

Data Free Flow with Trust

In their Ministerial Declaration of 28 April 2021, G7 Technology Ministers recognised the importance of the work that is ongoing at the OECD to deepen the existing OECD Privacy Guidelines, by formulating guarantees against data localisation and disproportionate government interference. The declaration contains the following section on DFFT, as well as a dedicated “G7 Roadmap for Cooperation on DFFT” as an annex:

G7 Ministerial Declaration, 28 April 2021 - A G7 Roadmap for Cooperation on Data Free Flow with Trust:

The ability to move data across borders is essential for economic growth and innovation. COVID-19 has demonstrated the need for data free flow with trust and its role in the global recovery. We recognise the importance of unlocking the power of data in our economies and our societies, while continuing to address challenges related to privacy, data protection, intellectual property rights, and security. We believe that it is vital we work together to better leverage the potential of valuable data-driven technologies, promote international cooperation to drive benefits for our economies and societies, and ensure personal data are appropriately protected, while recognising our varied approaches to data governance. Building on the 2019 G20 Osaka Leaders’ Declaration, the 2019 G20 Ministerial Statement on Trade and Digital Economy, and the 2020 G20 Leaders’ Riyadh Declaration, we will draw upon our shared values as like-minded, democratic, open and outward looking nations to support a plan of work which realises the benefits of data free flow with trust. To deliver this, we endorse a Roadmap for Cooperation on Data Free Flow with Trust (Annex 2) which sets out our plan for delivering tangible progress on this agenda, building confidence for businesses and individuals to use technology, as well as driving economic and social value. As part of this Roadmap, we will work to accelerate the development of mutually acceptable data sharing practices for agreed priority sectors, and we will build evidence on the economic and societal impacts of data localisation measures. We will also champion progress of the OECD’s work on ‘Mapping commonalities in regulatory approaches to cross-border data transfers’ and on trusted ‘Government access to personal data held by the private sector’.

In the G20 Ministerial Declaration of 5 August 2021 on Data Free Flow with Trust, Digital Economy Ministers recognised the opportunities of data free flow with trust and cross-border data flows, and the need to address challenges (such as those related to privacy, data protection, intellectual property rights and security), including by identifying commonalities between existing approaches and instruments used to enable data to flow with trust across borders. Against this backdrop, they acknowledged the work of the OECD on ‘Mapping Commonalities in Regulatory Approaches to Cross-border Data Transfers’ which identifies the “commonalities, complementarities and elements of convergence” across different approaches, acknowledging that such commonalities can foster future interoperability.

This is a significant change of language by the international community (and notably the G20 and the OECD) that previously tended to put the emphasis on differences/divergences between privacy frameworks and stressed that this was a problem from an economic/commercial point of view that needed to be overcome by making these different/divergent systems “interoperable”. The new language based on commonalities and convergence is clearly much closer to our narrative, and interestingly makes such convergence a pre-condition to facilitate data flows and foster “future” interoperability.

G20 Leaders’ Declaration, Rome 31 October 2021:

48. We acknowledge the importance of data free flow with trust and cross-border data flows. We reaffirm the role of data for development. We will continue to work on addressing challenges such as those related to privacy, data protection, security and intellectual property rights, in accordance with the relevant applicable legal frameworks.

We will also continue to further common understanding and Page 16 of 20 to work towards identifying commonalities, complementarities and elements of convergence between existing regulatory approaches and instruments enabling data to flow with trust, in order to foster future interoperability. Recognizing the responsibility of digital service providers, we will work in 2022 towards enhancing confidence in the digital environment by improving internet safety and countering online abuse, hate speech, online violence and terrorism while protecting human rights and fundamental freedoms. We remain committed to protecting the most vulnerable, and acknowledge the G20 High Level Principles for Children Protection and Empowerment in the Digital Environment, drawn from the OECD Recommendation on Children in the Digital Environment and other relevant tools, such as the ITU 2020 Guidelines on Child Online Protection.”

G7 Digital Ministers’ Declaration, Düsseldorf 11 May 2022

23. Building upon the Leaders’ G20 Rome Declaration, we will strengthen our efforts to further our common understanding and to work towards identifying commonalities, complementarities and elements of convergence between existing regulatory approaches and instruments enabling data to flow with trust, in order to foster future interoperability.

24. With the adoption of the G7 Action Plan for Promoting Data Free Flow with Trust, we express our commitment to strengthening the evidence base for DFFT, building on commonalities in order to foster future interoperability, continuing regulatory cooperation, promoting DFFT in the context of digital trade, and sharing knowledge about the prospects for international data spaces.

G7 Action Plan for Promoting Data Free Flow with Trust

2. Building on commonalities in order to foster future interoperability: Build upon commonalities, complementarities and elements of convergence between existing regulatory approaches and instruments enabling data to flow with trust, in order to foster future interoperability. This may include further analysis of increasingly common practices such as standard contractual clauses and potential of technologies that enhance trust. We also continue to support work at the OECD to identify common practices, including the work of the drafting group on trusted ‘Government access to personal data held by the private sector’, which aims at developing high-level principles on government access to personal data held by the private sector, to facilitate DFFT.

In the “European strategy for data” adopted on 19 February 2020, the College agreed that:

“The EU will also actively promote its standards and its values with its partners around the world. It will work in multilateral fora to fight abuses such as the disproportionate access of governments to data, for example access to personal data that is not in line with the EU’s data protection rules. In order to promote the European model around the world, the EU will work with trusted partners sharing the same standards and values, to support others who wish to give their citizens greater control over their data, in line with values they share with Europe.”

Contacts—briefing contribution:)