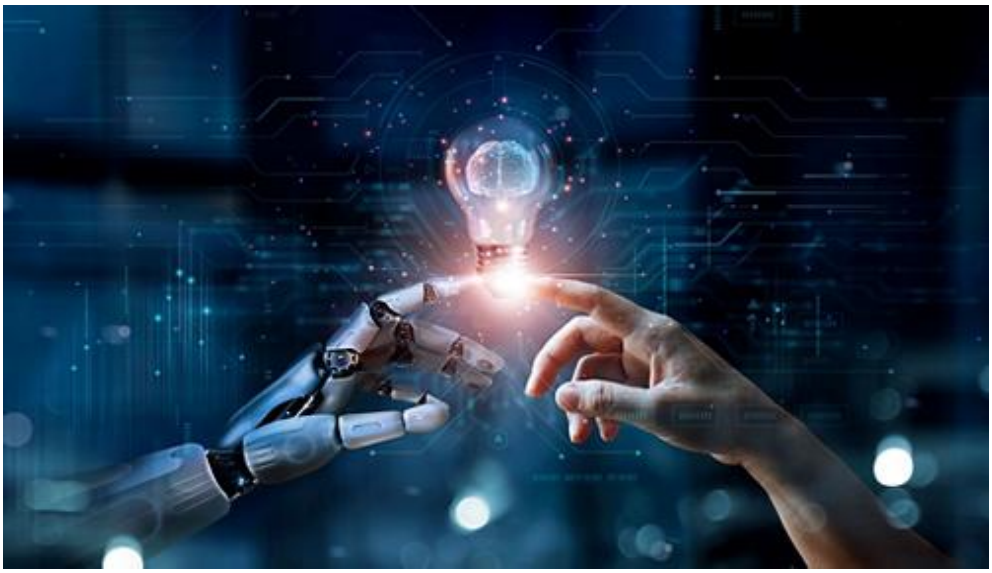
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DATA COMMERCIALIZATION IN VIETNAM UNDER DECREE 386/2026/ND-CP

OVERVIEW

Vietnam is taking further steps to encourage businesses to transform data into commercially valuable products and services. However, developing an innovative data solution involves more than technical capability. Businesses must also consider whether they can lawfully access and process the necessary information, conduct product testing, protect intellectual property rights, and commercialize the resulting technology. Decree No. 386/2026/ND-CP on Data Innovation, issued on October 12, 2026, and effective from December 1, 2026, introduces a framework to support data-driven research, innovation, controlled testing, and commercialization in Vietnam. The decree creates opportunities for both domestic and foreign organizations seeking to participate in Vietnam's developing digital economy.



NEW OPPORTUNITIES FOR DATA-DRIVEN BUSINESSES

One of the decree's significant developments is the establishment of mechanisms through which eligible businesses may access data resources and research infrastructure under defined conditions. Previously, companies developing data-based products could encounter difficulties obtaining suitable datasets, particularly where information was managed by public authorities or subject to access restrictions. Decree 386 introduces coordinated procedures intended to facilitate lawful access to data for qualifying innovation activities.

Businesses seeking access must identify the intended purpose, scope, and duration of data use. Access remains subject to applicable requirements concerning confidentiality, information security, and data protection. For foreign technology companies, these mechanisms may provide opportunities to develop artificial intelligence applications, digital platforms, and analytical services in cooperation with Vietnamese organizations. Nevertheless, participation does not automatically authorize unrestricted data access or cross-border transfers. Companies should therefore assess the legal status of the relevant datasets and the conditions attached to their use before commencing development activities.





CONTROLLED TESTING OF INNOVATIVE DATA PRODUCTS

Decree 386 also establishes a controlled testing mechanism for innovative data products, services, technologies, and business models, particularly where existing regulations have not fully addressed the proposed activities. Under this mechanism, eligible organizations may conduct testing within an approved scope and period through cooperation with the Center for Data Innovation and Exploitation under the National Data Center. The initial testing period may extend up to three years, with a possible extension subject to statutory conditions.

This framework may be particularly relevant to businesses developing artificial intelligence solutions, automated data processing systems, or emerging digital services that require practical testing before commercial deployment. However, participation is subject to continuing obligations concerning risk management, monitoring, information security, and regulatory compliance. Testing authorization should not be treated as equivalent to permission for unrestricted commercial operations. Accordingly, businesses should establish a clear commercialization strategy addressing the transition from experimental testing to lawful market entry.

FINANCIAL INCENTIVES AND COMMERCIAL SUPPORT

Beyond facilitating access and testing, Decree 386 introduces financial support mechanisms for qualifying data innovation projects. Depending on the applicable eligibility requirements, certain projects may receive support covering 50% of eligible data access fees for a period of 24 months. The decree also provides support of up to 50% of qualifying expenses relating to data integration, synchronization, analysis, processing, and protection, subject to an annual ceiling of VND 2 billion per project.

These incentives may help reduce the financial burden associated with developing data-intensive technologies, particularly for innovative enterprises and research organizations. Nevertheless, financial support is not automatically available to every participant. Businesses must satisfy the applicable project approval, eligibility, documentation, and funding requirements. Foreign investors should carefully determine whether their proposed investment structure, participating entity, and development activities qualify before incorporating these incentives into financial projections.



INTELLECTUAL PROPERTY RIGHTS AND COMMERCIALIZATION

An important consideration for businesses participating in data innovation programs is the ownership and exploitation of intellectual property generated during research and development. Data-driven projects may involve proprietary software, algorithms, technical documentation, confidential business information, and newly developed technological solutions. Where a project involves cooperation with the Center or other participating organizations, the relevant agreements should clearly distinguish pre-existing intellectual property from newly generated research results.

Particular attention should be given to ownership, licensing arrangements, confidentiality obligations, and the permitted commercial use of project outcomes. Certain incubation arrangements may require participants to share specified data processing results or technical materials with the Center. Such obligations should be carefully assessed to ensure that commercially sensitive information and proprietary technologies remain adequately protected. Businesses should also consider whether their innovations may qualify for protection under Vietnam's intellectual property legislation, including patent, copyright, or trade secret protection where applicable. Establishing these rights at an early stage can help prevent disputes and strengthen the commercial value of the resulting products.

MARKET ACCESS AND GOVERNMENT PROCUREMENT

Decree 386 may also create opportunities for innovative businesses seeking to supply data products and digital solutions to public-sector customers. Qualifying participants in the National Data Incubator may benefit from exemptions from certain revenue and operating-history requirements in covered procurement procedures. These measures are intended to address difficulties faced by innovative enterprises whose products have technical potential but limited commercial track records.

In certain circumstances, recognized research or testing results may also be used to demonstrate relevant experience in procurement activities. However, these benefits remain subject to specific eligibility requirements and applicable procurement regulations. Participation in an incubation program does not guarantee the award of a government contract. Foreign businesses should additionally consider market access restrictions, investment requirements, and procurement rules when determining the appropriate structure for supplying products or services in Vietnam.



COMPLIANCE OBLIGATIONS AND RISK MANAGEMENT

Although Decree 386 encourages innovation, participating businesses remain responsible for complying with applicable Vietnamese legislation concerning data security, personal data protection, and information management. Organizations must ensure that data is accessed, processed, stored, and shared only within the permitted scope. Relevant obligations may include maintaining processing records, implementing appropriate security measures, reporting incidents, and returning or deleting data when the authorized purpose or access period ends.

International cooperation involving access to data systems under the Center's framework may also require security and data safety risk assessments before implementation. Failure to comply with applicable requirements may result in suspension or withdrawal of access rights and other legal consequences under relevant legislation. Businesses should therefore incorporate regulatory compliance into project planning rather than treating it as a separate issue to be addressed after product development.

CONCLUSION

Decree 386/2026/ND-CP represents an important development in Vietnam's approach to encouraging data innovation and commercialization. By introducing mechanisms for data access, controlled testing, financial assistance, and market participation, the decree offers new opportunities for businesses seeking to develop and commercialize data-driven technologies. However, successful participation requires careful consideration of eligibility, contractual arrangements, intellectual property ownership, data protection obligations, and commercialization requirements. For foreign investors and technology businesses, early legal assessment and appropriate project structuring will be essential to making effective use of the available support while managing regulatory and commercial risks in Vietnam's evolving digital economy.

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