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Press Release

European Data Coalition calls on the EU Institutions to unleash the potential of data transfers

Brussels, 27 August 2015

The European Data Coalition (Coalition) welcomes the efforts the trilogue negotiators on the General Data Protection Regulation (GDPR) have made during their discussions on international data transfers to ensure that Europe's Digital Single Market is open and connected to the wider world. Important steps have been taken in the right direction, for instance by removing the introduction of sunset clauses* to working transfer mechanisms. However, additional improvements should still be incorporated into the final text.

As it stands, the proposed Art. 43.a on data disclosures would continue to place European companies operating in a third country in impossible positions. The demand that European companies receive approval from the European Data Supervisor before complying with lawful requests for information from their host country's authorities could leave companies in a situation in which they are damned if they do, damned if they don't. Either they break European law, or that of their host country.

Additionally, in order to ensure that Europe can grow a competitive digital ecosystem and that global data flows are not needlessly blocked, we urge the trilogue negotiators to preserve "legitimate interest"*** as a justification for certain transfers. In our connected world, with expertise and knowledge scattered internationally, there are often strong reasons for companies to share information across borders in order to benefit from global talent and to better perform support functions. The type of transfers covered here pose no real threat to privacy.

The Coalition has provided concrete examples to the Luxembourgish Presidency of the Council of the EU of the situations in which the "legitimate interest" provision would be used and can provide additional examples where required.

With the internet economy accounting for 21% of economic growth in Europe over the last five years and cross-border data flows forming the backbone of international commerce, the benefits of well-directed changes such as these to the regulation could be considerable.

Rene Summer, the Coalition's Spokesperson, commented "*international data transfers are not a tool for circumvention but are instead compatible with data protection principles and provide a means to boost competitiveness.*"

Talking about companies who did try to get around privacy standards, he added "*it is this unlawful behavior, circumvention of standards, which should be the main target for policy makers and not the tools that responsible companies are using to transfer data*".

The Coalition encourages the EU institutions to take these considerations on board and maintain a dialogue with the industry. It remains optimistic that if this is done, a truly progressive GDPR will emerge. As always, we will continue to contribute to the debate around the remaining trilogue negotiations.

* These sunset clauses would have meant that pre-existing adequacy decisions and authorisations of contractual clauses allowing corporations to transfer data across borders would expire soon after the new rules were adopted.

** In this case, “*legitimate interests*” refers to the broader stakes that the data controller or the data processor have reason to pursue to enable support functions, troubleshooting or internal controls. They must be acceptable under the law and are weighed against the legitimate interests of the data subject

About the Coalition

The Coalition of European Organisations on Data Protection, or European Data Coalition, is made up of twenty European companies, from SMEs to global multinationals and non-profit organisations operating in a variety of sectors on a national, regional and global scale. With an aggregate turnover (2013) of over € 158 billion and some 752,000 employees worldwide, the coalition’s footprint allows it to bring growth, progress and jobs to the EU’s economy.

The Coalition’s members businesses are profoundly different but deeply united by the need for clear roles and responsibilities, open cross-border data flows, balanced codified sanction guide lines, effective one stop shop and absence of overly prescriptive rules as fundamental conditions for long-term growth, competitiveness and prosperity, for both us and the economies in which they operate.

More information on the Coalition and its contribution can be found at: www.europeandatacoalition.eu

Contacts

Rene Summer, Coalition Spokesperson:
rene.summer@ericsson.com

Frederico Do Nascimento Costa, Coalition Secretariat:
frederico.ncosta@communitygroup.eu
+32 (0)471 50 62 84
