



Internet Association

Call to Promote Responsible International Data Flows and Enhance Interoperability Between Asia-Pacific and European Data Protection Frameworks

October 25, 2018

On the occasion of the 40th International Conference of Data Protection and Privacy Commissioners (ICDPPC) in Brussels, Belgium, industry associations and global privacy experts call upon governments to promote mechanisms for international data transfers and secure greater interoperability between privacy frameworks in the Asia-Pacific and Europe, while ensuring the highest standards of protection for personal information.

We applaud dialogue between officials of the European Union (EU) and the Asia-Pacific Economic Cooperation (APEC). Dating back to a Joint Working Team established in 2012, APEC and the EU have sought to collaborate on mechanisms to promote compatibility between regional mechanisms for international transfer, such as the APEC Cross-Border Privacy Rules (CBPR) and the EU's Binding Corporate Rules (BCR). With the EU's General Data Protection Regulation (GDPR) now in effect, there is an urgent need to resume this dialogue to identify commonalities between the approaches of the EU and other regions of the world, particularly the Asia-Pacific.

Privacy and data protection frameworks should reflect the unique economic, legal and regulatory, cultural, and societal attributes of the countries and citizens they seek to protect – and for whom they seek to encourage participation in the digital economy. Recognized international transfer mechanisms, like the APEC CBPRs, can provide a bridge between such frameworks, allowing flexibility in approaches while respecting the laws that govern the collection of data. In the Asia-Pacific – which represents over half of global GDP and is home to one of the world's most dynamic digital markets – 21 participating economies established the APEC Privacy Framework, a set of regional privacy principles endorsed by APEC Leaders, and the APEC CBPRs as a mechanism to enable implementation of privacy principles consistent with this Framework, while promoting cross-border data flows. Effective mechanisms for cross-border data flows between the Asia-Pacific and Europe are paramount, as these two regions represent the vast majority of global data flows.

Enabling the safe, responsible flow of data across borders – while ensuring privacy safeguards that promote trust in the digital ecosystem – is foundational to today's global digital economy. Creating scalable interoperability between differing data protection and transfer regimes will not only increase trade, investment, and economic outcomes for the parties involved, but will unleash innovation, drive access to the global economy for SMEs and individuals, and help deliver health, educational, economic and other benefits to citizens in the world's emerging economies.

Call to Action

In this spirit, we call upon the relevant authorities from the European Commission, the European Data Protection Board, and the APEC Data Privacy Subgroup to undertake the following:

1. The European Data Protection Board (EDPB) should identify the relevant successor subgroup(s) to continue the prior International Transfers Subgroup's (ITS) work with APEC and re-designate a lead rapporteur, as had been previously established by the Article 29 Working Party.
2. The APEC Data Privacy Subgroup should invite this and all other relevant officials to participate in a re-inaugural Joint Working Team meeting at the APEC First Senior Officials' Meeting in Chile in early 2019. The parties should commit to an ongoing dialogue in this and other appropriate official forums.
3. The Joint Working Team should establish a work plan that continues and extends the BCR-CBPR referential to include certification pursuant to GDPR Article 42.
4. The Joint Working Team should encourage robust consultations and input from the private sector on the work plan and developments related to international transfer mechanisms, as industry is best positioned to advise on the potential impacts and practical implementation challenges of specific certification criteria and standards.
5. To allow for the identification of certification commonalities, the EDPB should develop baseline certification requirements for processing operations as part of its European Data Protection Seal under GDPR Article 42, against which the APEC CBPR certification requirements can be mapped.

We stand ready to support government efforts and to drive initiatives by industry, civil society and other stakeholders towards promoting greater interoperability and data flows between the Asia-Pacific and Europe.

The associations and organizations represented by this statement include:

AsiaDPO
Asia Cloud Computing Association (ACCA)
Centre for Information Policy Leadership (CIPL)
GSMA
Internet Association (IA)
U.S. Chamber of Commerce