



# DATA PORTABILITY & INTEROPERABILITY: APPROACHES IN RUSSIA

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# INITIATIVES ON DATA PORTABILITY



**B** Data Protection Law gives the right to access one's data – however, this right resembles Art 15 GDPR and is definitely not enough as a portability justification

**B** An overall underdevelopment of Russia's data protection law stalls discussions on data portability

**Ministry for the Digital Development is responsible for drafting a law that would, inter alia, establish the right to data portability – this is supported by *some* trade associations and businesses**

**As a side note, this draft law would introduce rules on anonymizing personal data aiming to create a competitive data market**

**In its 2021 report on digital ecosystems, the Central Bank of Russia advocates for data portability as one of the steps to “open up” digital ecosystems**

# RUSSIA'S CENTRAL BANK REPORT ON DIGITAL ECOSYSTEMS



Published in 2021, the report is by far the most influential (and high quality) policy document on digital market regulation in Russia.

**The report's bottom line is to promote an open model of a digital ecosystem, including via Open APIs – this model rests on the principles of data portability and horizontal & vertical interoperability**



The report proposes an obligatory open model for dominant digital ecosystems justified by the need of "precautionary" approach to regulation supported with strengthened antitrust regulation

**"Open Data" needed to avoid a purely technical opening up of a dominant ecosystem**

The Bank's initiatives regarded as way too far-going by the businesses

# CURRENT TRENDS IN INTEROPERABILITY



A manifestation of interoperability addressed by a regulator: **the FAS Russia 5 principles on the self-regulation of digital platforms (Sept 2021):**

- ranking transparency including with providing user data to users;
- non-discriminatory access to ecosystem services;
- restriction on unjustified limitations of users rights (business users, too?)

- Interoperability not viewed as a standalone concept, but rather, as a set of measures aimed at providing a more open access to services (similar to the CB's report)
- Some companies (eg Yandex) apply certain elements of openness like increasing algorithm transparency but view regulatory obligation of openness as excessive
- A white paper on regulating digital ecosystems authored by the Ministry of Economic Development advocates for “users’ freedom to multihome”, “users’ freedom to manage their data”, and general “openness”
- Some of the recent antitrust cases feature interoperability: 2021 Apple payments (a cease and desist order), 2020 Apple-Kasperskiy (access to 3d party developers), 2019 HeadHunter/SuperJob (voluntary remedied)

# INTEROPERABILITY PUT IN PRACTICE



**B** Russia's fintech and banking associations lead a pilot project on Open Banking based on common Open API standards with the support from the Central Bank that developed a framework for standards in 2020

**B** A Central Bank-developed "Fast Payments System" allows inter-bank payments via a single identifier (cellphone number) – this is obligatory for all banks + payment platforms like Yandex Money

**It is yet unclear how (and if) to implement data portability and interoperability requirements into law and in what particular obligations**

**The current regulatory approach with respect to interoperability is self-regulation and, perhaps, inclusion of some provisions into the Data Protection law**

**The new draft of the 5<sup>th</sup> antimonopoly package does not address issues of data although the introduction of the network effects into the analysis might boost enforcement, but further development of competition law is required**