V. Conclusion

This research aimed to explore and redefine the interface between the RtDP and the SGDR, taking particular account of the data economy's context. The intersection identified between the two rights was not as silent as suggested, and leaves open a significant loophole, which can undermine the RtDP's effectiveness to the prejudice of data subjects' legitimate interests and the development of EU's data economy.

A broad interpretation of the RtDP to include observed data under its scope is favoured, as it would otherwise render the provision outdated at its birth. This construction allows data subject to retrieve their personal data not only from online platforms, but also from connected devices. The SGDR's far-reaching definition and low threshold, on the other hand, hardly excludes protection, leading to a real potential clash within those scenarios of personal data provided by individuals.

Opportunism in the SGDR's enforcement against the RtDP is not implausible and might even strengthen the database maker's monopolistic position in case of sole-source databases. In view of the RtDP's pro-competitive dimension and the legitimate interest of individuals to access their data, as well as the fact that the SGDR does not seem fit for the data economy, this research argued for alternatives to ensure the RtDP's effectiveness.

Although repealing the DbD as a whole or only the SGDR would clearly solve the clash with the RtDP, these radical options are not proportionate for the specific purpose of ensuring the RtDP. Nevertheless, such possibilities should not be discarded upfront – an in-depth analysis of other issues and impacts should be conducted to determine its suitability, which, however, goes far beyond this research's scope.

Case-law interpretation is a logic option, but the unpredictability of a judgment's outcomes is extremely risky. Leaving the issue for courts that might not be acquainted with a wide-ranging picture of the data economy can produce undesirable results, foreclosing data-driven markets. Furthermore, the possibility of database makers circumventing a decision favouring the RtDP over the SGDR cannot be disregarded.

Going through a coordinated approach by introducing an exception in the DbD mandating prevalence of data access rights regimes over the SGDR seems particularly favourable for the data economy, because besides already encompassing the RtDP, it could include possible future forms of

data portability (beyond personal data), as well other general access regimes. This gives the provision the required flexibility to stand the test of time, as well as the possibility for the EU to consider a broader action though the recognition of a non-waivable data access right (not restricted to personal data) for those with a legitimate interest in such access.

Therefore, this research calls the Commission to reconsider its initial decision to not take immediate legislative action to reform the DbD. The intersection between data protection and IPRs might not be very intuitive in a first moment, as exemplified by the absence of any analysis of the SGDR's impacts on the RtDP within the framework of the Second Evaluation Report. However, such encounters tend to increase significantly within the data-driven economy and neglecting the potential harmful effects that they might cause, could endanger the EU data economy's development significantly.