**INTERNET &
JURISDICTION**
P O L I C Y   N E T W O R K

EXECUTIVE SUMMARY

1. ON DATA

Beware of analogies. Analogies are useful to approach unfamiliar situations, but taking them too literally can lead to misguided policy choices.

Data is multidimensional. The world of data is growing and diverse, prone to overlapping modes of classification and formed by numerous actors connected by complex relations and value chains.

Data has unusual properties. Data is different from goods and services, as a non-rivalrous resource which can be replicated and combined in numerous value chains without being depleted.

Location of storage and processing is not all that matters. Who collects, processes or accesses data - and for what purpose(s) - is of high relevance.

2. ON FREE FLOW OF DATA

The shadow of the free trade debate. Discussions around Free Flow of Data are strongly influenced by existing tensions around free trade.

Free Flow of Data is a topic high on global policy agendas. Cross-border data flows are a direct result of the internet architecture, but remain difficult to address in existing multilateral fora.

Concerns exist regarding digital interdependence dynamics. Cross-border data flows raise various concerns, overlapping security, economic and human rights dimensions.

Cross-border data flows depend upon trust. Dealing with potential misuses of data while preserving its free technical transit requires dedicated trust-building frameworks.

3. ON DATA SOVEREIGNTY

Digital challenges to territorially-based sovereignty. The non-geographic architecture of the internet is challenging the Westphalian paradigm underpinning our current international system.

Data Sovereignty is peddled as a panacea to many concerns. The multifaceted notion of Data Sovereignty is both explained and perceived in very different, sometimes conflicting, ways.

Implementation pitfalls. Data Sovereignty measures come in different guises, and their implementation is prone to unintended consequences, with systemic effects if generalized.

Dealing with multiple jurisdictions. Data connects with territories and jurisdictions in multiple ways, producing an ecosystem of overlapping applicable rules and redefining the exercise of sovereignties.

4. MOVING FORWARD

Addressing the challenges related to the governance of the growing Datasphere, requires:

Organizing a global multistakeholder debate across sectors.

Reframing the discussion towards more nuance and common objectives.

Exploring and fostering innovative approaches in tools, frameworks and concepts.

KEY MESSAGES
ON MOVING FORWARD

The debate around data has never been more polarized. On one side, defenders of "Free Flow of Data" highlight its positive effects on innovation and the digital transformation of economies and societies. On the other, proponents of "Data Sovereignty" are concerned about insufficient control over data use and misuse. The report "We Need to Talk About Data: Framing the Debate Around Free Flow of Data and Data Sovereignty" by the Internet & Jurisdiction Policy Network (I&JPN) recommends three key actions for moving forward:

Organizing a global, multistakeholder debate across sectors

Data touches all policy areas, economic sectors, and increasingly more dimensions of life. Yet, policy discussions around data too often happen in separate silos. Establishing a debate that is not only global and multistakeholder but also cross-sectoral, is critical.

Reframing the discussion towards more nuance and common objectives

Data has unusual characteristics (e.g. its non-rivalrous nature). How it is used in numerous sectors, matters more than where it is stored and processed. Numerous norm-setters are involved beyond states. Cautionary messages emerge when unpacking the concepts of Free Flow of Data and Data Sovereignty:

> **Analogies should be used wisely:** Analogies are useful to approach unfamiliar situations, but taking them too literally can lead to misguided policy choices.

> **Legitimate concerns must be addressed:** They overlap security, economic and human rights dimensions, as a consequence of growing digital interdependence.

> **Implementation pitfalls should be considered:** The devil is in the details, unilateral measures can have unintended consequences, and their generalization may be damaging.

Some common objectives could guide efforts to address the complex challenges around data:

> **Maximizing the wellbeing of individuals and societies**, with a fair distribution of economic and social benefits and obligations.

> **Addressing concrete issues rather than just principles** taking into account interrelations and externalities among sectors.

> **Defining the distribution of responsibilities among actors** regarding who can prescribe, adjudicate and enforce rules to organize the Datasphere.

Exploring and fostering innovative approaches
Organizing the coexistence and interactions of billions of people and entities connected through the Datasphere is a civilizational challenge. Innovations in technical solutions, normative frameworks, and concepts are already under way and should continue to be fostered. Significant governance innovation is also required to enable experimentation, develop future-proof frameworks, and bridge silos. There is an institutional vacuum in that regard and a new type of transnational cooperation is required, which may ultimately entail the creation of new institutions.

Download the full report: www.internetjurisdiction.net/aboutdata