

DATA INNOVATION RISK ASSESSMENT TOOL

How was the data obtained? (Choose from one of the answers below)

- ☐ A: Directly from individual(s) (e.g., survey)
- ☐ B: Through a data provider
(e.g. website, social media platform, telecom operator)
- ☐ C: Don't know

Comments:

NEXT STEP:

If you answered "A," please proceed to section 2.2, "Legitimacy, lawfulness and fairness of data access and use." If you selected "B," you can skip 2.2 and proceed to point 2.3, "Due Diligence on third party data providers." If you selected "C", consult with your legal expert before proceeding further.

2.2 Legitimacy, lawfulness and fairness of data access and use

Lawfulness, legitimacy, and fairness. Any personal data must be collected and otherwise used through lawful, legitimate, and fair means.

Personal data use may be based, for example, on one or more of the following legitimate bases, subject to applicable law: i) consent of the individual whose data is used; ii) authority of law; iii) the furtherance of international (intergovernmental) organizational mandates (e.g. in case where an international intergovernmental organization is the holder of the mandate and is the implementer of a data project); iv) other legitimate needs to protect the vital interest of an individual(s) or group(s) of individuals. Keep in mind that the legitimacy and lawfulness of your right to use the data must be carefully assessed, taking into account applicable law, the context, legal status of your organization; and the above bases (i- iv) are only included as examples for the purposes of this document.

Data should always be accessed, analyzed, or otherwise used taking into account the legitimate interests of those individuals whose data is being used. Specifically, to ensure that data use is fair, data should not be used in a way that violates human rights, or in any other ways that are likely to cause unjustified or adverse effects on any individual(s) or group(s) of individuals. It is recommended that the legitimacy and fairness of data use always be assessed taking into account the risks, harms, and benefits of data use.

Informed consent should be obtained prior to data collection or when the purpose of data re-use falls outside of the purpose for which consent was originally obtained. Keep in mind that in many instances consent may not be adequately informed. Thus, it is important to consider assessing the proportionality of risks, harms and benefits of data use even if consent has been obtained.

While there may be an opportunity to obtain consent at the time of data collection, re-use of data often presents difficulties for obtaining consent (e.g., in emergencies where you may no longer be in contact with the individuals concerned). In situations where it is not possible or reasonably practical to obtain informed consent, as a last resort, data experts may still consider using such data for the best or vital interest of an individual(s) or group(s) of individuals (e.g., to save their life, reunite families etc.). In such instances, any decision to proceed without consent must be based on an additional detailed assessment of risks, harms and benefits to justify such action and must be found fair, lawful, legitimate and in accordance with the principle of proportionality (e.g., any potential risks and harms should not be excessive in relation to the expected benefits of data use).

Do you have a legitimate basis for your data access and use?

- ☐ Yes
- ☐ No
- ☐ Don't Know
- ☐ Not Applicable

Comments:

2.3 Due diligence on third party data providers

This question usually applies when you are not a data collector, but rather obtained data from a third party (e.g. telecom operator, social media platform, web site). It is important that you verify, to the extent reasonably practical, whether your data provider has a legitimate basis to collect and share the data with you for the purposes of your project. For example, have you checked whether your data provider has obtained adequate consent (e.g. directly or indirectly through the online terms of use) or has another legitimate basis for sharing the data with you for the purposes compatible with your project? (See notes on "Lawfulness, legitimacy, and fairness" above)

Does your data provider have a legitimate basis to provide access to the data for the purpose of the project?

- ☐ Yes
- ☐ No
- ☐ Don't Know
- ☐ Not Applicable

Comments: