



UK-JP CEPA - a good deal for data protection

Key points

- The UK-Japan Comprehensive Economic Partnership Agreement (CEPA) is symbolic of our vision for the UK to be a global hub for digital trade. Now that we have left the EU, we have the opportunity to push new frontiers in this important area.
- The UK and Japan are like-minded countries, committed to enabling data to flow between us whilst maintaining the highest data protection standards.
- UK data protection laws are not undermined or changed by the deal with Japan - any transfers of personal data to Japan must satisfy the UK's high data protection standards.
- The UK-Japan deal does not change existing measures in relation to onward transfers of personal data. Personal data that is transferred to Japan from the UK cannot be sent to other countries with lower data protection frameworks without appropriate protections being in place.
- Japan, like the UK, has a robust domestic regime in place that provides for adequate protection of personal data, including when it is transferred across borders.

UK-Japan CEPA Overview

- International data flows are vital for supporting the modern lives that we lead in the UK. This is more important than ever before with increased digitalisation as a result of Covid-19.
- CEPA ensures that data can flow between the countries while maintaining high data protection standards.
- We share a common interest in addressing unjustified barriers to digital trade and shaping rules that govern the cross-border flow of goods, services, and data in the digital economy.
- Our aim is to ensure that citizens' desire for privacy is maintained around the globe, creating a consistent environment for business and confidence from consumers.

Data provisions in the UK-Japan CEPA

Data Protection: UK citizens will enjoy the same protections for their personal data as they did before the deal. Nothing in the deal compromises that.

- UK data protection laws are not undermined or changed by the deal with Japan - any transfers of personal data to Japan must satisfy the UK's high standards of data protection.
- The UK is committed to maintaining high standards of protection for personal data, including when it is transferred across borders. The rights of UK users are not impacted by the deal with Japan and data protection standards will not be lowered as a result of the deal. UK data protection rules - enshrined in the Data Protection Act 2018 and GDPR - will continue to apply.
- CEPA does not interfere with the high level of protection afforded to personal data which is transferred out of the UK under the UK's data protections laws.

Data Flows: by removing unjustified barriers to trade, we are ensuring data can flow and trade can flourish between the UK and Japan

- The deal removes unjustified barriers to data flows to ensure UK companies can access the Japanese market and provide digital services. It does this by limiting the ability for governments to put in place unjustified rules that prevent data from flowing and create barriers to trade.
- The deal does not mandate that data must flow. Rather, the provisions clear the way for the flow of data between both countries for business purposes. As such, the deal would not force UK citizens' health data to be shared, it simply ensures that when data needs to flow across a border it can do so without coming up against unjustified barriers.
- As noted above, CEPA does not interfere with the high level of protection afforded to personal data which is transferred out of the UK under the UK's data protections laws.

Data Storage: will reduce the risk of costly and burdensome requirements being introduced in future

- CEPA includes a ban on unjustified data localisation. This prevents either country from requiring that the computing facilities that store the data are located in that country as a condition of doing business there.
- This means UK businesses operating in Japan can plan their business growth and use existing servers without worrying about the extra cost of setting up new data servers in Japan.

None of the above affects the UK's personal data protection laws and standards, which will not be lowered as a result of the deal.



Annex:

Response to misinformation in the public domain

In addition to the overarching analysis presented above, we would like to address a number of claims about the detail of the data provisions within the UK-Japan CEPA that are being propagated publicly.

Claim: The UK-Japan deal forces the UK to accept data protection frameworks which have lower standards

Nothing in the agreement undermines the UK's data protection framework. Likewise, the deal does not require either party to accept lower data protection frameworks as equivalent with their own. In fact, the agreement contains a commitment to maintaining comprehensive legal frameworks to protect personal information (Article 8.80.2). The UK does this through our domestic data protection legislation including the Data Protection Act 2018 (DPA).

Claim: the UK-Japan deal means that both countries are required to send data to the other. This includes personal, and health, data.

This is not correct. The provisions clear the way for data to move between countries for business purposes. Any resulting transfer of personal data would still need to adhere to the UK's data protection legislation.

Claim: This complex interplay of nations, laws, and trade deals could provide the blueprint for a patchy mess of regulations. This would establish the UK as a hub for "data washing" - the digital equivalent of money laundering.

The claim of the risk of data laundering or 'data washing' is unfounded. Through the UK's data protection legislation, the UK maintains high levels of data protection both domestically and with our trading partners. The deal with Japan does not alter the UK's existing data protection framework and legal safeguards for personal data.

Claim: The UK-Japan deal would allow UK data to pass through Japan and on to other countries with lower data protection frameworks, including by permitting transfers under the APEC CBPR model.

Following the end of the Transition Period, transfers of personal data from the UK to Japan will continue to be protected by UK GDPR and the Data Protection Act 2018, under the preserved effect of the EU's adequacy decision for Japan. This recognises that there are appropriate protections in place when personal data is transferred from Japan to other countries and does not provide for the onward transfer of UK or EU data using APEC CBPR.