



IFA response to draft Data Sharing Agreement between the Department of Agriculture, Food and the Marine, Department of Enterprise, Trade and Employment, The Road Safety Authority, Tailte Éireann – Valuation, Department of Public Expenditure NDP Delivery and Reform – OGCIO, for the purposes of:

Allowing Revenue to share Unique Business Identifier Number (UBIN) data, enabling consistent identification of businesses and improving the quality and accuracy of business data holdings across the Public Service.

14th August 2024

1. Introduction

The Irish Farmers' Association (IFA) welcomes the opportunity to participate in the consultation process for the new Data Sharing Agreement (DSA) between the Department of Agriculture, Food and the Marine, Department of Enterprise, Trade and Employment, The Road Safety Authority, Tailte Éireann – Valuation, Department of Public Expenditure NDP Delivery and Reform for the purpose of allowing Revenue to share Unique Business Identifier Number (UBIN) data, enabling consistent identification of businesses and improving the quality and accuracy of business data holdings across the Public Service.

The purpose of this response is to critically assess the Data Sharing Agreement through the lens of current legislative frameworks such as the General Data Protection Regulation (GDPR) and the Irish Data Protection Act 2019 which serve as the cornerstones for data protection rights for citizens, including farmers. Our response is aimed at safeguarding these rights while ensuring that the broader objectives of the agreement can be met in a manner that is legal, ethical and reasonable in its impact on the farming community.

Firstly it should be noted that farmers are self-employed and comply to tax obligation similar to other entities and submit tax returns themselves or through accountants on a yearly basis. This return is on a self-declaration basis similar to all other self-employed entities and subject to random audit from revenue.

IFA strongly support the continuation of the self-declaration to revenue process that is well established and complied with by farmers.

While we acknowledge the importance of improving the consistency and accuracy of business data across the Public Service, we believe that the current draft of the DSA raises significant data protection concerns, particularly for farmers who operate as self-employed entities. Our key concerns are as follows:

2. Inclusion of Personal Data

The DSA includes data points such as Business Address and Eircodes, which can potentially link to individuals, especially where farming businesses operate from personal residences. This linkage could inadvertently lead to the identification of individuals, thus infringing upon their privacy rights as protected under GDPR.

The decision to exclude small traders who only have PREM registration from the UBIN dataset in order to limit the inclusion of small traders whose business may be based out of their residence appears to be a positive step towards limiting unnecessary data collection. This aligns with the GDPR principle of data minimisation, reducing the likelihood of collecting and processing data that is not necessary for the stated purposes. *It should be explicitly stated that this extends to farms also.*

3. Potential Data Overreach

The broad scope of data sharing envisaged in the DSA risks collecting more data than necessary, potentially breaching the GDPR's principle of data minimisation. We urge a review of the data elements included in the UBIN dataset to ensure that only essential data is shared.

4. Risk of Public Identification

We are concerned that the combination of data elements might allow for the public identification of farmers, particularly if these datasets are made publicly accessible or are not adequately protected. This could expose individuals to risks associated with linking their business and personal identities.

As per point (2) above the decision to exclude small traders who only have PREM registration from the UBIN dataset in order to limit the inclusion of small traders whose business may be based out of their residence appears to be a positive step towards limiting unnecessary data collection. This aligns with the GDPR principle of data minimisation, reducing the likelihood of collecting and processing data that is not necessary for the stated purposes. It should be explicitly stated that this extends to farms also.

However, there is still a potential risk for those with multiple registrations (e.g., PREM and VAT) where their data will be included in the dataset. This inclusion, particularly of those operating from home, could inadvertently expose personal data and infringe upon privacy rights.

5. Multiple Identifiers and Potential Confusion

Farmers in Ireland already utilise a Herd Number, which serves as a critical identifier within the agricultural sector. The introduction of an additional UBIN, alongside existing identifiers like VAT IDs and CRO numbers, could lead to potential confusion. For farmers, particularly those who are small-scale or not as technologically adept, managing multiple identifiers might be burdensome and could increase the risk of errors in compliance and reporting.

From a data protection perspective, the need to manage multiple identifiers raises questions about the principle of data minimisation under Article 5(1)(c) of the GDPR. If the Herd Number and VAT ID already serve the necessary purposes, the introduction of UBINs might be seen as an unnecessary duplication, unless a clear and distinct benefit is demonstrated.

6. Inclusion of NACE Data and Compliance with GDPR

The inclusion of NACE codes, which classify economic activities, aligns with the statistical standards set by Regulation (EC) No 1893/2006. While this standardisation is necessary for statistical and administrative consistency, the processing of NACE data must be justified under GDPR.

The NACE code itself, while not directly identifying an individual, could, when combined with other data (e.g., Eircode and business name), contribute to identifying an individual farmer, especially in cases where the business is a sole proprietorship. This could lead to concerns under GDPR's provisions on profiling (Article 22) and data protection by design and by default (Article 25).

7. Recommendations

The Irish Farmers' Association (IFA) recognises the importance of enhancing the consistency and accuracy of business data across the Public Service, as proposed in the Data Sharing Agreement (DSA) involving the sharing of Unique Business Identifier Number (UBIN) data. However, the IFA also identifies several concerns

related to data protection, particularly for farmers who operate as self-employed entities and may have their personal and business information intertwined.

Key issues include the potential inclusion of personal data such as Eircodes and business addresses, which could inadvertently lead to the identification of individuals, thus infringing upon their privacy rights. Additionally, there is a risk of data overreach, where more data is collected than necessary, which could breach the GDPR's principle of data minimisation. The potential confusion arising from the introduction of multiple identifiers, including the UBIN alongside existing identifiers like Herd Numbers and VAT IDs, is also a concern, particularly for small-scale farmers.

Furthermore, the inclusion of NACE codes, while necessary for statistical purposes, may pose profiling risks under GDPR, particularly when combined with other data elements.

7.1. Clarify and Limit Data Collection

The DSA should explicitly state that small traders, including farms that operate primarily from personal residences, should be excluded from the UBIN dataset unless absolutely necessary. This aligns with the GDPR's principle of data minimisation and helps protect personal data.

7.2. Reassess the Need for Multiple Identifiers

The necessity of introducing UBINS alongside existing identifiers like Herd Numbers and VAT IDs should be critically reassessed. If the current identifiers suffice for the intended purposes, the introduction of UBINS may be unnecessary and could be avoided to prevent confusion and reduce the administrative burden on farmers.

7.3. Strengthen Data Protection Measures

Ensure that robust data protection measures are in place to prevent the public identification of individuals through the combination of data elements such as Eircodes, business names, and NACE codes. This includes implementing strict access controls, encryption, and regular audits of data sharing practices.

7.4. Transparency and Communication

Improve communication with the farming community regarding the introduction of UBINS, including clear explanations of the purpose, benefits, and potential impacts. Providing guidance and support to farmers in managing multiple identifiers will also be crucial in mitigating confusion and ensuring compliance.

Ends.