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Openness with restrictions

18 Jan 19, 11:09

EU politicians are hammering out the rules for open data under Horizon Europe. Jan van den Biesen, an adviser to several industry associations, tells Erik te Roller that companies should not be unduly worried.

By Erik te Roller in Haarlem



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“As open as possible, as closed as necessary”—this is the starting point for making data from publicly funded research accessible, both at national and European level. Openness is one of the defining principles of Horizon Europe, the next EU research funding programme, which is due to start in 2021.

But discussions in the European Parliament and the Council of Ministers this winter resulted in a proposed exception to this rule. It was suggested that if justified, companies participating in public-private research projects should be able to keep their data under wraps.

Under this proposal, not much would change for companies in Horizon Europe, including those in the Netherlands, which often engage in public-private research collaboration or participate in public R&D programmes with their own researchers.

“According to the European Commission’s proposal, Horizon Europe would have fewer possibilities for exceptions than Horizon 2020, but amendments adopted by the European Parliament in December and the agreement reached by the Council of Ministers at the end of November have adjusted for this,” says Jan van den Biesen, adviser to three European industrial associations in the field of electronic components and systems. “The ongoing trilogue negotiations between the Parliament, Council and Commission may still lead to some changes.”

“Companies obviously want to benefit from their investments in research,” continues Van den Biesen. They often consider it in their own interests to share data, but the amendments from the Parliament would allow them to deviate from the open-by-default principle for six reasons: the EU’s economic interests, intellectual property rights, personal data protection, confidentiality, security concerns and other legitimate interests. These exceptions are basically the same as in Horizon 2020.

This would prevent, for example, competitors outside the EU from benefiting from the research results free of charge. The Council’s agreement mentions legitimate interests, commercial exploitation, data protection rules, security rules and intellectual property rights.

“I expect companies can live with [the Council’s proposal], even though the EU’s economic interests are not taken into account,” says Van den Biesen. Companies can choose for an opt-out from the requirement to publish data from a public-private research project if they clearly explain the reasons for this in a data management plan, which they have to submit as soon as the project has been selected for a grant.

Parallel to the Horizon Europe talks, the European Public Sector Information Directive was also discussed in Parliament towards the end of 2018. The directive encourages all EU countries to make public sector data available, including geodata, traffic data and data from publicly funded research. The open-by-default principle also applies here, but again companies can opt out for the reasons already mentioned, except the EU’s economic interests, Van den Biesen explains.

The Council of Ministers has yet to reach a position on the public sector data directive, but the proposal from the Romanian presidency of the Council points in the same direction as its agreement on Horizon Europe. Trilogue negotiations will follow.

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