



Vodafone Position Paper: Finnish Presidency Data Principles

Access

Vodafone wholeheartedly supports the objective of the Finnish Presidency data principles to encourage data sharing and reuse and thereby unlock the latent value of data. We very much agree that they should help achieve a 'human-centric, thriving and balanced data economy' and welcome the Finnish Presidency's consultation to make these principles even more feasible.

In relation to the terminology used, we do consider that the principle 'access by default' could be misleading, given the underpinning considerations that the Finnish Presidency have highlighted in this respect. These include the need for access to privately held to be provided on an 'fair, reasonable and non-discriminatory (FRND) basis' (something we agree with consistent with prevailing economic theory that FRND does not mean 'for free') while 'respecting rights of individuals and businesses'. As such, we propose that the name of this principle should not be data '*access by default*', but rather a '*presumption of access*' on suitable terms.

This approach can be contrasted with the principle (which we fully agree with) that 'publicly funded data sets should be open data and provided through open interfaces for individuals and businesses by default'.

There should also be an explicit principle recognising that the approach will differ according to the type of data in question, as follows: 'Access to data should take into account the type of data in question, whether private, public, personal, non-personal or subject to other legal considerations'

Consistent with the FRND principle above, operators investing in tools and technology to collect and analyse data should be able to develop a commercial model for the reuse and aggregation of this data. Obligations to make data available to public authorities would be a disincentive to invest in technology necessary to spot patterns and generate insights from raw data, which would be detrimental for innovation and stifle the burgeoning market for data as a service and analytics as a service. The impact of sharing obligations on MNOs should also be considered against the backdrop of the larger digital ecosystem- where MNOs are competing with large, data-funded platform companies.

Our experience to date is that public authorities do not expect to obtain insights from mobile network data 'for free' and are prepared to enter into discussions regarding the utilisation of this data (or more accurately, the raw, unintelligible data that, once analysed and modified, will enable insights to be drawn from that data).

Such an approach is consistent with what we would expect in a market where there is no rationale for ex-ante regulatory intervention. As a general principle, access requirements should be based on competition grounds, i.e. where a company holds a position of the market power in the market and there is a competition and consumer protection rationale for intervention.

We support the basic principle that data should be made available in machine-readable format and the use of standardisation techniques and APIs to facilitate the porting and interoperability of data between service providers. However, standards to assist with data access and reuse should be developed by industry, and undertaken on a voluntary basis, rather than being imposed. Access and reuse of data must also be in accordance with company's data governance policies, and come with clear safeguards to protect the integrity of data and availability of services.

To demonstrate the application of the criteria for data access outlined above, we have set out in the table below a number of illustrative data categories, an example of data in each category, the nature of the use-case, the type of data and whether or not sharing of insights could be in the public interest.



| | Example 1 | Example 2 | Example 3 | Example 4 |
|---|---|--|---|--|
| Data category | Raw mobile network data | B2B data | Personal data (e.g. website cookie) | Trade secret/IPR data |
| Example Potential Insight | Insights based on anonymised aggregated journeys or travel patterns in and around a city centre | Intelligent asset management across supply chain (e.g. logistics) | Behavioural insights (e.g. used for customer loyalty programmes) | Core network technical performance |
| Nature of usage | Non-personal | Non-personal | Personal | Commercially confidential |
| Is it public interest data? | Yes, as it could result in more efficient transport planning and urban planning | It is not obvious that this data would be in the public interest. | No | No |
| Would it be possible to share the raw data category with a public body? | No (noting applicability of GDPR and other applicable EU law in particular) | This would depend on public interest test and views of the parties. | No (noting applicability of GDPR and other applicable EU law in particular) | No (disclosure not legally compliant (business secret)). |
| Would it be possible to share insights derived from analysing the data with public body (i.e. could sharing be legally valid, socially acceptable and economically viable?) | Yes (noting in particular that such sharing should be economically viable) | Potentially (if parties agreed to it and such sharing was economically viable) | No (also noting application of ethics principles and need for social acceptability) | No (disclosure not legally compliant (business secret)). |

Sharing

Sharing of non-personal data should take place on the basis that it is legally valid, ethical, socially acceptable and economically viable. We agree with the general principle that restriction on data



sharing should be minimized to the extent possible, and subject to clear commercial justification, in particular to create cross-sectorial growth.

We would also strongly agree with the Finnish Presidency that requests from public bodies to access and reuse privately held data from corporations should be balanced and subject to clear proportionality requirements, premised on the existence of a healthy, functioning market for the transfer of data. Otherwise, business to government data sharing should take place on a cooperative, voluntary basis and in line with relevant legal and commercial constraints.

Sharing and reuse of data should be incentivised through voluntary industry initiatives (codes of conduct) and technical measures that facilitate the porting of data from one provider to another (data interoperability) such as APIs and open data access models.

In this sense, standardisation in support of interoperability and data usage agreements should be promoted. Interoperability ensures that data can 'talk' to one another when transferred between providers. Vodafone considers that interoperability has been a vital tool in the communications sector to reduce switching costs for users, and thereby incentivize competition. Similarly, interoperability can promote increased sharing and reuse of data between service providers and actors in different sectors.

One way to consider how data access and reuse between service providers can be enhanced is to look at current obstacles to data mobility in the sector, and consider how organisations can collaborate to address them.

In 2018, the UK's Digital Ministry DCMS commissioned a study to develop its understanding of the potential that personal data portability holds for the UK economy. The study builds out from the data portability requirement established under GDPR (article 20) to look at the potential for the UK to embrace a wider culture of 'data mobility'.

The study concludes that personal data mobility can drive fresh growth by creating an environment where empowered individuals can safely make valuable use of their personal data, and consent to its use by others in new data-driven services and technologies. In other words: data mobility can bring mutual benefits to consumers and businesses, in turn driving economic and societal gains.

Obstacles to this vision identified in the study include the fact that a significant proportion of personal data is currently locked in 'organisational and sectorial silos' limiting the scope of its productive use. System features of the digital economy, market consolidation and a lack of trust have all contributed to a situation where data is not shared freely between service providers and different sectors, limiting its utility.

Sharing of data must also be carefully balanced with Intellectual Property Rights (IPR) and the prerogative of private actors to assert such rights over databases in which they have invested time and resource. While we consider that in general sharing of data has a pro-competitive effect, we must also bear in mind the limitations placed on sharing of certain databases by IPR, and the underlying intention of such rights to promote investment and innovation.

Act



Vodafone supports the basic principle of putting users in control of their own data. For this reason we have taken steps to ensure it is easy for users to either erase or port their data to a third party as required under the terms of GDPR.

Our industry has a strong reputation for respecting the confidentiality and security of our communications and our customer's data. Unlike platform businesses, we do not primarily rely on inferred insights derived from user data to create value, and our business does not subsist from placing or optimising advertising based on such insights.

There exists an underlying tension between the principle of increased data sharing on the one hand, and increased user-control over data on the other. While safeguards and governance procedures can be put in place (obligations around onwards transfer of data under GPDR for example) each time data is shared with a third party it becomes more complex for the data subject to assert control over such data, and to request its deletion.

Innovation

As we look to realise the benefits of the data economy, Vodafone supports moving from an 'innovation by permission' to an 'innovation first' approach.

Huge amounts of data could be generated throughout the internet value chain, with Internet of Things (IoT) technology helping to unlock this value. It is imperative that the value of the data can be realised (in conjunction with AI techniques) to contribute to our societies, for example, via smart cities, optimised healthcare, greater efficiency of business and a greener environment. Indeed, Vodafone has recently commissioned Deloitte to model the economic benefits of data sharing in a number of different industry sectors, finding that such sharing of non-personal data add 1.4 tn EUR to the EU economy by the year 2027¹.

).

It is not just technology innovation that is relevant here. Regulatory innovation is also required to realise this potential and therefore Vodafone, in conjunction with a number of vertical industry sectors, have recently called for the introduction of a new IoT framework for Europe (in the form of a Recommendation) that has an FRND data sharing principle at its core². Such a policy measure can facilitate and incentivise a horizontal approach to voluntary non-personal data sharing, leveraging sector specific best practices such as the extended vehicle and neutral server concepts that are being developed in the automotive sector or the data sharing Code of Conduct that has been pioneered in the agricultural sector.

Therefore we propose an additional bullet point in this section, as follows: "In order to enable innovations, the findability of data and data reusability should be supported by: *regulatory innovation to unlock the value of data generated through IoT*".

Barriers to the free flow of non-personal data both within and outside the EU should also be removed and the use of pseudonymised communications metadata under the ePrivacy Regulation for data analytics opportunities, such as for smart cities, should be allowed on the same basis as in the General

¹ https://www.vodafone.com/content/dam/vodcom/files/public-policy/Realising_the_potential_of_IoT_data_report_for_Vodafone.pdf

² https://www.vodafone.com/content/dam/vodcom/files/public-policy/iot-whitepaper/IoT_whitepaper_.pdf



Data Protection Regulation. Free flow of non-personal data should also be looked at from a global angle: Commercial policies that impede EU companies from sharing non-personal/industrial data across their global technology footprint affect their ability to operate in overseas markets, their profitability and, as a result, European competitiveness on the global stage. We therefore urge to seize the opportunity to firmly anchor the global free flow of non-personal/industrial data as an objective in global discussions, and set the EU as a leader on the map for data-related regulatory standards exportable worldwide.

Finally, demand-side policies, such as the opening-up of data by governments to support industries, as set out in the new Common Agricultural Policy proposals, should be encouraged.

Trust

Consumer confidence is the lifeblood of our business. Vodafone has deep expertise in both network and device security, including secure-by-design for IoT solutions and services. We have strict governance and controls in place to ensure we protect our customers' personal data and communications, respect their privacy and proactively manage the cybersecurity risks that face businesses today. Our commitment to ensuring privacy and security is a vital part of our responsibility to customers and fundamental to the success of the digital economy.

We are already building safeguards into our IoT platform by design so that consumers are protected from day one. Our V by Vodafone range of consumer IoT products comply with Trust by Design principles co-created with the global consumer association Consumers International, which include security, privacy, transparency, ways to protect vulnerable customers, complaint handling and the environment. Vodafone provides practical materials, training and workshops for IoT developers to ensure that they can comply with these principles.

At Vodafone, we are using AI to help improve our products and services and to run our business as effectively as possible. As AI grows in usage and impact across geographies and industries, Vodafone has a responsibility to consider how our use of this technology affects our customers, our employees and wider society.

We believe it is critical our AI technology respects the privacy and security of our end users' data and their fundamental rights. Vodafone's AI Framework sets out our approach to working with AI technologies and outlines how we intend to develop and employ it in a responsible manner across our international business. This framework embeds the following principles into all uses of AI: transparency and accountability, ethics and fairness, privacy and security, and human rights, diversity and inclusivity.

A report conducted for Vodafone by Deloitte in 2018 envisaged the creation of a data sharing accreditation scheme to boost trust in the sharing of machine generated, non-personal data. According to the study: "Trust is at the heart of data sharing and an accreditation system is one approach that could support this. This would be an accreditation for businesses planning to provide or receive shared data analogous to the identity verification schemes for individuals being created to facilitate e-government, e.g. the online ID service launched by the Government of Estonia or private sector equivalents such as the Mobile Connect platform offered by the GSMA. It provides a central



approval for those able to interact with a range of other market participants (versus each one having to establish separate verification systems, multiplying the administrative burden for participants)”¹

Learning

A key feature to incentivizing data access and sharing is to overcome some of the cultural barriers that exist today in that respect. The Deloitte study cited above makes some interesting recommendations on how to overcome such cultural barriers, for example by promoting sharing model uses cases: “In addition to a supportive regulatory framework, there is also a need for a broader understanding of the potential for and benefits of data sharing. In our engagement to support the delivery of this report, we found that even sector experts were often unaware of potential models that might support sharing in their sectors. The Commission Staff Working Paper released alongside the Communication in April 2018 made a start on this process by detailing a number of formats for data sharing (e.g. an Open Data approach; a data marketplace approach; and data exchanges through a closed platform) and providing illustrative examples”.

To properly embed the practice of data sharing across society there is a need to ensure that citizens are equipped with digital skills and digital literacy. Vodafone’s own research shows that in addition to digital skills training, there is a gap in knowledge about the future world of work with young people feeling ill equipped to participate in the digital economy. 67% of young people (18-24) receiving insufficient careers advice (with 38% believing advice was too narrowly focused on non-digital roles).

Vodafone agrees that urgent action is needed to help people to develop their digital skills in order to access employment opportunities and ultimately thrive in the digital economy. Vodafone’s *What will you be?* programme is our response to this challenge, with a particular focus on young people. Our goal is to Support 10 million young people to access digital skills, learning and employment opportunities.

Programmes include digital skills learning, work experience, apprenticeships and our Future Jobs Finder (identifies user’s skills and interests through a series of short tests developed with psychologists, career experts and training providers and maps users to appropriate digital training and job opportunities). In the first year, we have supported 500,000 people.

¹ [https://www.vodafone.com/content/dam/vodcom/files/public-policy/Realising the potential of IoT data report for Vodafone.pdf](https://www.vodafone.com/content/dam/vodcom/files/public-policy/Realising%20the%20potential%20of%20IoT%20data%20report%20for%20Vodafone.pdf)