



**EUROPEAN
RENTAL
ASSOCIATION**

ERA GUIDE ON EU DATA ACT

FOR EQUIPMENT RENTAL COMPANIES

Prepared by:
ERA Technical Committee

WEBSITE & EMAIL

erarental.org
era@erarental.org

ADDRESS

Avenue de Tervueren, 188A,
Box 4, 1150 Brussels

ERA Guide on EU Data Act for equipment rental companies

1. Executive Summary

The EU Data Act (Regulation (EU) 2023/2854) entered into force on 12 September 2025 and is a cornerstone of the EU's data strategy. It aims to make data generated by connected products and related digital services more accessible and usable across the economy, while ensuring fairness and equal opportunities.

The Regulation introduces rights for users to access certain readily available product and service data and, upon request, to have that data shared with designated third parties under fair conditions.

The EU Data Act establishes horizontal rules on access to and sharing of data generated by connected products and related digital services. While the Regulation applies across all sectors, its practical application raises sector-specific issues for equipment rental business models.

This is why ERA provides this practical guide for rental companies to help them understand the requirements of the legislation and bring clarity on how to comply with it.

Why the Data Act matters for rental companies

The Data Act is particularly relevant for the equipment rental sector. Modern rental fleets increasingly rely on connected equipment (e.g. telematics-enabled machines) that generate operational data during use. Access to that data is often technically and contractually controlled by manufacturers or service providers rather than rental companies. The Data Act provides users of connected machines with new rights to access and share certain data generated by those machines (under Articles 3–5 of the Data Act). It also determines who controls machine data and limits how much OEMs or service providers can keep exclusive control.

For rental companies this matters because they operate assets that are:

- shared by multiple users (rental customers) over time;
- machines may sometimes be used by more than one person at the same time;
- often connected to digital systems controlled by OEMs or third-party service providers) rather than by the rental company; and;
- customers increasingly expect access to “their” machine data.

Objectives and context of this Guide

The purpose of this document is to explain how the EU Data Act applies to rental companies, based on what is currently known, and highlight practical implications specific to rental contexts.

This document represents ERA's current interpretation of the EU Data Act, based on:

- the text of the Regulation (in particular Chapter II, Articles 3–7);

- the common understanding reached within the Data Act subgroup of the ERA Technical Committee (gathering experts from rental companies, OEMs and IT services suppliers); and
- European Commission guidance available to date.

This guide explains what type of data is in scope of the regulation, explains the roles of different players under various scenarios in the rental context and provides answer to detailed questions arising in these specific rental scenarios.

It is important to keep in mind that the guide does not replace official guidance from the European Commission and will require updates as further clarifications become available. This guide should also be read in conjunction with available guidance published by other relevant bodies, as referred to in section [6. Resources](#).





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3. Scope of the EU Data Act and its definitions

The implementation of the Data Act in the rental context raises practical questions around:

- what types of data fall within scope
- allocation of roles (data holder vs user);
- time-bound data access for successive customers; and
- interaction with the GDPR where machine data can be linked to individuals (e.g. location or operator identifiers).

3.1 What data is covered by the Data Act?

Not all data linked to a rented machine is subject to the Data Act. The decisive criteria are:

- whether the data is generated by a connected product or a related service and
- whether it consists of raw (pre-processed) data, rather than inferred or derived data.

Business relevance or commercial value is not the determining factor. Importantly, only raw or lightly processed data that is readily available must be shared.

Data clearly in scope

In general, the Data Act mainly covers raw data that are:

- Product data (Article 2(15))
- Data generated by the machine itself during use, for example:
 - operating hours;
 - fuel or energy consumption;
 - error codes and error code names (Diagnostics however are interpretations of the data and so should not be considered as raw data);
- Location data if generated by the machine's sensors.
- Related service data as defined in Article 2(16)
- Metadata, as defined in Article 2 (2), for example timestamps
- Information needed to understand and use the data (e.g., timestamps, machine ID), where necessary to make the data usable (Articles 3–5).

In the rental context specifically, we can distinguish between the following types of data:

- **Connected asset data**

Data generated directly by the equipment during use and exposed to a telematic solution (ie. data capable of being sent) is clearly in scope. For rental companies, the key issue is rarely inclusion, but rather role allocation, particularly where OEMs, telematics providers, and rental companies all have access to the same data stream.

- **Service and operational data**

Data generated through digital services linked to the equipment is in scope where the service qualifies as a related service, meaning it affects the operation or behaviour of the product. The main issue is whether a given telematics or software service meets this threshold and, if so, who controls access to the data.

Data that may sometimes be in scope

- **Enterprise or process data**

Purely administrative data falls outside the scope of the Data Act. However, where enterprise systems incorporate product-generated data that cannot easily be separated, certain elements may fall within scope. The open question is how far data extraction or separation is required in practice.

- **Sustainability and compliance data**

Where such data is generated directly by the equipment, it may be in scope as product data. However, it often overlaps with other EU regulatory regimes, requiring case-by-case assessment.

Against this background, data commonly encountered in equipment rental can be grouped as follows:

Data that is usually out of scope

Data created through analysis, aggregation, or transformation of raw product data is generally out of scope. The Data Act generally does not require the sharing of derived, inferred or processed data, such as:

- proprietary analytics;
- scores;
- predictions;
- dashboards; and
- benchmarks.

However, it is important to note that even if these outputs are out of scope, the underlying raw or pre-processed machine data usually remains in scope and must still be shared.

A summary table on types of data

Type of data	Description	Examples	Relevance under the Data Act
Connected asset data	Data generated directly by the connected equipment during use.	Operating hours, fuel or energy consumption, GPS location, diagnostics, error codes, and performance data.	Clearly in scope because it is generated by the connected product itself.
Service and operational data	Data created through digital services or telematics platforms linked to the product.	Fleet management records, remote monitoring data, predictive maintenance logs, and software update information.	In scope if generated in connection with the use of the connected product.
Enterprise or process data	Business data produced through internal systems or administrative processes related to rental operations.	Rental contracts, ERP entries, customer identifiers, and manual service logs.	Partially in scope, depending on whether it is derived from product-generated data or purely administrative.
Derived or processed data	Information obtained through analysis or transformation of raw product data.	Efficiency reports, carbon footprint metrics, aggregated usage trends, and analytics dashboards.	Usually out of scope unless required to interpret or use the raw data.
Sustainability and compliance data	Data needed for environmental, regulatory, or reporting purposes originating from connected products.	Emissions levels, fuel consumption for ESG reporting, and safety compliance data.	Potentially in scope if generated by the product; overlaps with other EU reporting obligations.

3.2 How must data be made available?

Access for users

The Data Act establishes a three-layer access model:

- Access by design – direct access where feasible (Article 3);
- Access on request – indirect access to readily available data upon request (Article 4); and
- third-party access at the user's request (Article 5).

The Regulation is technology-neutral and does not mandate a single technical solution. From 12 September 2026 onwards, machines and services should be designed so users can access data directly where possible.

If direct access is not available, the data holder must provide the data on request:

- free of charge to the user;
- in an easy and usable way;
- for data that is readily available.

Key point: If data is not available or generated, there is no obligation to share or produce it. But there is a risk of losing customers to rental firms that provide the desired data.

Sharing with third parties

Users can ask the data holder to share data with a third party of their choice. In rental value chains, this means rental customers can request data to be shared with their own systems or providers. A fee may be requested to a third party to use the data.

3.3 Who are the “data holder,” the “user,” and the “third party”?

What the law says

A data holder as defined by Article 2(13) is the party that

- can lawfully access machine or service data;
- decides how that data is made available to users.

There can be only one data holder for the same set of data at any given time (also see section 4). Control over data access matters more than ownership of the machine or who built the software.

In rental context, data holder should be understood as the entity that stores and manages the data infrastructure produced by the machine and is responsible for making data available. For example, OEMs are data holders for the set of data generated by the machine (unless otherwise specified in the contract).

A third party data recipient is anyone else who may receive (and use/process) data, usually because a user asks for it (Article 2(14)).

Both the rental company and the customer (end-user) are typically users (Article 2(12)).

What this means in practice for rental

When a telematics or other service provider is also a data holder

A provider is a data holder (for its own specific set of data) if it provides a “related service” (also see section 4) that includes:

- receiving data directly from the machine or service;
- running its own platform or backend;
- deciding who gets access to the data and how.

Example: A service provider that can:

- see live machine data;
- send commands back to the machine;
- and grant or block access for rental companies or customers.

→ This is (in most cases) a data holder.

When a provider is only a third party

A provider is usually not a data holder if it:

- only gets data from an OEM or rental company;
- cannot decide who else gets the data;

- only stores or processes data on someone else's instructions.

Example: An analytics company that only receives data via an OEM API and cannot respond to customer data requests.

Summary table on roles and obligations

Role	Description in rental context	Key obligations or rights
Data holder	Entity controlling access to data (often OEM or telematics provider).	Must share product and related service data with users upon request on fair, reasonable, and non-discriminatory terms.
Data user	Entity using the connected product (rental company or customer).	Has the right to access product and service data generated by their use.
Third party	Entity designated by the user to receive data.	May access data only with user authorization; must ensure confidentiality.
Service provider	A third party that is a cloud or IT provider storing or processing data.	Must comply with interoperability and switching obligations.

3.4 When is a telematics or software provider a data holder?

Core Rule: Under the Data Act, a data holder is the entity that

- lawfully obtains or can lawfully obtain product or related service data; and
- controls the purposes and means of making that data available.

A third party is an entity that:

- receives data because a user requests or authorises access; or
- processes data solely on behalf of another entity.

The decisive factor is **control over data availability**, not technical sophistication or economic importance.

Practical rental sector examples

▪ **Provider acting as a data holder**

A telematics provider installs hardware on rental equipment and streams machine data to its own backend. It can also send commands (e.g. immobilisation, software updates). Because it controls both the service and data availability, it qualifies as a data holder.

▪ **Provider acting as a third party**

An analytics company that receives data only via an OEM or rental company API and cannot decide whether or to whom data is shared is a third party, regardless of the value of its analytics.

Seven "near-miss" scenarios

These scenarios illustrate situations that are close to data holder status but fail due to a missing legal requirement:

- Technical access without control over availability

- One-way data services without impact on machine behaviour
- Control over derived outputs only
- Technical access without lawful entitlement
- Transient, non-retained access
- Storage or hosting without purpose control
- Aggregation for internal use only

Together, these examples highlight that control, lawfulness, and persistence are decisive.

3.5. When is a service a “related service”?

Two-way data exchange (practical indicator)

An essential aspect of a related service is two-way data flow:

- data goes from the machine to the service;
- commands, updates, or settings go back to the machine.

In this case, the service provider is the data holder for the relevant dataset.

The service must affect how the machine works

A related service is a digital service that (Article 2(6)):

- is connected to the machine;
- without it, the machine could not perform one or more of its functions;
- or is used to add, update, or change functions.

Typical related services in rental:

- remote immobilisation or geofencing;
- over-the-air software or safety updates;
- remote configuration or calibration.

Usually not related services:

- reporting tools that only observe and analyse data;
- dashboards that do not change machine behaviour.

What this means in practice

A service provider is more likely to be a data holder if:

- the service changes how the machine behaves;
- the provider controls access to the data generated by that service.

Services that only “watch” the machine do not qualify.

3.6 Differentiating user data and protecting privacy

The Data Act recognises that a connected product may have multiple users, including rental companies and rental customers – users. Each user must be able to access the data they generate without undermining rights of others.

In rental contexts, differentiation is typically achieved through:

- time-based segmentation;
- account-based access; or
- contract-based allocation.

Privacy is protected through segmentation and minimisation, not denial of access. The Data Act does not create a new legal basis for processing personal data and must be applied consistently with GDPR.

4. Scenarios of the application of the Data Act to rental companies

Below are examples of various scenarios in the rental context, in which the Data Act comes into play, with clarifications of common questions relative to each of the scenarios.

1. **Rental company provides a machine with OEM telematics to a customer**
2. **Rental company installs its own telematics system**
3. **Telematics data is controlled by a third-party provider**
4. **Manufacturer grants dashboard access to rental company**
5. **Customer asks for data to be shared with a third-party service provider**
6. **Machine is used by multiple customers over time**
7. **Machine is used jointly by multiple companies**
8. **OEM refuses to share some data, citing trade secrets or cybersecurity concerns**
9. **Rental company aggregates OEM data from different machines into a single platform**
10. **Customer requests historical data after contract ends**
11. **Software provider supplies a digital platform for data visualisation or analytics**

4.1 Rental company provides a machine with OEM telematics to a customer

Scenario: A rental company provides a connected excavator with manufacturer-installed telematics to a customer. The rental company does not control the telematics or the data infrastructure.

- **Does the customer (user) have the right to request data directly from the OEM (data holder)?**

Answer: Yes. The customer, as the user, has the right to request access to product and related service data from the data holder free of charge. The customer can only be the user, regardless of the scenario. The customer can never be the data holder. The OEM might need confirmation from the rental company that the customer is actually the machine user.

- **Can the rental company, as a user, request access to data from the OEM-installed telematics system?**

Answer: Yes, the rental company qualifies as a user under Article 2(12) in this scenario. As a user, the rental company has the right to request access to the product data and, if applicable, related service data generated by the connected product. The rental company is the first-degree user and should have access to the data generated by the product. The customer/end-user is the second-degree user and should have access to the data generated during the duration of their contract with the rental company. Data access must be provided free of charge, as required under Article 4(2). Depending on the contract between the rental company and the end-user, the end-user can access their own data through the user account of the rental company.

- **What type of data is the rental company entitled to receive in this case?**

Answer: The rental company is entitled to receive product data and, if relevant, related service data generated by the use of the connected product. Product data includes any data that is retrievable from the machine, such as usage logs, location, diagnostics, fuel consumption, and sensor data recorded during operation. Related service data refers to data generated via the interaction between the product and a connected digital service that alters or affects the machine's functionality. The data must be provided in a

structured, commonly used, and machine-readable format and must be limited to the period of use by the rental company.

- **Does the rental company have any obligation to facilitate the data request?**

Answer: No. The rental company is not the data holder and has no legal obligation to act as intermediary. It may assist in practice, depending on the contract between the OEM, rental company, and customer. The OEM is legally obliged to give data access to the users, which includes the customer. This access can be directly provided or facilitated by the rental company as intermediary.

- **Can the different parties charge fees for access to the data?**

Answer: The data holder must provide access to the data free of charge when the request comes from the user (Article 4(2)). However, if the user designates a third party to receive the data, the data holder may charge a fee that is reasonable and proportionate to the cost of making the data available (Article 5(2)). Rental companies, if not data holders, cannot charge for data access under the Data Act.

- **What happens if the data is not immediately accessible to the rental company or the user at the time of the request?**

Answer: The Data Act does not impose real-time access obligations. However, data must be made available without undue delay and in a usable format upon request. If the data is temporarily unavailable due to technical or system-related constraints, the data holder must act to provide access as soon as reasonably possible. There is no specific timeframe defined in the Regulation, but delays must be justifiable and not used to undermine the user's rights.

- **What happens if the requested data is currently not available at all, for example, if the data connection has not yet been activated or the data stream has not been set up?**

Answer: The responsibility to make the data available lies with the data holder, typically the manufacturer or telematics provider. If the data is not yet being generated or transmitted due to system limitations, the data holder is expected to take reasonable steps to ensure that data access can be enabled. The rental company, although not obligated under the Data Act, may act as a practical intermediary by helping the user identify the correct contact point or by prompting the data holder to activate or configure the data connection. However, the legal obligation to ensure availability remains with the data holder, not the rental company.

4.2 Rental company installs its own telematics system

Scenario: The rental company installs its own telematics hardware and software on the machine to monitor usage across its fleet.

- **Is the rental company considered a data holder for the data it collects?**

Answer: Yes. If the rental company installs and controls a telematics system, it qualifies as a data holder for the data generated and stored through that system.

- **Do the rental company and OEM both qualify as data holders for their respective systems?**

Answer: Yes. Both parties can be data holders simultaneously, provided they each independently collect and control different sets of data.

4.3 Telematics data is controlled by a third-party provider

Scenario: A third-party telematics provider supplies the data-generating hardware and software for a machine. The rental company has no direct contract with the provider.

- **Is the telematics provider considered the data holder?**

Answer: Yes. If the provider controls access to the data and determines how it is stored or accessed, it is the data holder.

- **Who should the user contact for data access?**

Answer: The user should contact the entity that has actual control over the data, which in this case is the telematics provider, not the rental company or manufacturer. However, depending on the contract, the rental company may facilitate the data access as an intermediary. Furthermore, in case the machine is momentarily not rented, the rental company is the user and can ask for access to the data to the telematics provider.

4.4 Manufacturer grants dashboard access to rental company

Scenario: The rental company has access to a manufacturer's dashboard to monitor machine status but cannot extract or manage the underlying data.

- **Is the rental company considered a data holder in this case?**

Answer: No. Limited viewing access does not confer data holder status. The rental company lacks the technical and legal control required to be considered a data holder.

- **Can it act on user data requests?**

Answer: No. The user must direct such requests to the actual data holder, usually the OEM or telematics provider.

4.5 Customer asks for data to be shared with a third-party service provider

Scenario: The customer requests that usage data be shared with a third-party emissions monitoring company.

- **Who is obligated to share the data: the OEM, the rental company, or the telematics provider?**

Answer: Only the data holder is obligated to share the data with the third party designated by the user. The data holder(s) can be the OEM and/or the telematics provider.

- **Is prior consent from the rental company needed?**

Answer: No, the data holder must act on the user's request without requiring permission from the rental company, however since the data holder does not own the machine, it might not be able to confidently confirm the user request is legitimate, so rental company involvement might be necessary.

4.6 Machine is used by multiple customers over time

Scenario: A single machine is rented to several users in succession. Each user wants access to data generated during their specific rental period.

- **Is the data holder obliged to isolate and provide user-specific data?**

Answer: Yes. The data holder must ensure that users receive only the data related to their own use, not data from other users.

- **What is the role of the rental company?**

Answer: The rental company may help identify the relevant time periods of use but does not have legal obligations under the Data Act to provide or filter data.

4.7 Machine is used jointly by multiple companies

Scenario: Two companies share the use of a single machine under a single rental agreement and both seek access to data.

- **Can both be considered users?**

Answer: Yes. Multiple parties can qualify as users if they generate or are responsible for the use of the machine.

- **How should the data holder handle simultaneous requests?**

Answer: The data holder must provide access on equal and non-discriminatory terms, and should ensure secure and independent access channels where feasible.

4.8 OEM refuses to share some data, citing trade secrets or cybersecurity concerns

Scenario: A manufacturer refuses to provide certain telematics data to the user, citing protection of trade secrets and cybersecurity.

- **Under what conditions is this refusal permitted?**

Answer: The data holder can withhold access only if it can demonstrate that sharing the data would cause serious economic damage or pose verified cybersecurity risks. This must be justified in writing.

- **Does the rental company have any role in this decision?**

Answer: No. The decision and justification rest solely with the data holder.

4.9 Rental company aggregates OEM data from different machines into a single platform

Scenario: The rental company builds a customer portal that combines data feeds from several OEMs into a unified interface.

- **If the rental company uses multiple data sources (e.g. OEM systems, third-party telematics), is it legally required to aggregate the data for the customer?**

Answer: No. The rental company is not required to aggregate data from multiple systems. The user is entitled to receive data from each data holder directly. If data is collected through different systems managed by different holders, the user may need to submit separate requests. The rental company may choose to offer an aggregated view as a (paid) service, but this is not a legal obligation under the Data Act. In addition, the data shared on such rental platforms will often be processed and therefore does not fall into the Data Act scope.

- **Does this make the rental company a data holder?**

Answer: No. If the rental company does not control the underlying data infrastructure or access rights, it is not a data holder.

- **Does this create new obligations under the Data Act?**

Answer: The rental company may be a data recipient and must comply with any contractual or legal terms set by the data holder and the user, particularly regarding permitted use.

- **What type of data must the OEM make available via API to this platform?**

Answer: The data holder (typically the OEM) must provide all product and related service data generated by the machine that is retrievable, not just the subset defined in technical standards such as ISO 15143-3. While ISO 15143-3 (also known as AEMP 2.0) is widely used in the construction equipment sector as a telematics interface standard, the Data Act requires access to all data that the product is designed to make retrievable, as defined in Article 2(15). This includes sensor outputs, diagnostics, status data, usage patterns, and environmental metrics, provided they are generated by the user's use and are technically accessible. Therefore, the obligation to share data is not limited to what is covered by ISO 15143-3, but includes a broader set of data when available.

4.10 Customer requests historical data after contract ends

Scenario: After returning a rented machine, a customer requests access to all (readily available) data generated during their use.

- **Must the data holder comply?**

Answer: Yes. The data holder must provide the data in a structured, commonly used, and machine-readable format.

- **Can the rental company access or retain this data?**

Answer: Only if it has its own data systems or contractual arrangements that permit it. Otherwise, the rental company does not have an independent right to the data.

- **Is there an obligation for the rental company to retain historical data in case the customer asks for it later?**

Answer: The Data Act does not require rental companies to store or retain data unless they are data holders. However, in practice, users may request access to past usage data. The regulation does not specify how long data must be retained, by whom, or what formats should apply over time. This creates uncertainty for

rental companies that are expected to help customers access historical data but are not clearly responsible for holding it. Clarification is needed on what obligations, if any, exist for the rental company in enabling retrospective data access, and whether data holders are expected to keep the data for a minimum duration.

4.11 Software provider supplies a digital platform for data visualisation or analytics

Scenario: A machine is equipped with OEM-installed telematics. A third-party software provider offers a digital platform used by the rental company or the customer to view or analyse machine data. The software connects to the OEM's backend system or API but does not directly interface with the machine itself.

- **Is the software provider considered a data holder in this situation?**

Answer: No. A software provider is not automatically a data holder. If it only processes, displays, or facilitates access to data on behalf of another party (such as the OEM or telematics provider), it does not qualify as a data holder.

- **What is required for a software provider to qualify as a data holder?**

Answer: Article 2(6) states that a data holder must have both legal and technical control over access to and availability of data generated by the connected product or related service. This includes the ability to decide independently how and to whom the data is made available.

- **Could a software provider ever be considered a data holder?**

Answer: Yes, but only if it collects data directly from the product and independently controls both access to the data and the terms of availability. This situation is uncommon in the rental sector.

- **Does the software provider have any obligations under the Data Act if it is not a data holder?**

Answer: No obligations apply under Articles 4 or 5. However, if the software provider receives data as a data recipient, it must comply with any agreed terms between the data holder and the user, including restrictions on use under Article 6.

5. Additional implementation challenges for rental companies

While the Data Act provides a clear legal framework for access to product and related service data, its practical implementation raises several additional challenges that are specific to the equipment rental sector. Rental companies operate in a highly fragmented data environment, often with limited control over the systems that generate or store machine data. The following issues highlight areas where further clarification or technical guidance from the European Commission is needed for effective and responsible compliance.

5.1 Lack of visibility into the identity of the data holder in multi-layered technology chains

Rental companies regularly handle equipment from multiple manufacturers, many of whom rely on external telematics or software providers. In such cases, data flows through various technical layers, and the actual data holder is not always clearly identifiable. This is particularly problematic when telematics solutions are outsourced

or when machines are configured with third-party software platforms that obscure contractual and technical control.

Without clear information on who holds which data, rental companies are unable to advise their customers accurately on where to submit data access requests. This creates legal uncertainty, risk of non-compliance, and potential frustration for end users.

Need for clarification:

Are data holders required to transparently identify themselves in B2B documentation or in product onboarding materials? Should rental companies be systematically informed of which party is acting as the data holder for each machine or system?

5.2 Responsibility for verifying the legitimacy of user data access requests

The Data Act assumes that the user of a connected product can be clearly identified and matched to the data generated during use. However, in practice, rental machines may be used by multiple subcontractors or individuals on the same construction site, often without digital identity mapping to the telematics system. OEMs responding directly to access requests may, therefore, inadvertently share data with the wrong party.

Rental companies, despite not being data holders, may be exposed to reputational or legal risk if their customers' data is disclosed in error, especially in commercially sensitive or competitive settings.

Need for clarification:

Should rental companies verify or validate access requests in multi-user or subcontracting scenarios, and if so, to what extent?

5.3 Interoperability challenges in mixed-brand fleets

Rental companies operate large, mixed-brand fleets with different technical architectures. While the Data Act mandates access to all retrievable data, it does not require alignment on the structure, format, or delivery mechanisms for that data. Many OEMs use proprietary APIs, making data integration complex and resource-intensive.

This lack of technical harmonisation creates a significant burden for rental companies, especially small and medium-sized ones, that must absorb the cost of developing fleet-wide platforms or customer portals.

Need for clarification:

Will minimum interoperability standards for data exchange in connected machines be mandated, rather than relying solely on voluntary industry initiatives like ISO 15143-3?

5.4 No clear obligations when equipment is offline, inactive, or disconnected

According to the Data Act, data generated even in stand-by mode or during inaction is within scope. However, machines are frequently disconnected, powered down, or unused for extended periods during rental contracts,

for example, while waiting on site, during storage, or in transit. In such cases, there may be no active data transmission.

It remains unclear what obligations apply to data availability when the machine is not actively generating or transmitting data, or when data is unavailable due to a lack of connectivity.

Need for clarification:

What are the obligations for the rental companies, OEMs and third parties regarding access to data in periods where the machine is inactive, not in use, or not connected? Who bears the responsibility for enabling connectivity in these situations?

5.5 Liability for inaccurate, incomplete, or misinterpreted data

Rental companies may be asked to coordinate or deliver data to their customers, particularly in support of invoicing, environmental reporting, or operational audits. However, as they are typically not data holders, they have no direct control over the accuracy, completeness, or timeliness of the data provided by OEMs or third parties.

If a customer suffers damage due to incomplete or incorrect data, such as incorrect CO₂ tracking or billing disputes, the rental company may be held liable, even if it acted only as a facilitator.

Need for clarification:

Are rental companies acting solely as intermediaries in data access protected by a liability safe harbour, particularly where they rely on third-party data holders?

5.6 Tension between GDPR and Data Act in multi-user environments

In many use cases, machine data includes or is linked to personal data—for example, geolocation or operator identification. Rental companies are often not the data controllers under the General Data Protection Regulation (GDPR) and may lack the legal basis or infrastructure to manage personal data responsibly.

The broad access rights under the Data Act may conflict with GDPR obligations such as data minimisation or purpose limitation, especially when data relates to individuals who are not in direct contractual relationships with the rental company.

Need for clarification:

How to reconcile the Data Act with GDPR obligations in multi-user, multi-employer rental settings?

5.7 Economic burden of enabling data access without compensation

The Data Act entitles users to access product and related service data free of charge. It also allows users to request that this data be shared with third parties. However, rental companies that provide technical assistance, customer support, or digital services to help users access this data are not clearly compensated under the Data Act.

This places a disproportionate economic burden on rental companies that invest in infrastructure, platform development, or integration services to ensure access, particularly if they are not themselves data holders.

Need for clarification:

Are rental companies facilitating access or integrating third-party data in any way, entitled to compensation for their administrative or technical costs?

6. Resources

- European Commission: [Data Act Explained](#)
- European Commission: [Frequently Asked Questions about the Data Act](#)
- Committee for European Construction Equipment ([CECE](#)): [Data Act Introduction](#)
- Orgalim: [Data Act: A Guide for Technology Manufacturers](#) (A publication available for purchase – ERA has a preferential rate for purchase of the publication. Contact ERA for more information.)



ERA Data Act Guide

We would like to acknowledge contributions of members of the subgroup to the guide, from the following companies:



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