FROM BYTES TO WATTS.

IS LAW ENABLING THE SHARING OF DATA IN SUPPORT OF THE ENERGY TRANSITION?

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DATA, TORMENT OF TANTATLUS?

In Greek mythology, Tantalus, condemned to stand in water in a river, beneath a fruit-laden tree, is cursed with eternal hunger and thirst. Whenever he reaches for the fruit or bends to drink, the branches sway out of reach, and the water recedes. This myth serves as an allegory to illustrate situations when essential needs remain out of reach, despite their apparent abundance. Linking this myth to data, the torment of Tantalus finds a modern parallel in the challenges surrounding access to data.

OBJECTIVE

This research seeks to assess why data, though abundant, remain inaccessible to those who could leverage it to advance the twin digital and energy transitions. At the intersection of energy law and data law, this research reviews whether the law enable access and use of **data for green** purpose by both private companies and public authorities in the context of the energy transition? Central to this inquiry is the legal governance of **non-personal data** (e.g. industrial or market data, such as CO2 emissions or the price of electricity), which are key data in supporting the energy transition.

METHODOLOGY

The research is based on literature review and analysis of the (EU) law in force or upcoming. It was completed by interviews with experts in the energy field to complement with practical examples.

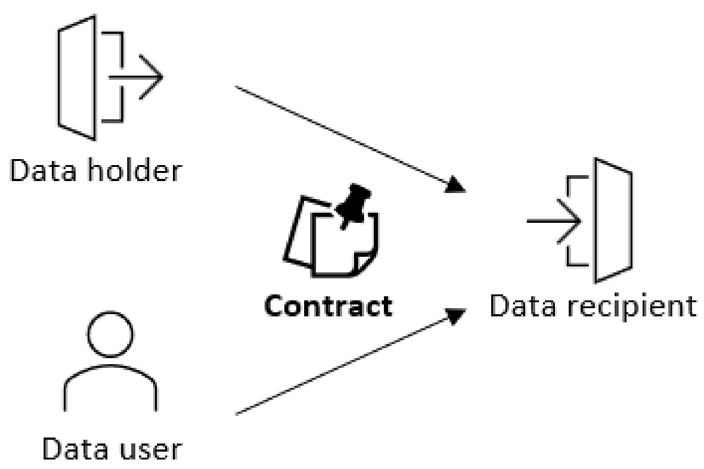
FINDINGS

The pursuit of sustainability requires to tackle highly intertwined issues (e.g. energy, transport, industry, etc.).

Despite new laws introduce data sharing obligations, data for green is still in an embryo state. To enable data for green, several reforms are required to promote further business-to-business (B2B), business-to-government (B2G) and government-to-business (G2B) data sharing:

▶ UNLOCKING FURTHER B2B DATA SHARING FOR GREEN

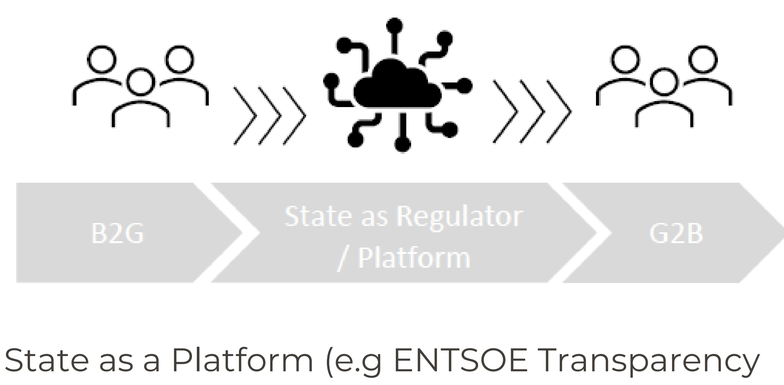
To achieve the energy transition, new laws (Data Act, DGA, Electricity Directive & Regulation) introduce an embryo of data sharing with green purposes.



However, at the heart of the issue lies the fragmented governance of non-personal data focusing on sector-specific regulations, and thus impeding cooperation essential for tackling highly intertwined sustainability challenges (energy, transport, etc.). Thus, **cross-sectoral regulation** would avoid the issue of restrictive uses of data in siloes. In addition, data holders have limited incentives to share their data for green purposes. Therefore, enabling direct access to **aggregated data** by data recipients from data holders, without requiring consent from individual user, would provide the incentive to foster business-to-business (B2B) data sharing for green purposes.

▶ UNFULFILLED PROMISE OF 'STATE AS A PLATFORM' TO SHARE DATA FOR GREEN

From tracking energy transactions to monitoring compliance with environmental obligations, data has become key for public authorities ("**State as a Regulator**"). But authorities do not solely use data for supervision. Leveraging on digital, authorities emerge as data hub ("**State as a Platform**").



State as a Platform (e.g ENTSOE Transparency Platform, ESAP) shares the data they hold for transparency purposes (and sometime reuse purposes), but often the source of these data originates from the private sector, having been first collected by public authorities in their role as State as a Regulator. Thus we are witnessing an evolution toward Business-to-Government-to-Business (B2G2B) data sharing, with public authorities acting as an intermediary in the sharing of private data to private data recipients. Establishing a governance that applies consistently across all data sharing - B2B, B2G, and G2B - would promote seamless data exchange.

CONCLUSION

The legal framework offers some tools to facilitate data sharing for green purposes. However, it remains to be seen whether effective data sharing will take place under this framework.