Evaluation Report
Database Directive

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- The Evaluation Report on the Database Directive: published on the 25th of April as part of the third data package
- The purpose of this evaluation: to assess whether the Database Directive remains fit for purpose in the new legal, economic and technological environment.

- Public consultation: 24 May-30 August 2017

- Supporting study for the EC evaluation (JIIP)

- Synopsis on all consultations activities (done by the EC and the contractor) – published on 25th of April
Main findings of the EC Evaluation Report

- EC Evaluation Report: in line with the "Better Regulation" guidelines (effectiveness, efficiency, relevance, coherence and EU added-value)

- The main purposes of this evaluation:
  - to assess whether the conclusions of the 2005 evaluation are still valid,
  - and to situate the analysis in the context of the data economy.
Main findings of the EC Evaluation Report

Similar to the previous evaluation, the analysis shows that:

- the Database Directive has effectively harmonised the existing national protection regimes
- the *sui generis* right continues to have no proven impact on the production of databases
- the limited scope of protection ensures a relatively appropriate balance between rights and interests of database makers and users
Main findings of the EC Evaluation Report

• Besides, the evaluation points out that, due to the limited scope of the *sui generis* right (2004 CJEU decisions), it is assumed that the *sui generis* right does not apply to the data economy (machine-generated data, IoT devices, big data, AI, etc) and only covers databases that contain data obtained from external sources.

• This limited scope provides for a relatively efficient situation.
Main findings of the EC Evaluation Report

- However, the report concludes that this relationship needs a more continuous monitoring.
Main findings of the EC Evaluation Report

Relationship between the Database and the PSI directives

• There is an overall coherence between the Database and the PSI Directives.

• Indeed, the *sui generis* right has been invoked by public entities to prevent the re-use of data prescribed by the PSI Directive (court cases and various instances reported by practitioners)

• To bring more clarity, a new article and a related recital have been inserted in the context of the review of the PSI directive
Thank you!

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