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**Data Protection Congress 2018**

# Data Portability: Changes and Practical Challenges of the Underrated New Right

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Study 2017:  
[Practical  
Implementation of  
the Right to Data  
Portability](#)

# Portability

- Foreign material in data protection law?

# Not privacy, but choice

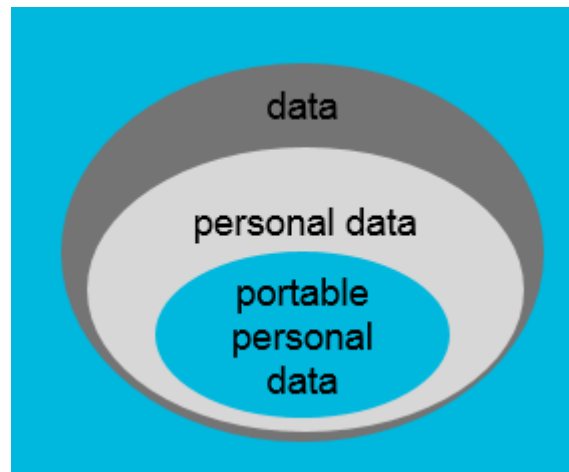
- primary objective of legislator was not only to bring another right to data subject but to enhance competition between services

# Portability

- Just another right to access?

# Right to access 2.0 ?

- Art 15 GDPR:
  - all data related to data subject
  - in a commonly used electronic format
- Art 20 GDPR:
  - only data which data subject has provided (based on contract / consent)
  - in a commonly used, structured and machine-readable electronic format



# Portability

- Something really new, without precedence?



# pre GDPR cases of portability

- Post: change of address order
- Telecommunication:
  - fixed lines: local number portability (LNP)
  - GSM: full mobile number portability (FMNP)
- Insurance: no-claims bonus/discount



# Google Take Out (2011)

The screenshot shows the Google Takeout interface. At the top, the navigation bar includes links for Jonathan, Search, Images, Mail, Drive, Calendar, Sites, Groups, Contacts, and More. The Google logo is on the left, and the user's name and email address are on the right. The main heading is "Accounts" with a sub-heading "Download a copy of your data". There are links for "Create an archive" and "My archives". The central text reads "Your account, your data. Download a copy." followed by "Customize an archive with your data from Google products." and a "Create an archive" button. A list of supported products is shown below, including Mail, Drive, Google+ Circles, Google+ Pages, YouTube, Calendar, Profile, Google+ Stream, Blogger, Google+ Photos, Contacts, Hangouts, +1s, and Messenger. A graphic of a box being filled with various Google product icons is also present.

+Jonathan Search Images Mail Drive Calendar Sites Groups Contacts More

Google jonathan a hove@boom.edu

Accounts Download a copy of your data Create an archive My archives

Account Account Activity Dashboard Download your data Me on the Web Security Profile and privacy Google+ Products

Your account, your data. Download a copy. Customize an archive with your data from Google products. Create an archive

Supporting 14 products and counting...

Mail	Calendar	Contacts
Drive	Profile	Hangouts
Google+ Circles	Google+ Stream	+1s
Google+ Pages	Blogger	Messenger
YouTube	Google+ Photos	

## The Data Liberation Front Delivers Google Takeout

Tuesday, June 28, 2011 | 1:51 PM

Since we began in 2007, the Data Liberation Front has been focused on one thing: making it easier for you to take your data in and out of Google. Our first step was to make it easier to get your data out of our products, one product at a time. While we've made great progress on this front, we've been on the lookout for even better ways to let you take your data out of Google.

Today we're pleased to announce the Data Liberation Front's first revolutionary product: Google Takeout.



# Blue Button (2010)

- established by U.S. Office of National Coordinator for Health IT
- 2012 transferred to U.S. Department of Health and Human Services



- System for patients to view online and download personal health records

# Green Button (2012)

- industry-led effort to provide electricity customers with easy access to their energy usage data in a consumer-friendly and computer-friendly format



# Green Button (2012)

## 3. Download

"Download My Data"

For the Download My Data (DMD) method, ensure that you are getting the file in "XML" format (not CSV, XLS, or PDF). Only XML is the Green Button format (even if the utility interface says otherwise).



## 5. Give Data to a Provider

Hand-over XML File.

If you downloaded your XML data file, give it to a solar-installation company, energy-efficiency firm, or upload it into an **app** to view the data. Don't worry about it falling into the wrong hands: **compliant files** should not have any personal information



# Orange Button (2016)

- initiated and funded by U.S. Energy Department to standardize the way solar data is collected and exchanged
- formulate data taxonomies and interoperability standards
- develop a data exchange marketplace



# Dataaccess (2018)

- [common framework](#) for enabling personal data portability and turning it into an opportunity for innovation and customer relationship





# Obstacles on the way to success

- Consumers:
  - nobody uses what nobody knows...
  - no erasure included (though likely expected)
- Companies:
  - nobody offers service that nobody asks for...



# a clear scope ?

Only data provided directly or also observed data ?

- GDPR text: “providing to a controller”
- WP29 guidance: also by using service/device



# recommendations

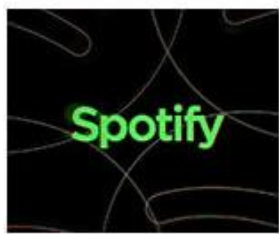
- further consultations needed to align expectations of DPAs and industry
- sectoral solutions to prefer
- EDPB should further clarify scope and provide examples for categories of portable data

# halfway stuck?

- under Art 20 GDPR no obligation to offer
  - Interoperability
  - Compatibility

# halfway stuck?

- “The Spotify Gap”



■ ?!



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# Data portability - Where are we

- In the context of Data Regulation (GDPR)
  - Personal data of the data subject
  - Raw data only
  - Data provided by the consumer or observed data
  - Provision of the data in an open and machine-readable format
- In the context of Financial Regulation
  - When people change their car insurance (portability of some information are mandatory)



# What are the challenges today?

- Development of a common set of interoperable standards and formats (e.g. rainbow button initiative in France and Japan)
- Companies have no guarantee on the quality of the data they will receive under the right to data portability
- Exponential data inflows may raise a cybersecurity issue as incoming data could come with viruses, malwares, etc.
- Sharing of best practices could enable to institute common data standards and more efficient data portability





# What is happening

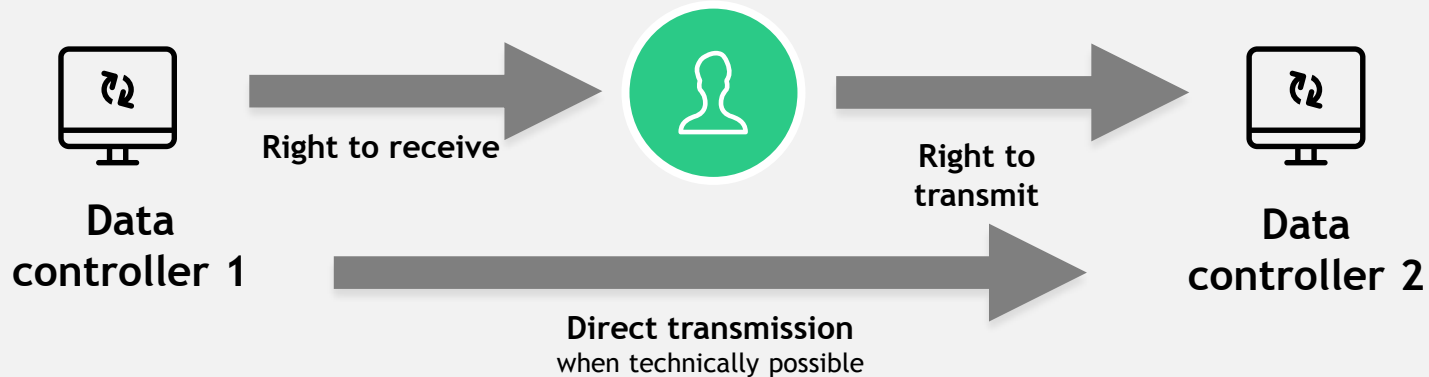
- First solution is always manual
  - Limited request today from our customers
  - Manual options is operationnal
- Automatisatation comes with time and with new players
  - PIMS (Cozy Cloud, Meeco, Digi.me, etc)
  - Sectorial Initiatives (blue, green, orange button)



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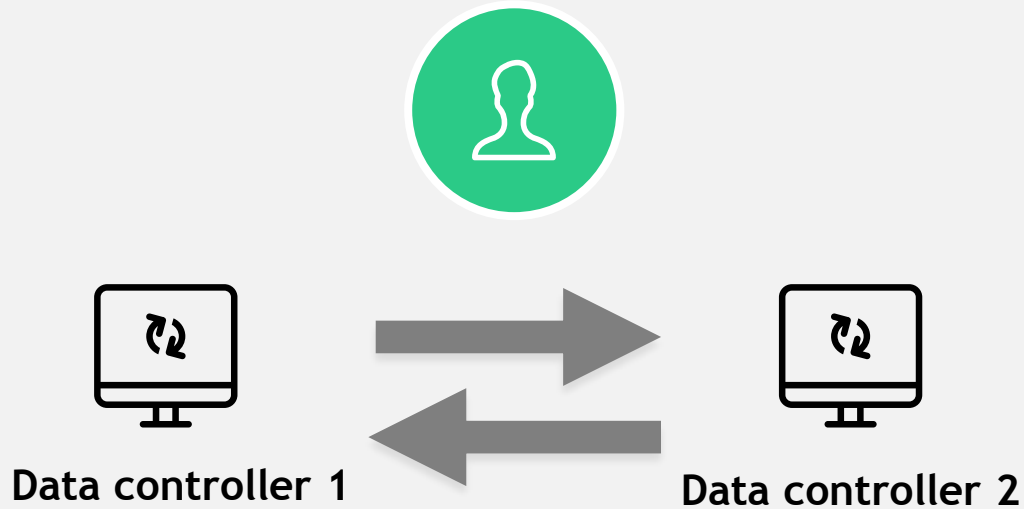
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# Data Portability - A new right



- **Actively submitted data through consent or contract**  
name, address, date of birth, etc.
- **Passively submitted data through service usage**  
browsing history, location, shopping history, etc.

# What did we get wrong with Portability?



**Competition, Cooperation or BOTH?**

# Why is portability a revolution?



The **person** regains control over his or her personal data and make it circulate freely throughout all online services

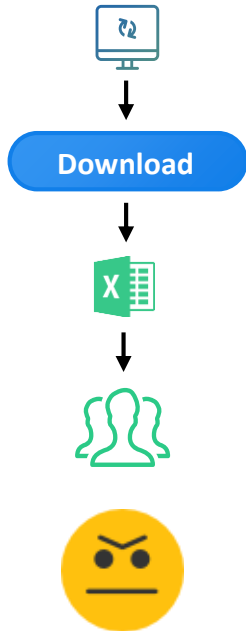
The **organizations** offers simple and totally personalized services, based on data from other services, directly given by users

# What are the problems?

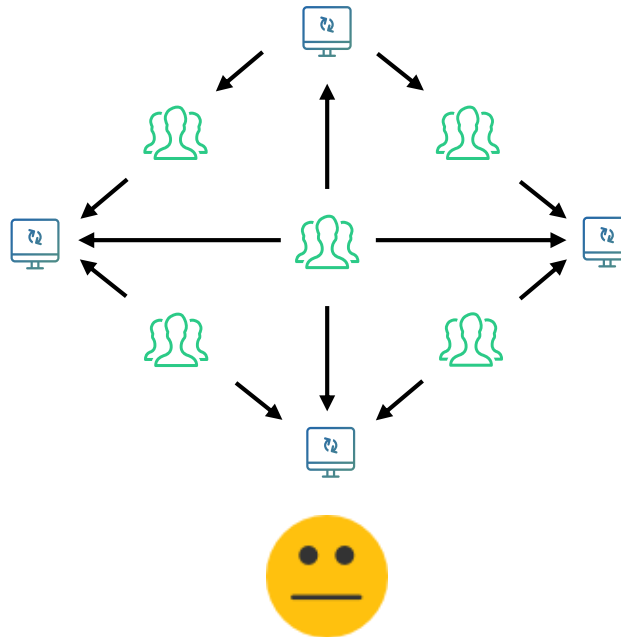
- **Business:** losing customers by helping competitors
- **Business:** paid for data, must give it away for free
- **Legal & trust:** responsibility chains between data controllers
- **Tech:** heterogenous CRMs and exchange or security protocols
- **Tech:** which data formats and reference data catalogs
- **Strat:** fear of disintermediation

# What are the options?

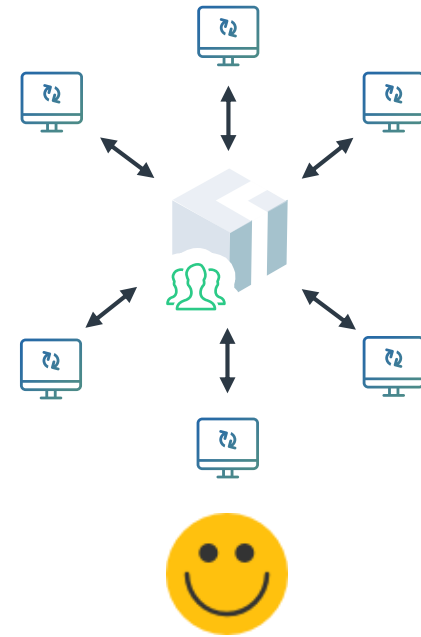
B2C



B2B



B2C2B or PIMS



# Portability use cases

Embedded Video

3 use cases: food, mobility, job



# How far are we?

## Organizations

- Do not see the opportunity yet and want to implement ‘a minima’ solutions

## People

- Do not see use cases and benefits

## Regulators

- Do not push companies too much yet

## Various initiatives

- [GAFA's data transfer project](#)
- [Microsoft SAP Adobe open data initiative](#)
- [Tim Berners Lee Solid project](#)
- Etc.



# Contact information



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## Ressources:

- [GDPR article 20](#)
- [Guidelines on the right to data portability](#)



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- Once you’ve answered all three questions, tap “Done” and you’re all set
- Thank you!