

Guidelines on the right to data portability

Danish Insurance Association (DIA) has studied Guidelines on the right to data portability (WP 242 of 13 December 2016) carefully and takes the opportunity to send the following comments to the Article 29 Working Party:

DIA's understanding when reading article 20 in the GDPR is that the main purpose behind the right to data portability is to consider the data subject by making it easy for her or him to switch from one to another supplier.

Having said that and when looking at insurance business DIA is worried when reading the text in the middle of page 8 in the guidelines.

Firstly, we find that the right to data portability may include a huge amount of data especially data from devices (for instance a black box in a car) or services used by the data subject. The data subject will surely neither be able to receive all data nor be able to understand and decide which data should be delivered to the new supplier or any other parties. What will be a good solution for the data subject in such situations?

Secondly, we find that the right to data portability in accordance to article 5,1,c should be limited to relevant information for the data subject. This means for instance that the right to data portability for a data subject having car insurance, house insurance and personal accident insurance in insurance company A and who only wants to switch the personal accident insurance to insurance company B, should be limited to data relevant for the personal accident insurance.

DIA is aware of the fact that the right to data portability is mostly aimed at social media such as Facebook and other similar suppliers. In defiance of that DIA hope that the Article 29 Working Party will take the opportunity to review the guidelines and try to find solutions making the right to portability more useful for data subjects as private policyholders, bearing in mind that policyholders always with reference to article 15 in GDPR have access to all information about themselves. DIA draw the attention to the fact that insurance companies in the EU and their relations to their customers is regulated very strictly and will be it even more when the Insurance Distribution Directive enter into force in February 2018. The directive introduces several information obligations, a "demand and needs test" and several other conduct of business rules. DIA see a need for coordination between the two regulatory regimes to make the best solutions for consumers/data subjects.

DIA is ready to participate in further dialogue concerning the above mentioned concerns.

Finally DIA encourage the Article 29 Working Party in the future to carry through public consultations on draft guidelines before they are published. DIA is aware of the FabLab meetings but find public consultations on specific draft guidelines more relevant to ensure more suitable regulation.

Yours sincerely,