EU GENERAL DATA PROTECTION REGULATION

ASSESSING THE IMPACT AND PREPARING FOR CHANGE

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Stephen Bolinger (TeleSign), John Bowman (Promontory), Phil Lee (FieldFisher)
SESSION OUTLINE

1. **GDPR overview:** state of play, scope of regulation and headline features for business

2. **Thematic discussion:**
   - lawfulness of processing including consent, legitimate interest, automated processing and profiling
   - Data protection by design and default
   - Regulatory approach including the one-stop shop and the application of the accountability principle
   - International data transfers

3. **Q&A:** but you are encouraged to interact with the panel during the session!
**BACKGROUND**

- General Data Protection Regulation (GDPR) is the first comprehensive overhaul of European Union data protection rules in 20 years - it will repeal and replace Directive 95/46/EC

- GDPR will be directly applicable in all EU Member States, adopted in EEA, and will replace existing national law implementations of the Directive

- GDPR remains under negotiation but political agreement is expected in late 2015 or early 2016, with a subsequent two year transition period before the new rules go live
HEADLINE FEATURES

**Worldwide territorial scope:** GDPR will apply to data controllers that process the personal data of EU residents, regardless of location.

**Enhanced rights, additional obligations:** new rules on consent, access rights, profiling, impact assessments, data transfers, and much more.

**One-stop shop:** lead authority model, multilateral approach to transnational cases, new European Data Protection Board.

**Enhanced sanctions:** maximum fine levels likely to be between 2% and 5% of global turnover.
“I am convinced that we can reach a final agreement with the European Parliament and the Council by the end of this year.”
Věra Jourová, Commissioner for Justice, Consumers and Gender Equality  15 June 2015

“This reform is a package and we have the firm intention to conclude by the end of this year.”
Felix Braz, Luxembourg Justice minister  15 June 2015

“We think it’s a very good sign that the Council, Commission and Parliament have all committed to agreeing a unified data protection regulation by the end of this year.”
Jan Philipp Albrecht MEP, LIBE committee, 24 June 2015

“The Data Protection package must be adopted by the end of this year.”
European Council conclusions 26 June 2015
TEN KEY DEVELOPMENTS

- Data Protection Officers
- Explicit consent and lawfulness of processing
- Data portability and access rights
- Right to be forgotten
- Data protection by design and default
- Data transfers and the ‘anti-FISA clause’
- Freedom of expression and journalism
- Measures based on profiling
- Breach notifications
- Data Protection Impact Assessments
ONE-STOP SHOP: “THE THREE C’S”

- Article 51: Competence
- Article 54a: Co-ordination
- Article 58a: Consistency
A ONE-STOP SHOP?

Local case – local establishment (where the main establishment is in another EU member state)

Local Authority Decision

Lead Authority Draft Decision

Does local authority agree with lead authority draft decision?

Will local supervisory authority deal with local case?

Lead supervisory authority

Cross-border case – main establishment

EDPB Decision

Are other concerned authorities engaged?

Do concerned authorities agree with lead authority draft decision?

Concerned supervisory authorities

Consistency mechanism - EDPB

EDPB

Data subject

Data controller

Supervisory authority

Agreement/dispute

Local case – local establishment

EDPB authority

Draft decision

Binding decision

EDPB authority

Local supervisory authority

Concerned supervisory authorities
PLANNING FOR CHANGE

- Identify personal data processing
- Personal data processing statement

- Map to impact model
- Initial impact analysis

- Develop custom model
- Bespoke impact analysis

- Develop change management approach
- Transition roadmap
QUESTIONS