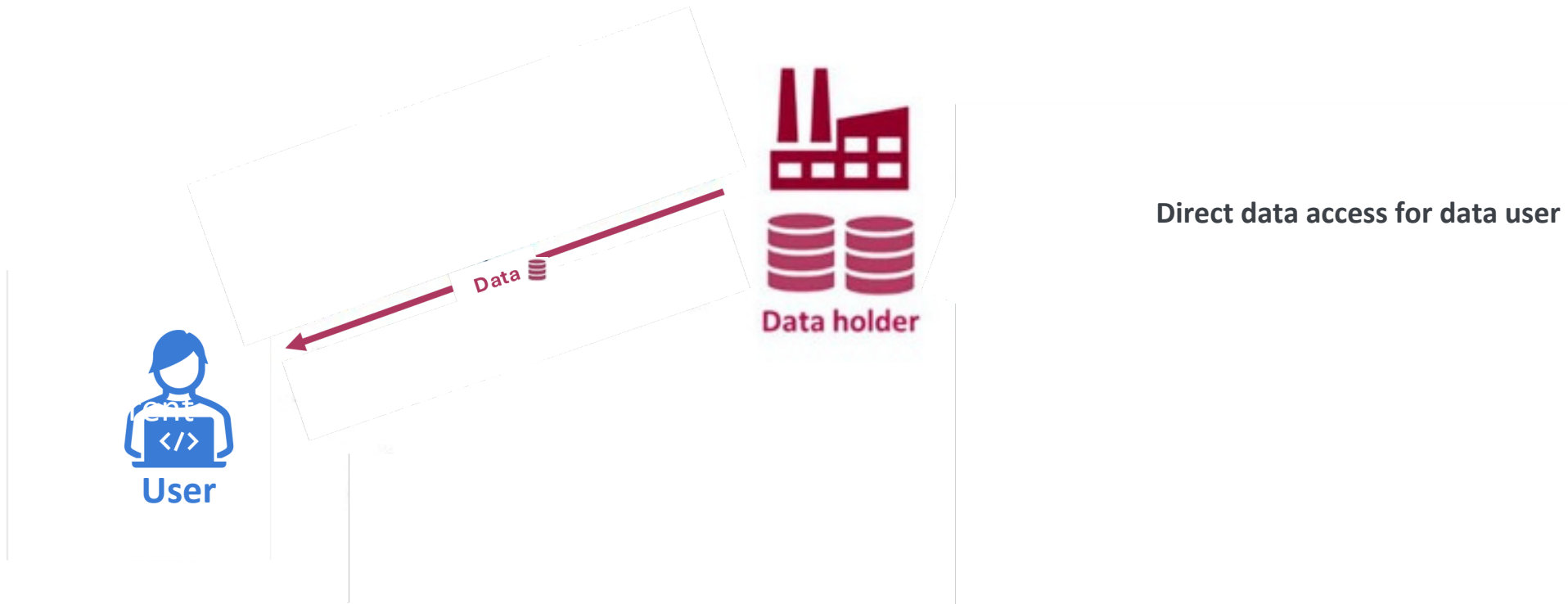
What is data access by design?

Direct data access	Indirect data access
 Download or streaming of generated data without involving the data holder	 A request mechanism with backend pipelines that extract and deliver data "without undue delay," including user authentication and verification



Different data sharing models –Direct access (if possible)

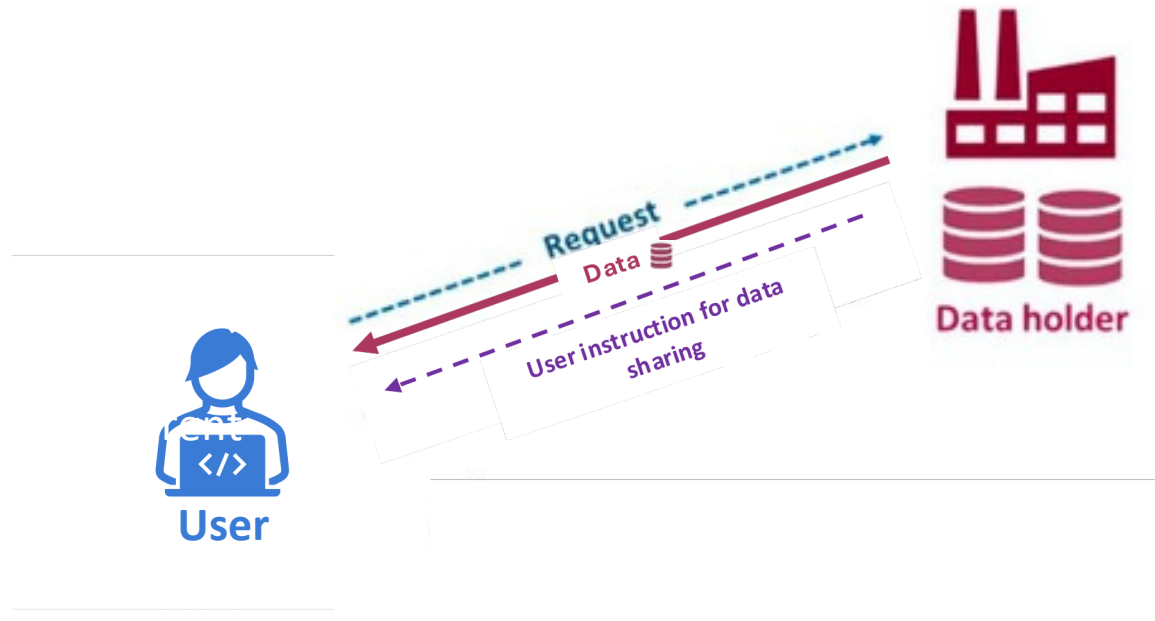
The figure below provides a conceptual representation of the data sharing model established by the EU Data Act. It illustrates the primary interactions between the user, the data holder and a designated data recipient, together with the main organizational and technical implementation considerations. The diagram is intended for illustrative purposes and simplifies certain legal and operational aspects of the Regulation.



- **Direct data access** requires more **technical implementation**
- **Direct access** = download or streaming without involving the data holder

Different data sharing models—Indirect data access

The figure below provides a conceptual representation of the data sharing model established by the EU Data Act. It illustrates the primary interactions between the user, the data holder and a designated data recipient, together with the main organizational and technical implementation considerations. The diagram is intended for illustrative purposes and simplifies certain legal and operational aspects of the Regulation.



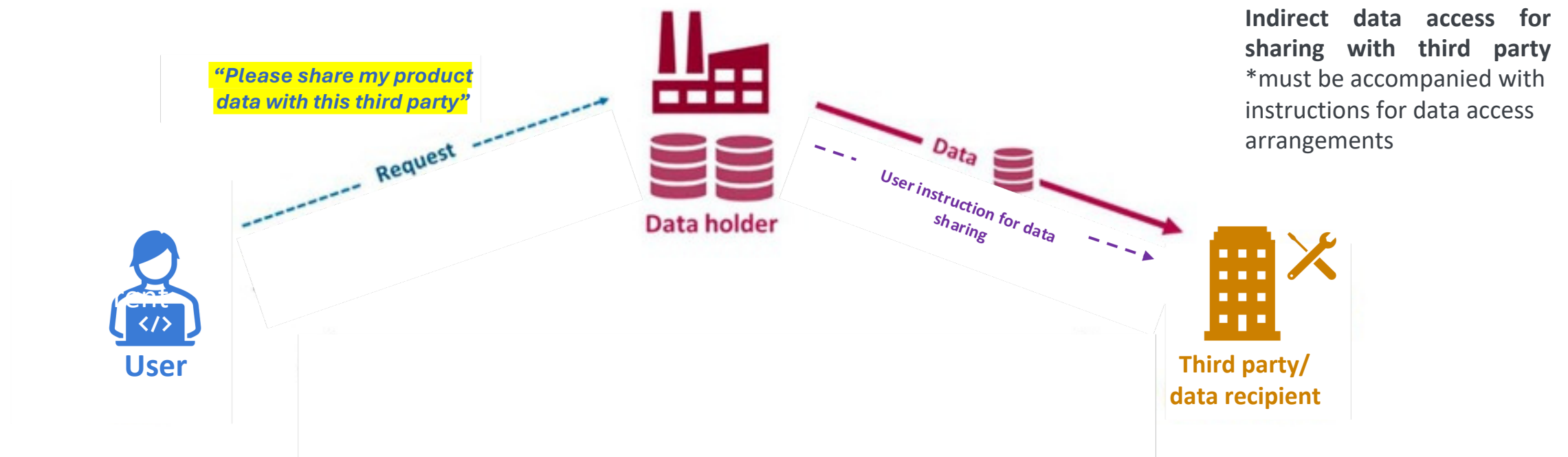
Indirect data access for user

*must be accompanied with instructions for data access arrangements

- **Indirect data access** requires more **organizational implementation** for user authentication and implementation of safeguard related to private data, security, access control
- **Indirect data access** = a request mechanism with backend pipelines that extract and deliver data "without undue delay," including user authentication and verification

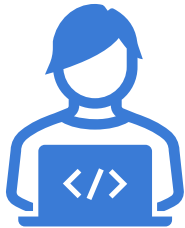
Different data sharing models –Indirect access to third party

The figure below provides a conceptual representation of the data sharing model established by the EU Data Act. It illustrates the primary interactions between the user, the data holder and a designated data recipient, together with the main organizational and technical implementation considerations. The diagram is intended for illustrative purposes and simplifies certain legal and operational aspects of the Regulation.



- **Indirect data access** requires more **organizational implementation** for user authentication and implementation of safeguard related to private data,
 - security, access control
- Indirect data access** = a request mechanism with backend pipelines that extract and deliver data "without undue delay," including user authentication and verification

Parties who can access data



User

- Can access data **directly**(if possible) AND/OR
- Can access data **indirectly** (place requests)



Third party/data recipient

- Can be **acting on behalf of the user** and therefore making the request (legal mandate should be requested for proof)
- **Can be the recipient of data after the user makes a request**



Public body

- **Emergency situations** (respond to request within 5 days)
- **Non-emergency**(respond to request within 30 days)



Requirements on data (non-exhaustive)

Direct vs. indirect access

A data sharing system can allow direct access (download or streaming without involving the data holder) or indirect access (a request mechanism with backend pipelines that extract and deliver data "without undue delay," including user authentication and verification).



Data formats

Data holders must make data available in a comprehensive, structured, commonly used, and machine-readable format (e.g. XML, JSON, CSV). Formats subject to licensing constraints are not considered "commonly used."



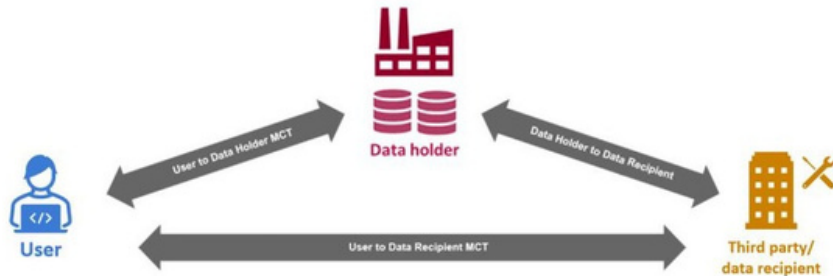
Timeliness

Technical teams should support real time or continuous data sharing where feasible, low latency access for IoT scenarios, and automated workflows to avoid manual steps.



Contract terms under the Data Act

Sharing data between parties requires implementation/reviewing of contract clauses. The Data Act aims for contracts between data holder and user to adhere to FRAND (fair, responsible and non-discriminatory) terms. All companies must review their contracts, or product terms & conditions, to ensure that they adhere to data act obligations related to fair contracts – Chapter IV, Data Act



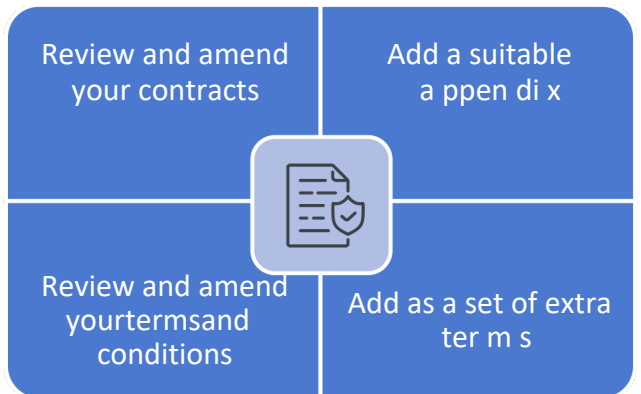
Important dates

- Data Act contract terms should **already apply to contracts concluded after 25 September 2025**
- Starting from **September 2027**, should apply **contracts concluded on or before September 2025**, **if these contracts are of indefinite duration or these contracts are due to expire at least 10 years from 11 January 2024**

Key contractual topics under the Data Act

1. What data is covered
2. Data access mechanics
3. User's rights to use the data
4. User's right to share with third parties
5. Restrictions on use by the data holder
6. Confidentiality and trade secrets
7. Security
8. Personal data / GDPR interface
9. Data quality and liability
10. Compensation / pricing
11. Duration and termination
12. Changes to the product/service
13. Audit, records and evidence
14. Dispute resolution and remedies

Ways of implementing





Practical implementation

Our experience = Your acceleration

Our experience and observation

Company A

A European provider of environmental monitoring services, which deploys **connected sensor-based devices** at customers' premises.



Company B

A European manufacturer of industrial equipment that increasingly integrates **connectivity and sensor technology** into its products.



Company C

A technology company that manufactures **connected electric-vehicle charging equipment** and provides **associated digital energy-management services**.



The common struggle

➤ Coordination with different entities and teams + allocation of responsibilities

Nemko provided support with organizational challenges with **tailor-made policies reflecting roles and responsibilities, flexible to work for future developments and where needed, flexible enough to work for differences between product teams / workstreams.**

End-to-end implementation roadmap

Client case example

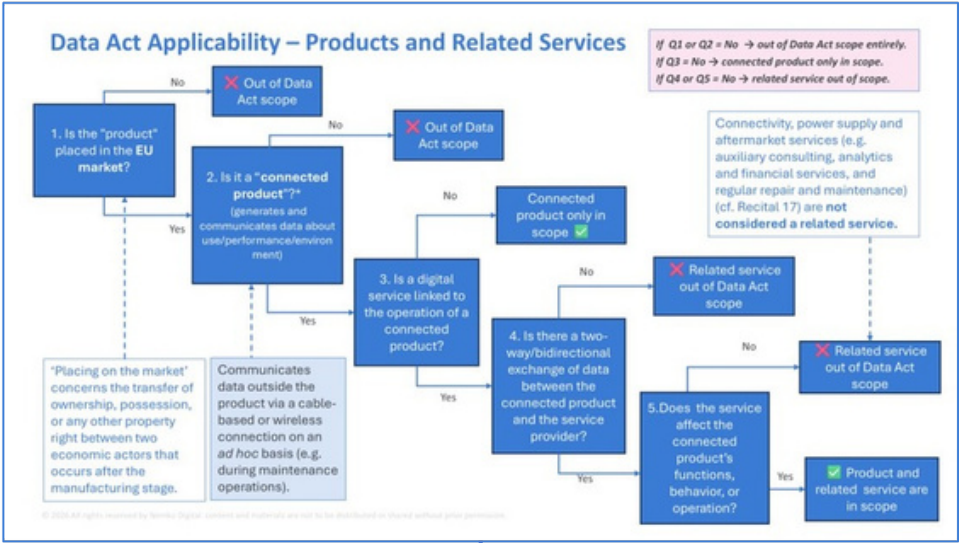
		W1	W2	W3	W4	W5	W6	W7	W8	W9	W10	W11	W12	W13	W14	W15	W16
1	Data sharing policies and processes																
1-	Decision tree on applicability and requirements																
1	Data in scope (inventory)																
1-	Data sharing internal policy																
2	Data request process & approval flow(design and implementation)																
1-3-4	Implement relevant processes in all divisions																
1-	Technical implementation of data sharing (if applicable)																
5																	
1-																	
2-6	Contract clauses and NDA																
2-1	Write customer contract clauses /Terms & Conditions																
2-3	Implement contract clauses in all divisions																



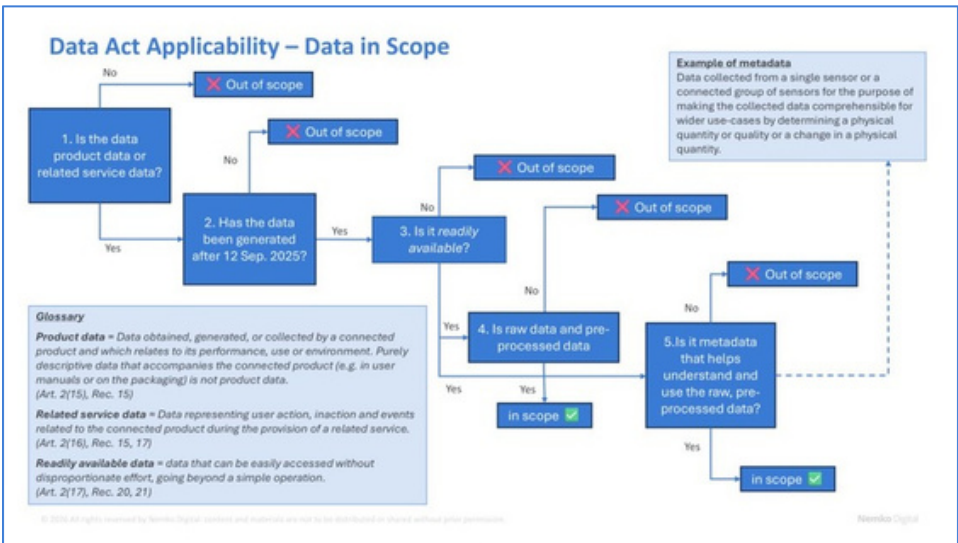
Accelerators for scoping

Scoping—The implementation step that matters most

Product-in-scope decision tree



Data-in-scope decision tree



Data-in-Scope Inventory



Accelerators for data inventory

Our data inventory will

- Record decision-making processes during the scoping phase
- Record justifications where needed
- Provide governance mechanism evaluating future data sources that could fall in scope of Data Act
- Identify trade secrets, and PII data that require extra care during data sharing.

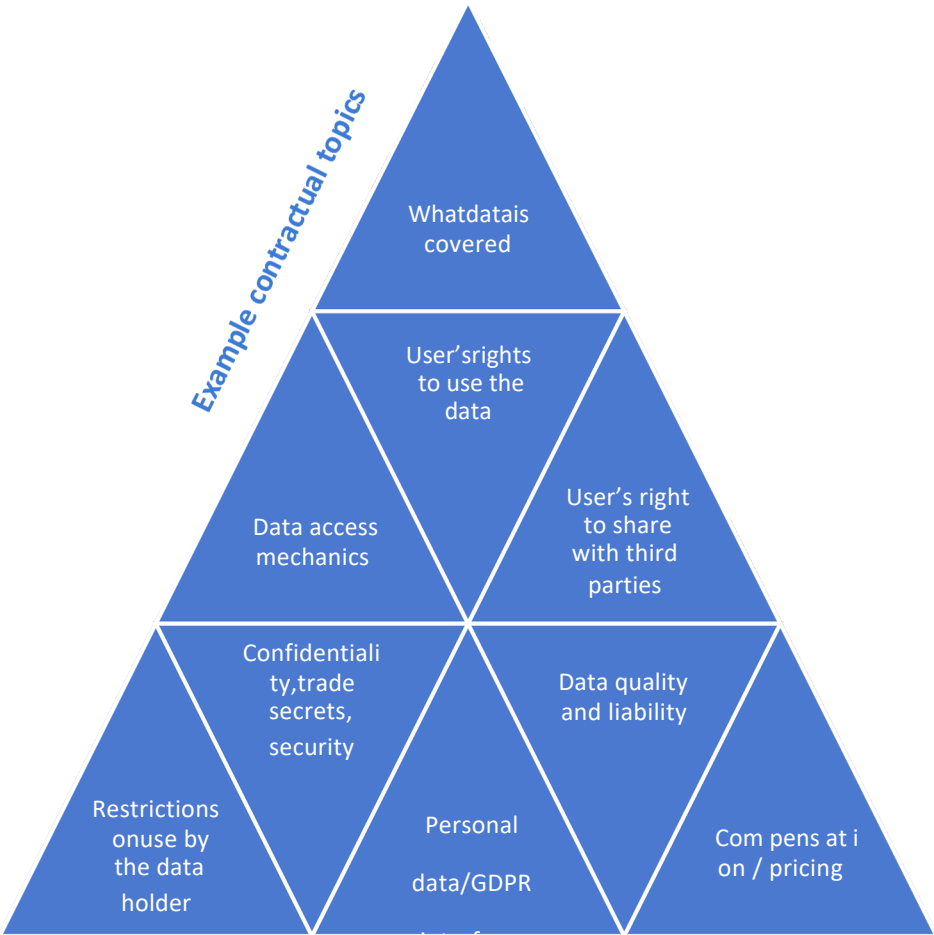
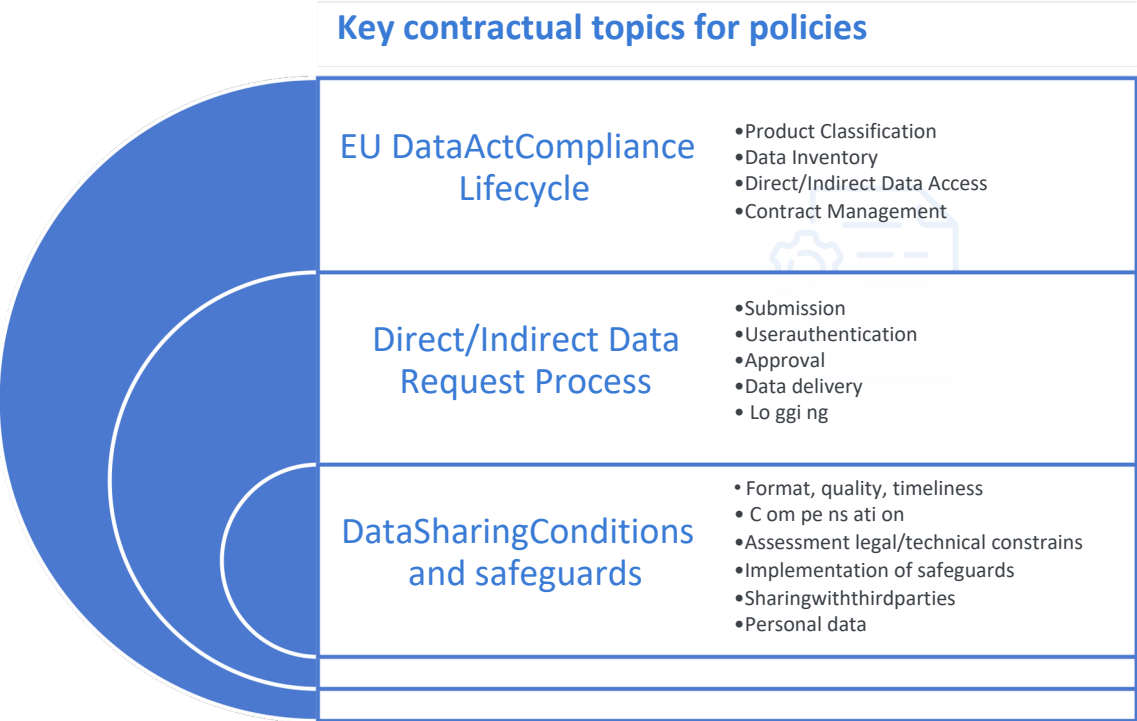
Scoping conditions for requirements in relation to data subjected to Data Act (Regulation (EU) 2023/2854) obligations																		
Data name/Description of data	Product data or Related service data?	Product/Service name	Product description	Observed/generated/collected after 12/10/2021?	Data type (Primary data, metadata, other)	If primary data, is it raw/pre-processed?	If metadata, is it needed for integration?	Processed										
	Product data			Yes	Primary data	Yes	N/A	Yes	+ Notes and justifications for decisions made									
	Product data			Yes	Primary data	Yes	N/A	Yes					Proprietary	No	Yes	Historical	No	High
	Product data			Yes	Primary data	Yes	N/A	Yes					Proprietary	No	Yes	Both	No	High
	Product data			Yes	Metadata	N/A	Yes	Yes					Proprietary	No	Yes	Historical	No	High
	N/A			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
	Product data			Yes	Primary data	Yes	N/A	Yes	Proprietary	No	Yes	Historical	No	High				
	Product data			Yes	Primary data	Yes	N/A	Yes	Proprietary	No	Yes	Historical	No	High				
	Product data			Yes	Primary data	Yes	N/A	Yes	Proprietary	No	Yes	Both	No	High				
	Product data			Yes	Metadata	N/A	Yes	Yes	Proprietary	No	Yes	Historical	No	High				
	N/A			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A			
	Product data			Yes	Primary data	Yes	N/A	Yes	Proprietary	No	Yes	Historical	No	High				
	Product data			Yes	Primary data	Yes	N/A	Yes	Proprietary	No	Yes	Historical	No	High				
	Product data			Yes	Primary data	Yes	N/A	Yes	Proprietary	No	Yes	Both	No	High				
	Product data			Yes	Metadata	N/A	Yes	Yes	Proprietary	No	Yes	Historical	No	High				
	N/A			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A			
	Product data			Yes	Primary data	Yes	N/A	Yes	Proprietary	No	Yes	Historical	No	High				
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	N/A			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A			
	Product data			Yes	Primary data	Yes	N/A	Yes	Proprietary	No	Yes	Historical	No	High				
	Product data			Yes	Metadata	N/A	Yes	Yes	Proprietary	No	Yes	Historical	No	High				
	Product data			Yes	Metadata	N/A	Yes	Yes	Proprietary	No	Yes	Historical	No	High				
	N/A			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A			
	N/A			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A			
	N/A			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A			
	N/A			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A			

+ Notes and justifications for decisions made



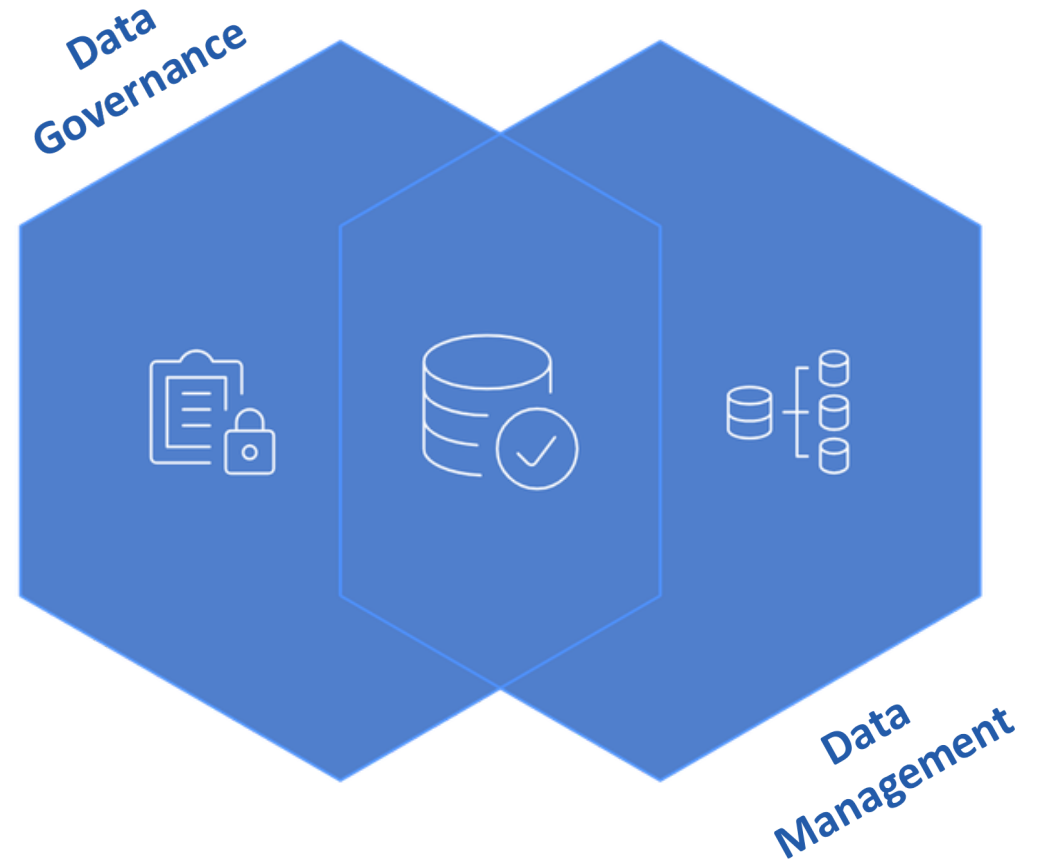
Accelerators for policies and contracts

Nemko Digital provides **Accelerators for the policies and contracts you need to prepare for the EU Data Act**. Designed to help organizations move from requirements to action, these practical tools support a faster, more structured approach to compliance and Data Act readiness.



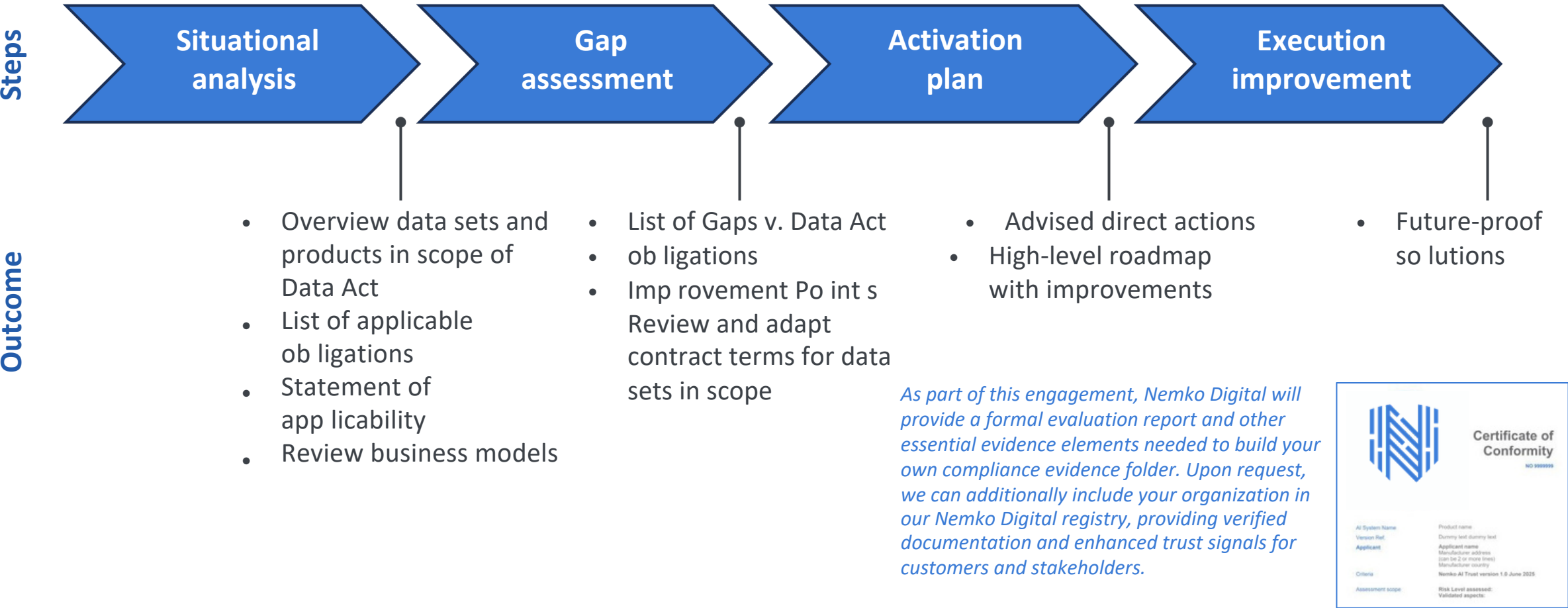
Success factors as IoT product company

1. Understand your **obligations**
2. Map the **data sets** in scope
3. Prepare draft **sharing agreements**(or review existing ones)
4. Create (technical) **prerequisites** for successful implementation
5. Incorporate learnings in **product development** and procurement 16



Your Pathway to EU Data Act Compliance

Our end-to-end methodology ensures you gain clarity, close compliance gaps, and implement improvements supported by independently validated evidence.



Call with our Data Act experts now!

Don't wait for the next step

-  1. Open to Webinar Participants
-  2. Complete Application Form
-  3. Share topic you want to talk about



digital.nemko.com/data-act-webinar-offer

Scan to apply

Stay updated!

How the EU Data Act Reshapes Value Creation in the IoT Economy



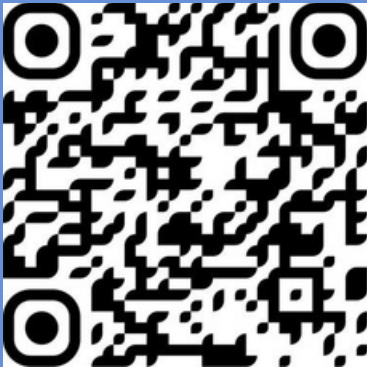


Dissecting What's
Needed to Scale
Agentic AI with
Confidence



The **AI Trust**
Standard *Newsletter*

Your Monthly Update on Responsible AI



Follow us

The [EU Data Act \(2023/2854\)](#) is often treated as a regional regulatory update, relevant mainly for legal and compliance teams operating within Europe. However, that interpretation misses its broader impact: the structural shift in how value is created and distributed in the Internet of Things (IoT) economy.

For the
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that "data access rules are changing." It is that the underlying
en from systems where manufacturers control and monetize data
, and value must be actively created across multiple actors.

September 2026 compliance deadlines, business leaders must look
lications of the [Data Act](#).

Nemko Digital Newsletter

Product Regulation in the Age of Embedded AI

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