

Cookie Collective

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What evidence is there that the EU's competence and the way it has used it (principally the Data Protection Directive) has been advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK?

Although there are local differences due to implementation into national law, the Data Protection Directive has moved us towards a single EU market for data and associated information society services.

Without the core common ground provided by the DPD it would be much more difficult for UK businesses reliant on cross border movement of personal data to operate and compete for business in key EU markets.

What evidence is there that the EU's competence and the way it has used it (principally the Data Protection Directive) strikes the right balance between individuals' data protection rights and the pursuit of economic growth?

As a whole the DPD has provided the best available balance between the rights of individuals and the pursuit of growth. This can be evidenced by the fact that it is held up internationally as one of the best regimes in the world.

Nevertheless the increasing reach and processing power of information technologies is undermining the protection of individuals and shifting the balance towards the commercial exploitation of personal data in a way that leaves many with no effective understanding or control over how their data is used. There is also increasing awareness that the current laws are no longer fit for purpose.

What evidence is there that the EU's competence and the way it has used it (principally the Data Protection Directive) is meeting the challenges posed by the increasing international flow of data, technological developments, and the growth of online commerce and social networks?

Technological developments since the DPD came into effect have changed the way data is used for commercial gain as well as societal benefits.

Repeated surveys in recent years have shown that consumers are deeply concerned about how their personal information is used without their knowledge.

The growth of the use of Privacy Enhancing Technologies - such as browser extensions and anonymity services - demonstrates a willingness to take more action to defend privacy - even whilst the use of these tools has limited proven benefits.

Massive increases in the use of essentially borderless cloud technologies have created enormous opportunities for economic efficiency, growth and benefit to individuals in terms of new global services. However, the regulatory barriers to the use of these technologies, particularly for organisations that deal with large volumes of personal, often sensitive data, are putting brakes on the potential gains that the technology can deliver.

What evidence is there that proposals for a new EU Data Protection Regulation will be advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK?

The Data Protection Regulation (DPR) is an obvious and necessary response to the challenges of new technologies. It is the only viable mechanism to create a truly open single EU market for information services and data. The simplification of transborder flow mechanisms as well as the one stop shop mechanism for investigating complaints are vastly better for both individuals and organisations than the current situation.

I have some concerns that the changes to the wording approved by the European Parliament create a number of loopholes that will limit the effectiveness of some key consumer protections. In particular there are concerns that the 'legitimate interests' clauses for processing data without consent, will result in lesser protection for individuals in some areas than would be ideal. There are other concerns that the so-called 'pseudonymisation' and 'anonymisation' of personal data have been shown by researchers time and again to be inadequate in the face of massive data aggregation and computer processing power. If there is any risk in the DPR, it is that over the coming years it will prove to be unequal to technological advances that will weaken consumer protections and place more data in the hands of organisations both public and private, that can be used to influence, manipulate and control individuals in a way that could be contrary to their wishes and interests, without them being aware that it is even happening, and with little possibility of redress.

However, as a general strengthening of the rights and protections to individuals, as well as opening up the internal market for organisations, it is better than what is currently in place.

How could action, in respect of information rights, be taken differently at national, regional or international level and what would be the advantages and disadvantages to the UK?

The fundamental interconnectedness of information and global flows of data mean that it would be folly for the UK government to seek to put in place legislation or regulation that did not take this into account.

The future of information rights needs to be seen in an increasingly global context - and this means they need to be agreed and negotiated with all significant market players. This obviously includes the USA. However, this should not be used to create a race to the bottom where the rights of individuals are weakened in the name of short term economic growth.

I see the best result for the UK as being in a single EU data market, and part of negotiations to require US corporations in particular to give EU residents and citizens the same protection as EU organisations are required to do. The advantages to the UK, with our cultural similarities to the US and membership of the EU, would be to give it a strong position for foreign investment, particularly from the US, in UK originated information services that can span both US and EU markets.

What future challenges or opportunities in respect of Information Rights might be relevant at a UK, EU or international level; for example cloud computing?

As noted above, cloud computing - and the potential for better borderless delivery of services that it represents, is a huge opportunity for the UK and global economy. It is also a challenge for all nation states where legislation stops at the border.

As Tim Berners-Lee has said recently, what we need are globally agreed fundamental information rights that put the protection of individuals at their heart. This will help to unlock the next generation of development of information society services.

All national and regional governmental structures need to recognise the importance of this, and work towards this common goal if the future of the internet is going to be protected from Balkanisation. We also need strong protections in order to give consumers confidence that

their interests are protected in the global marketplace. This is what will see the true benefits of cloud computing released and shared amongst us all.