Intellectual property regimes that tilt too far toward granting data rights run the risk of stifling needed data sharing, while regimes that tilt too far in the other direction risk limiting incentives for data collection and innovation.

Intellectual property (IP) systems are designed in large part to provide adequate incentives for creators and inventors to invest in the production of novel ideas and content, while at the same time encouraging beneficial diffusion of knowledge. For example, publishing patent disclosures ensures inventors can learn from each other, and limiting patent terms to 20 years ensures they can build on each other’s innovations. As we move deeper into the data-driven economy, policymakers should take into account the need to maintain such a balance as they consider the relationship between IP rights and data.

The emergence of the data economy has led to a growing debate about data rights, related to both IP and privacy. Getting the debate right over data and IP is especially critical, because regimes that tilt too far toward granting data rights run the risk of stifling needed data sharing, while regimes that tilt too far in the other direction risk limiting incentives for data collection and innovation.

But how should we conceptualize the role data has come to play in the economy? Is it really, as some have suggested, “the new oil”? (No.) And what are the most important issues to address when it comes to data-driven innovation and intellectual property rights? This paper analyzes 13 key considerations.