

Future of Privacy Forum

Introductory speech Andrea Jelinek: The implementation of the GDPR and the work of the EDPB going forward

9 November, 10:30-12:15

Roundtable with 25- 30 CPOs from San Francisco and Silicon Valley companies: Apple, Uber, Salesforce, Workday, Adobe, Cisco, Intel, Visa, Netflix, LinkedIn, Google and others.

Location: Computer History Museum, Mountain View, California

Dear Members of the Future of Privacy Forum,
Dear Ladies and Gentlemen,

It is an honour for me to address you this afternoon on the EU's new data protection legislation, the General Data Protection Regulation (GDPR) and on the work carried out by the European Data Protection Board in the past five months. A special thank you to Jules Polonetsky, who set up this meeting, which I very much hope is going to be a productive two-way conversation. I am most interested in finding out more about your experiences with data protection here in the US, and I would like to hear more about your experiences with the GDPR. From my side, I will shed some light on what it is in the pipeline of the Board. I cannot promise, however, to answer all your questions, but I will most definitely take note of your concerns and priorities and share them with the other members of the European Data Protection Board.

First, as an aside, the GDPR is working (but of course you don't expect me to say otherwise)! On a more serious note, the first feedback from the business community is positive and the level of awareness on data protection issues among citizens has gone up. While the GDPR is no radical overhaul of the data protection principles that were already enshrined in EU law since 1995, it reinforced the possibilities of enforcement and created a lot of awareness among the public and stakeholders, which is a good element.

As Chair of the European Data Protection Board, which brings together the national supervisory authorities, my task is to make sure that all Board members

work together closely to ensure the consistent application of the GDPR. In addition, we provide guidance to the public and stakeholders by issuing guidelines, recommendations and best practices.

To prepare the entry into application of the GDPR on 25 May, 18 sets of guidelines on all novel aspects of the GDPR were adopted following broad public consultations. In addition, since 25 May, we have adopted several new guidelines.

However, it is not my aim today to give you a full overview of all guidance that was adopted. Instead, I want to explain the role of the EDPB and of the national regulators in the context of the GDPR.

The new way of working under the GDPR requires all authorities to engage in intensive debate. Supervisory authorities wear two hats: they are independent national regulators, with powers of their own. But, at the same time, together they now form the European Data Protection Board. Contrary to a common misunderstanding, the Board is not a supranational regulatory authority, but an EU body composed of national regulators working together at equal footing to ensure consistency between their actions.

Let me give an example of the new way of working under the GDPR. Over the Summer we concluded a first major consistency exercise: we adopted 22 opinions, based on common criteria, on the Data Protection Impact Assessment (also known as DPIA) lists of the national supervisory authorities. Each national data protection authority in Europe is required not only to produce a list of processing operations subject to a DPIA according to the GDPR, but also to communicate this list to the EDPB for an opinion. The opinion of the EDPB aims to bring more consistency between the lists of the national supervisory authorities which will help the businesses that conduct processing activities in several European countries. The supervisory authorities now have to adapt their lists in line with the opinion of the Board.

I single out this example because – while it might seem a very technical exercise - it shows very well the type of very useful and concrete work we as Board can and must deliver to help ensure consistency between the national regulators and to help businesses and organisations to be GDPR compliant.

And consistency is of major importance: the goal of the GDPR was to have one set of privacy rules that are interpreted in a uniform way throughout the

continent. Our experience with the previous patchwork approach was that it was expensive and troublesome for companies, led to legal uncertainty and was not sufficiently transparent for citizens. As you know, in Europe we have opted with the GDPR for one overarching law rather than sectoral rules and multiple national legislations. These “common rules of the game” create a level playing field and ensure that data can move easily between operators, while guaranteeing the consistent protection of individuals. This represents a significant reduction in compliance costs for companies active in more than one EU country, as well as increased legal certainty. These are very tangible benefits of the GDPR, especially for foreign operators and smaller companies that do not always have the resources to deal with complex and diversified legal environments.

Secondly, the transparency of a consistent law breeds trust. One of the main goals of the GDPR was to enable a more functional digital economy with more transparency for citizens, which should lead to more trust. Trust has always been at the core of the economy and this is truer than ever before in today’s digital society. I believe that in the US, as much as in Europe, the companies that are able to gain and maintain their clients’ trust, are those that will fare best. I have said it at the International Conference of Data Protection and Privacy Commissioners in Brussels two weeks ago, and I repeat it today: trust is the gold of 21st century (even more so than data).

For me, as Chair of the Board, it is a very interesting time to be here in the US, and especially in the Bay Area, at a time when tech companies and lawmakers are engaged in a high stake debate on federal privacy legislation. The turnaround among many tech companies has not gone unnoticed in Europe: several companies have now taken the lead in pleading in favour of an overarching US law.

There was a good turnout of leading US tech companies at the International Conference of Data Protection and Privacy Commissioners in Brussels, all seeking to engage and discuss with Members of the Board. Jules was there too and I hope you enjoyed the debate, Jules.

As European Data Protection Board we are ready to share our experience and to contribute to your debate on the possibility of a US data protection law at federal level. And we do so, because we believe that in the end we need to

ensure alignment between the privacy protections of different regimes across the globe.

I hope to hear today your expert opinions on the GDPR and on the current debate on an all-comprising federal law, here in the US.

Let me kick off this debate with a first question from my side: have you noticed a greater awareness among your customers and stakeholders about data protection/privacy issues in the past months? What were the main issues they have identified?