The global research community generates over 3.5 million scholarly articles per year, along with a staggering volume of data-mining (TDM) models. The latest version of the Directive, adopted on November 20, 2019, attempts to address the complex and evolving landscape of TDM in research and innovation. In doing so, the Directive introduces a mandatory exception for TDM in Article 3 B. This provision stipulates for a fair compensation for the right holders of the content that is accessed, if the exception is overridden by contracts, thereby frustrating the realization of the full potential of TDM for research and innovation, and more broadly for the European economy.

Against this background, there appears to be a need for a clear legal framework for TDM in the Single Market, fit for the digital age and the challenges of the 21st century. To foster a European research area, the Directive should provide for a comprehensive set of exceptions for TDM, which are non-exhaustive, and ensure that the research organisations are covered.

Concluding Remarks

In sum, the proposed exception for TDM should be clarified and broadened. As argued in a recent in-depth blog post by Bengi Zeybek, the Directive should provide for a comprehensive set of exceptions for TDM, which are non-exhaustive, and ensure that the research organisations are covered. This would facilitate the realization of the full potential of TDM in research and innovation, and more broadly for the European economy.