

Digital Economy Act (DEA) 2017 Data Analytics Brief

What does the new Digital Economy Act mean for the next government, data analytics and policy? Our Data Analytics policy specialists have picked apart its key strengths and weaknesses, and expanded on what these mean for industry and regulation.

1. Under the banner of 'Digital government', the DEA gives the administration new powers to gather, store and share citizens data

What does that mean for the new government?

The Digital Economy Act was passed in a relatively hasty fashion at the end of April 2017. Through this new piece of legislation, the government has been given significant new powers, particularly with regard to collecting, processing and sharing citizen's data. The justification given in this context was the improvement of public safety and public services. It is therefore reasonable to expect that a newly elected government will be measured against these potential improvements. This is especially true for the promised alleviation of fuel poverty, which the Act seeks to achieve by one of the most controversial elements of the new legislation, the sharing of data with energy providers.

In light of recent cyber-attacks on NHS hospitals and institutions at home and abroad, the key challenge for the incoming administration will be to ensure that this newly gathered and stored data is as safe as possible. Here, a delicate balance will have to be struck: While sharing data among various government agencies and third parties could indeed lead to significant efficiency gains, making services both better and cheaper, each additional participant in this data sharing exercise could potentially weaken overall data safety, as hackers only require one vulnerable access point to extract, encrypt or contaminate citizen's data.

In the short term, **this increased interconnection of data holders within the public administration would mean that substantial investment in digital security for public services is necessary.** Perhaps in recognition of increased future vulnerability to cyber-attacks, there is currently a £1.9 billion scheme to augment the security of public agencies. This programme will need to be continuously refined to meet current and emerging challenges.

Regulating the digital economy can no longer be done on an exclusively national basis. Online service providers operate internationally and future government legislation should reflect this. Leaving the European Union will pose numerous challenges for the incoming administration, the most formidable of which will be compliance with the EU's GDPR. This regulation will enter into force in May 2018, by which date the UK will most likely still be in the EU. To complicate matters further, the regulation has extraterritorial effect, meaning any company holding EU citizen's data will have to comply with it. Thus, future UK data protection legislation will be closely linked to how close a trade relationship with the EU the new government wishes to have.

2. Access to pornographic websites is now subject to age verification

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The Digital Economy Act mandates providers of online pornography to ensure age verification for visitors to their websites. The Digital Economy Act lays out the regulatory structure by which OFCOM will enforce this, but lacks specific provisions regarding the method of age verification. Any age verification mechanism will have to be minimally intrusive for the user, while ensuring the maximum possible data security. If this latter goal is not achieved and sensitive data is lost or misappropriated, as happened in the Ashley Madison hack, the public outcry could potentially discredit the entire scheme. It would also be water on the mills of those who regard age verification as a disproportionate and unnecessary invasion of their privacy.

Devising and implementing a suitable system of age verification for such online websites is therefore not only inherently difficult, it is also vital to get it right at the first attempt, in order to avoid eroding public confidence. Yet, for one or several companies in the British digital economy sector, this will offer a unique opportunity to obtain a government contract on an unprecedented scale, particularly in view of the fact that this is very likely to be an ongoing project, requiring frequent updates, maintenance and recalibration to new threats. The know-how acquired through implementation of such a programme could potentially benefit the sector as a whole.

3. The DEA enshrines the universal right to download speeds of 10mbps in law

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This provision of the law has been widely regarded as insufficient for a country with the ambition to become one of the world's leaders in digital technology. To achieve this, **a workforce with excellent digital skills is absolutely vital.** In a similar vein, **access to high speed internet regardless of where in the UK one lives is not a luxury but an indispensable pre-requisite to achieving this goal.**

The incoming government, regardless of its colour, will have to find ways to improve the country's digital infrastructure, which is in desperate need of an upgrade. Labour and the Lib-Dems recognise this fact in their electoral manifestos, pledging substantial upgrades to universal broadband speeds. The Conservative manifesto alone does not promise a quantifiable adjustment of broadband speeds, having legislated the DEA mere weeks prior to the manifesto publication. Whatever the politics of it, a new government will have to ensure that universal, reliable and most importantly fast internet connections are available to UK citizens and residents.

Closely linked to providing this infrastructure for the 21st century is the need to prevent skills shortages in the sector. The Digital Economy Act has imposed certain regulatory burdens on digital service providers. In light of this and the looming uncertainty surrounding Brexit, a new government

should take decisive and pre-emptive steps to ensure that these same businesses have access to the skilled workforce they need to continue growing.