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| Nota di contenuto | Cover -- Special Address of the Federal Minister of Justice and Consumer Protection -- Data access as a means to promote consumer interests and public welfare -- An introduction -- On the need for additional access rights -- Enhancing access to and sharing of data: Striking the balance between openness and control over data -- A. Introduction -- B. Data as infrastructural resource and the spillover benefits of its shared access -- I. Data as a non-rivalrous although partially excludable good -- II. Data as a capital good with increasing returns to scale and scope III. Data as general-purpose but context-dependent input -- IV. Empirical evidence of the spillover social and economic benefits of data access and sharing -- C. Major data governance challenges of data access and sharing -- I. The loss of control over data, and the risk of violation of privacy and intellectual property rights -- 1. Violations of agreed terms and of expectations in data re-use -- 2. Loss of control over data and the role of consent -- II. Incentivising data sharing in light of positive externalities and the risk of 'free riding' III. 'Data ownership' as an attempt to regain control over data -- 1. 'Ownership' of personal data -- 2. Contractual arrangements and the role of contract guidelines and model contracts for data sharing -- D. |

Towards a more differentiated data governance approach for data access and sharing -- I. Technological means for re-establishing control over access to data and information -- 1. Data access control mechanisms -- a) (Ad hoc) downloads -- b) Application programming interfaces (APIs) -- c) Data sandboxes for trusted access and re-use of sensitive and proprietary data
2. Confidentiality-enhancing technologies for information access control -- a) Cryptography -- b) De-identification: from anonymisation to pseudonymisation and aggregation -- II. A data taxonomy for disentangling the various interests in data -- 1. The overlapping domains of data -- reflecting the various stakeholder interests -- 2. The manner data originate -- reflecting the contribution to data creation -- III. Data commons as arrangements with variable degrees of openness and control -- 1. Data commons for the governance of shared resources of common interests
2. Restricted data-sharing arrangements -- a) Data partnerships -- b) Data for societal objectives -- E. Conclusion -- Data access, consumer interests and social welfare -- An economic perspective on data -- A. Introduction -- B. The economic characteristics of data -- I. Data as intermediary input -- II. Data collection has an economic cost -- III. The value of data depends on their use -- IV. Excludability and monopolistic data trade -- V. Data are not a homogeneous product -- VI. Non-rivalry and economies of scope in data re-use -- VII. Economies of scope in data aggregation

Sommario/riassunto

Data are considered to be key for the functioning of the data economy as well as for pursuing multiple public interest concerns. Against this backdrop this book strives to devise new data access rules for future legislation. To do so, the contributions first explain the justification for such rules from an economic and more general policy perspective. Then, building on the constitutional foundations and existing access regimes, they explore the potential of various fields of the law (competition and contract law, data protection and consumer law, sector-specific regulation) as a basis for the future legal framework. The book also addresses the need to coordinate data access rules with intellectual property rights and to integrate these rules as one of multiple measures in larger data governance systems. Finally, the book discusses the enforcement of the Government's interest in using privately held data as well as potential data access rights of the users of connected devices.

Datenzugang kommt zentrale Bedeutung für die Datenwirtschaft und die Förderung zahlreicher Gemeinwohlbelange zu. Vor diesem Hintergrund stellt sich der Sammelband der Herausforderung, Ansätze für zukünftige Datenzugangsregeln zu entwickeln. Die Beiträge erhellen zunächst die ökonomische sowie rechtspolitische Rechtfertigung solcher Regeln. Sodann untersuchen sie unter Berücksichtigung der verfassungsrechtlichen Vorgaben und bereits bestehender Regelungen das Potenzial unterschiedlicher Rechtsgebiete (Kartell- und Vertragsrecht, Datenschutz- und Verbraucherrecht sowie sektorspezifische Regulierung) für die Gestaltung des zukünftigen Rechtsrahmens. Dabei wird auch der Notwendigkeit Rechnung getragen, Datenzugangsregeln mit dem Immaterialgüterrecht abzustimmen und in umfassendere Maßnahmepakete (Data Governance) einzubetten. Ebenso werden Regeln zur Durchsetzung des Interesses des Staates an privaten Daten sowie Datenzugangsansprüche der Nutzer vernetzter Geräte diskutiert.
