

# French Digital Republic Act (2016)

## Goals

- “on one hand, to give France the lead in digital technology as regards infrastructure, data with businesses and government departments introducing concrete strategies, and the digital transformation of the economy
- on the other, to forge a resolutely contemporary digital policy underpinned by citizens, users, entrepreneurs, civil servants, consumers, “makers” and by a whole host of these people to empower them and bolster their rights in the digital universe”

# French Digital Republic Act (2016)

## Goals

### Champion data and knowledge dissemination by:

- broadening the **open data policy**
- building a data-oriented public service
- advancing the concept of **data of general interest**, to make the best possible use of data in the public interest
- promoting the knowledge-based economy

### Help protect individuals in the digital society by:

- fostering an open environment to uphold the principles of network neutrality and transferability of data
- introducing the idea of digital service platform fairness
- establishing new digital rights for individuals concerning their personal data and access to digital services

### Provide universal access to digital technology by:

- fostering access to the government's digital services
- simplifying access to digital technology for **the disabled**
- ensuring that **Internet connections are maintained** for the most disadvantaged members of society

# French Digital Republic Act (2016)

## Objective- Equal rights for Internet users

- In a true Digital Republic, the Internet and its main services should not be the preserve of the most powerful. This is why the principle of net neutrality has been written into the act to ensure equal content dissemination on the network.
- Upholding platform fairness will require the online intermediaries, such as search engines and commercial websites, to provide fair, unambiguous and transparent information as to how they list and rank the content and services which they host.
- The privacy of all users must also be guaranteed. They must have unfettered and easy access to their data and be able to recover, on request, the emails, files and data stored with online mail services or data hosting websites.
- All users should also have a right to digital death to consciously specify how they wish their personal data to be used after their death.

# French Digital Republic Act (2016)

## **Objective- Fraternity through an inclusive digital society**

- Access to the Internet and its services is now a prerequisite for inclusion, career paths and social lives. In the future, as paperless procedures increase, having an Internet connection will be as essential in terms of access to rights as having a fixed address.
- As Internet access for all epitomises the Republican notions of solidarity and the inclusion of citizens, it is one of the mainstays of the Digital Republic bill.
- Access for the disabled to various telephone-based services and to the websites of the government and large businesses will be made mandatory to ensure their digital inclusion.
- The Digital Republic has introduced a connection entitlement so that Internet access will be maintained for families experiencing financial hardship.



# French Digital Republic Act (2016)

## Objective- Wider data and knowledge dissemination

- Both innovation and economic expansion are strongly driven by open data from public or private sources, or from all Internet users. Open data aids the democratic process and injects vitality into society.
- As a result, the Digital Republic bill is geared towards bolstering and broadening the open data policy introduced by the government and setting out the framework for a true data-oriented public service.
- Tomorrow's Digital Republic will also open up data of general interest to widen the scope of public and private data available to everyone to use in the public interest.
- It will foster the rapid emergence of a knowledge-based economy through freer access to public-sector research.

# French Digital Republic Act (2016)

## Key Provisions

- **Additional Information to the Data Subjects-** Digital Republic Act explicitly requires controllers to grant individuals the right to exercise their rights electronically whenever their data is collected electronically. The Act requires data controllers to inform their data subjects about the period during which the personal data will be stored, or if that is not possible, the criteria used to determine that period.
- Regarding the processing of data for purposes of medical research, the Digital Republic Act establishes that the parents or legal guardian of a minor under 18, or the legal representative of a person placed under legal guardianship, receive the information regarding the data processing and exercise the rights provided by the Data Protection Act in France.
- However, for certain types of medical research mentioned in the Public Health Code, minors above the age of 15 may object to their parents or legal guardian accessing the personal data about them that has been collected and processed in the course of such medical research, and may exercise alone the right to access and rectify data and the right to object to the processing.

# French Digital Republic Act (2016)

## Key Provisions

- The Act provides for the creation of a new right relating to data portability and retrieval for consumers, GDPR only covers data subjects' **personal data** whereas the right created by the French Digital Law extends its scope to consumers' **non-personal data** (e.g. any files uploaded by the consumer and associated use data such as a music playlist).
- Online Platform Operators (OPO) are subject to a new general obligation to inform consumers-

the general terms of use that apply to the platform and the means used to rank, reference or de-reference content, goods or services that are available via this platform

and the existence of a contractual or capitalistic relationship between the OPO and the advertiser or seller, as well as the existence of a remuneration benefiting the OPO, where such elements may influence the ranking or referencing of the contents, products or services accessible through the platform

# French Digital Republic Act (2016)

## Key Provisions

### Post Mortem Right to Privacy-

- The Digital Republic Act creates an innovative new right for individuals to decide how their personal data may be processed after their death. Before dying, any individual may give general or specific instructions regarding the storage, erasure or disclosure of his/her personal data.
- On the one hand, general instructions apply to all data that is collected and processed about an individual. These instructions are kept by a certified third party or the CNIL. On the other hand, individuals may send specific instructions to a given data controller instructing that controller on how it may continue to use the data it withholds about those individuals after their death.



# French Digital Republic Act (2016)

## Key Provisions

### Right to be Forgotten-

The Digital Republic Act introduces under the Data Protection Act the right for individuals to request that their personal data be deleted without delay when such data was collected in relation to the offering of information society services at a time when they were minors.

Where the data controller has shared the data with third party controllers, the initial controller, taking account of available technology and the cost of implementation, shall take reasonable steps, including technical measures, to inform such third parties which are processing the personal data that the data subject has requested the erasure by such controllers of any links to, or copy or replication of, those personal data.

# French Digital Republic Act (2016)

## Key Provisions

### **Enhanced secrecy of correspondence-**

The Digital Republic Act introduces a new obligation for telecom operators and providers of electronic communication services to the public who offer online communication services (for example, providers of online messaging services) to maintain the secrecy of correspondence, including the content of the message, the sender and recipient's identity and, where applicable, the subject line and attachments of the message.

The automatic processing of emails or other type of digital communications for purposes of advertisement, statistics or the enhancement of services is forbidden unless the data subject has given his/her express consent to such processing at least one year before the processing. Moreover, there must be a specific consent for each type of processing.

# French Digital Republic Act (2016)

## Key Provisions

### No Restriction on Data Storage-

Data can be transferred and stored outside of Europe. There are no data residency rules that would require businesses to store their data in France, and on the contrary, businesses can continue to transfer personal data outside Europe as long as they respect the EU data protection requirements under the GDPR.

### Copyright Exceptions-

The Act provides for copyright exceptions, including: (i) text and data mining for non-commercial scientific research purposes, which allows the public and researchers to analyze scientific data to which they have lawful access; and (ii) freedom of panorama, limited to non-commercial uses, relating to reproduction and representation of architectural works and sculptures, permanently located in public places, made by physical persons.