

Global Essay Competition 2026

Title: Hole in our pension funds: Trust law to the rescue of Europe's social net.

Essay:

In Europe the pension state was the triumph of industrial welfare, work, contributions, retirement, underwritten by a growing workforce and a stable tax base. That arithmetic is now turning. Eurostat projects the old age dependency ratio rising toward a world with fewer than two working age adults per person over 65 by mid-century. Fiscal slack is also absorbed by strategic necessity as defence budgets grow. The pressure is therefore not merely demographic. It is strategic and fiscal at the same time.

But this is complicated even further. Every economy, of every country, and every era has a certain underlying medium that fuels economic activity and exchange. For the first industrial revolution it was coal, for the twentieth century it was oil and gas, and for our century it is increasingly information. It is a cliché, but a multilayered one. Information has become the new oil of our new economy, where data, software and other intangible forms of information have been claiming their ever larger share of economic output, some now believe it to be as high as 30% and growing.¹ These are not simple intangibles. They often take the form of aggregated and processed data or functional software, complex, not simple, things. The tacit implication is very important though, as the valuable share of the economy becomes more intangible, less and less people are able to partake in it on equal terms.² Coupled with the growing prevalence of AI, there will simply be fewer well paying jobs to go around, and the winners will be those skilled and creative enough to have AI as a tool rather than something that replaces them. For the majority, bargaining power weakens as value concentrates in systems, models, and networks they do not control.

Under such circumstances, the current pension model cannot be sustained without change. Eurostat projects the EU27 old age dependency ratio rising to 56.7% by 2050, a world with fewer than two working age adults per person over 65.³ Pension outlays are already large at around 12.2% of GDP in 2022.⁴ Fiscal room to manoeuvre is further constrained by a fragmented world in which defence spending are again treated as necessities, with current talks of 5%.⁵ The question is therefore not merely how to keep pensions afloat, but how to maintain legitimacy and generosity when the tax base is pressured from both directions, fewer contributors at home and higher strategic costs abroad.

As a solution, this essay proposes collective fiduciary data trusts to pool rights, negotiate enforceable access conditions, and channel a durable share of data driven rents into pensions and long term care, avoiding inefficient blunt data taxes and penny micropayments.

¹ World Intellectual Property Organization, 'Executive summary: Making innovation policy work for development' in *World Intellectual Property Report 2024: Making Innovation Policy Work for Development* (WIPO 2024) 11.

² Matej Bajgar, Chiara Criscuolo and Jonathan Timmis, 'Intangibles and industry concentration: supersize me' (Centre for Economic Performance Discussion Paper No 1806, October 2021) 4.

³ Eurostat, 'Ageing Europe - statistics on population developments' (Statistics Explained, 15 November 2023) 7 <<https://ec.europa.eu/eurostat/statistics-explained/SEPDF/cache/80393.pdf>> accessed 18 January 2026.

⁴ Eurostat, 'Social protection statistics - pension expenditure and pension beneficiaries' (Statistics Explained, 18 August 2025) 1 <<https://ec.europa.eu/eurostat/statistics-explained/SEPDF/cache/36405.pdf>> accessed 19 January 2026.

⁵ Reuters, 'NATO's Rutte says he assumes alliance will agree on 5% spending target' (26 May 2025) <<https://www.reuters.com/business/aerospace-defense/natos-rutte-says-he-assumes-alliance-will-agree-5-spending-target-2025-05-26/>> accessed 28 January 2026.

The new data driven economy will depend on information both complex and simple, ranging from intricate patentable or copyrightable ideas to mundane information such as consumer habits. In this sense, everybody is a source of information. The question is whether this diffuse contribution can be translated into a diffuse claim, whether the society of this ‘new economy’ can strike a balance between pragmatism and social cohesion on the one hand, and the rightful attribution of economic and moral rewards to innovation on the other, without reducing fundamental rights to mere commodities. Since we are talking about the populace at large, it is suitable to focus on economic value derived from passively produced data, such as consumer habits or medical data, rather than actively created ones, such as a piece of literary work. The latter already sits within a whole body of intellectual property law that protects creators through copyright, patents and trademarks. Our worry is directed at the communal information created daily by the average citizen, consumer preferences, location traces, attention patterns and social graphs, collected by companies like Meta or Google on a daily basis, processed, and then sold or used to sharpen competitive advantage.⁶

It would therefore stand to the test of logic that the instinctive solution would be to impose a flat ‘data tax’ as a form of redistribution of the profits made off this source. But enthusiasts of this approach are in for a disappointment for two reasons. Firstly, the tech giants of our era have great resources at their disposal to devote to lobbying, and a direct tax is easily framed as stiffening technological advance at the very moment when great powers treat AI dominance as strategic.⁷ Second, international conglomerates are skilled at optimising tax by moving assets and profits between jurisdictions with very low tax rates, if any. In a world of tax competition and geopolitical rivalry, blunt taxation is both politically fragile and economically porous. A more creative approach is needed.

Perhaps we could introduce a system of micropayments to individuals, or their pension funds, for their personal information. As much as novel as this idea seems, it has already been proposed by Jaron Lanier, the father of virtual reality, who envisions people becoming masters of their ‘resources’.⁸ The idea has its value, but also several fatal limitations. Apart from being technologically demanding, requiring that every single piece of data be traced to its source, it invites the very supervision of online life that democracies rightly resist. Moreover, it is doubtful that individual information would be worth much in isolation. Value is derived from the vastness of the data pool being aggregated and processed to find links and trends valuable for later use. A single individual has little to offer, and even less to bargain with. The crucial point is therefore bargaining power.

English trust law offers a vocabulary for creating bargaining power without pretending that citizens must sell away their rights. A trust arises when resources or rights are vested in a trustee who must manage them for beneficiaries or for a defined purpose rather than for the trustee’s own advantage. In earlier economies, land was the dominant asset, and trusts emerged as a way to let others administer it while separating control from benefit and restraining conflicts. The digital economy faces an analogous problem. Individuals supply the raw material of valuable datasets but cannot feasibly manage, police, or price their use, whilst platforms do so at scale and capture the returns. A fiduciary structure is designed precisely for that gap

⁶ Competition and Markets Authority, ‘Decision to accept binding commitments under the Competition Act 1998 from Amazon in relation to conduct on its UK online marketplace’ (Case No 51184, 3 November 2023) paras 4.2–4.5 <https://assets.publishing.service.gov.uk/media/6544cbaed36c91000d935d20/Non-confidential_decision_pdfa_4.pdf> accessed 30 January 2026.

⁷ Transparency International EU, *Deep Pockets, Open Doors: Big Tech Lobbying in Brussels* (2021) 3.

⁸ Jaron Lanier, *Who Owns the Future?* (Simon & Schuster 2013).

The proposal, then, is the conception of collective fiduciary data trusts, whereby groups of people subscribe through their online accounts and devices, but instead of facing platforms alone, they appoint a professional trustee to manage a defined bundle of data related rights and claims on their behalf. Like a pension fund, the trustee is a specialist manager, or like a labour union, the trust aggregates dispersed interests into a credible negotiating position. In practical terms, the trust can also operate a user side gateway, a managed account layer that mediates certain data flows from members' devices and services, much as a privacy or security intermediary does, so that access is not merely promised in legal text but implemented in code. Its aim is not to stop data flows by fiat, but to make access to certain valuable streams conditional, legible and contractible, so that the economic value created by aggregation can be shared back into the social contract that makes the market possible in the first place.

This is not too big a stretch in our current legislation. The EU's and UK's GDPR already gives people extensive rights in terms of controlling their data online.⁹ Yet, the problem of sufficiency rests in two chief facts. First, the focus is overwhelmingly on lawful processing and purpose limitation rather than on enabling data subjects to capture economic value or to negotiate terms on equal footing with controllers. Secondly, and more fundamentally, exercising any control at all is financially and cognitively demanding for an individual.¹⁰ Consequently, ticking 'I agree' has been reduced for many into a surrender, not a negotiated agreement.

Here the trust structure matters, and it matters in a way that fits rather than fights the European instinct that personal data protection is a matter of dignity and autonomy. The model does not require a redefinition of data as alienable property. English courts themselves have long warned that 'property' is not a single yes or no label. In *OBG v Allan*,¹¹ the House of Lords rejected conversion for contractual rights, but that does not prevent such rights being held on trust. As Briggs J later noted in *Re Lehman Brothers International (Europe)*,¹² a bank account, legally a personal right against the bank, is routinely held on trust in the client account setting. The lesson is simple. the trust need not 'own data', it can hold and manage a specific bundle of rights and claims around data. Applied to the digital context, the fiduciary can (i) act as an authorised representative to exercise members' data subject rights where the law permits collective assertion, and (ii) hold on trust the assignable economic incidents created through negotiation, contractual entitlements to remuneration, claims in debt once value is due, and rights under standard terms that condition access on compliance. This is not the alienation of personal rights for economic profit, but rather the professional management of rights and claims to make those rights real. Bound by fiduciary duties of loyalty and by institutional oversight, the trustee becomes an intermediary between data subjects and data collectors, one that is designed, unlike the platform itself, to act for the beneficiary and not for its own conflicted gain.

Managing tensions between individual and collective interests is therefore not a side issue, but the heart of the design. Individuals will naturally differ in priorities. One may value maximum privacy, another may accept broader use for higher returns, a third may insist on refusing certain industries altogether. These tensions should not be wished away, but rather be addressed and governed. A trust deed can define voting rules, red lines, and fiduciary duties calibrated to the

⁹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) [2016] OJ L119/1, arts 12–23 (and arts 7(3), 77–82).
UK GDPR, arts 12–23 (and arts 7(3), 77–82); Data Protection Act 2018.

¹⁰ International Monetary Fund, *Spillovers in International Corporate Taxation* (IMF Policy Paper, 9 May 2014) 17.

¹¹ *OBG Ltd v Allan* [2007] UKHL 21, [2008] 1 AC 1.

¹² *Lehman Brothers International (Europe) (in administration) v CRC Credit Fund Ltd* [2009] EWHC 3228 (Ch), [2010] 2 BCLC 301.

community's purpose, while preserving individual exit for those who dissent. Exit, however, must be more than a formal right. A market with different trusts is only workable if data already collected can be extracted and shifted over between controllers, or at least if the trust can ensure that prospectively generated data is routed through the member's chosen fiduciary. Where portability is technologically limited, the 'safety valve' works primarily for future flows. What has already been captured cannot be unseen, but it can be made less determinative if meaningful switching becomes possible.

Three design principles follow. Firstly, Independent stewardship: trustees must be insulated from the commercial incentives of data collectors, so that 'acting in the beneficiary's interest' is not an aspiration but an enforceable duty. Secondly, institutional safeguards trust law provides routes to hold trustees to account and a credible threat of remedial action is precisely what gives beneficiaries confidence to pool control in the first place. Thirdly, collective action, where by aggregating rights and claims, the trust can negotiate terms of data use, responding to undesirable uses and pricing desirable ones, in a way no lone individual can.

On the front of scale, if data trusts are to patch pension holes, they must do more than skim the advertising froth. But the point of the proposal is precisely that 'data value' is not confined to marketing. Instead it runs through the entire European economy, from manufacturing and finance to hospitals and public services. The European Commission's own monitoring distinguishes the data market, the monetised trade in data products and services, from the wider data economy, which is the total economic impacts of data across sectors. On that measure, the EU27 data market is forecast at roughly €100bn in 2025, rising by 2030 to around €125.5bn in a baseline scenario implying compound growth of roughly 4.6% to 7.2% over the period.¹³ The data economy's total impacts are larger still, at about €630.8bn in 2025, and projected to reach roughly €815.1bn by 2030. Against this, EU pension expenditure is on a different order again, about €1,971bn in 2022.¹⁴ It therefore follows that no honest proposal should pretend that collective fiduciary trusts will replace payroll taxation or become a new silver bullet for the welfare state. Their promise is narrower but still material, to capture a small, durable share of a rent base that is itself expanding, and to channel it into pensions and long term care, turning diffuse contribution into a diffuse claim, creating an additional welfare pillar. Even a low single digit capture rate of the monetised data market amounts to billions annually, and crucially, it does so through contractual leverage rather than through the politically fragile route of headline 'data taxes' in a world of strategic economic and technological rivalry.

¹³ IDC Italia Srl, Lisbon Council and CARSA, 'European Data Market Study 2024–2026: First Report on Facts and Figures' (European Commission, DG CONNECT, Deliverable D2.1, March 2025) 11 (definitions of 'data market' and 'data economy'), Table 50 (Data Market Forecast 2025 and 2030 scenarios) 123

¹⁴ Ibid

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