

**USE AND ABUSE OF DATABASES RIGHTS IN THE DATA ERA.  
LOOKING FOR A CONSISTENT APPROACH**

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**INDEX: 1. Introduction - 2. Data accumulation, Data markets and the EU Regulation of Datasets - 3. Databases, computer programs and the overprotection of investments - 4. The Court of Justice legal reasoning - 5. The 2005 and the 2017 Consultations on the Database Directive - 6. How to neutralize the abuses of databases rights – 7. Preliminary conclusions**

**ABSTRACT:** In today's Data Driven Economy, the strategic value of information and of data mining processes is more and more important. Information is essential to improve the quality of products, and to produce efficiencies and trigger innovative processes. It is not surprising that, in the last decade, the European Commission has remarked the need to identify the optimal means to disseminate information and knowledge for research, science and education in the online environment. In this context, the Commission has expressed doubts about the benefits of the databases protection granted by Directive 96/9/CE. The authority has explored the potential negative effects deriving from the new *sui generis* right, in the belief that such a choice could end up being counterproductive from a systematic perspective and could also fail in the achievement of the declared goal of boosting the competitiveness of the information technology sector. In perceiving the deep and radical discontinuity of the Digital Era, the Commission has recently called for a Consultation aimed at verifying the coherence and effectiveness of Directive 96/9/CE in the Digital Single Market, and hopefully at understanding whether the existence and exercise of new rights may represent barriers to the entry of new players in those sectors characterized by the presence of few undertakings which can rely on considerable information sources and advanced technologies. In the opinion of the Authors, in fact, such risk is far from being theoretical, since undertakings operating in the data markets may overexploit the granted new rights and implement unfair and abusive conduct, despite and independently from the existence of a dominant position under Art. 102 TFUE. Given the above scenario, the abuse of right doctrine can play a fundamental role, neutralising the detrimental effects deriving from the existence and exercise of the *sui generis* right in the Digital Era and stimulating a fair circulation of knowledge and information through a balanced equilibrium between all the interests involved.