

What the Digital Omnibus means for Open Data

The Digital Omnibus aims to streamline EU data rules by integrating the Open Data Directive into the Data Act. However, it also introduces substantive changes that weaken the “open by default” principle with far-reaching consequences for open access to public sector information.

Open Data Directive

- Non-discriminatory licence conditions for the re-use of public sector information
- Charges permitted to recover marginal costs for supplying and allowing the re-use of data
- Encourages standard licences

See Articles 6 and 8

The Digital Omnibus

- **Actor-specific licence conditions** for the re-use of public sector information
- **Higher charges** for supplying and allowing the re-use of data by “very large enterprises”
- **Does not encourage** standard licences

See Articles 32q and 32r

What the proposal gets wrong

The proposal incorrectly assumes that public sector bodies must rely on licensing restrictions in order to charge “very large enterprises” for supplying and allowing the re-use of data (see recital 25). However, charging operates independently from licensing. Differentiated charging (e.g. charging different fees for API access) can be used to rebalance economic asymmetries without restricting re-use or undermining legal certainty and interoperability in the open data framework.

Why this matters

- The changes would likely prompt public sector bodies to abandon open licences and adopt conditional licences, making these sources difficult or impossible to re-use in open projects and to combine with data from other sources.
- Open projects like Wikimedia play a crucial role in education, research, and public access to information, relying on content that is licensed under standard open licensing terms (like CC0 and CC BY) that allow re-use and combination of material.

How to fix it

- Remove the possibility for actor-specific licence conditions in Article 32r(4) and rely instead on differentiated charging under Article 32q(6) to address market power imbalances
- Reinforce the use of standard licences in Article 32r(3)