



# Responsible Corporations & Data Protection In A Globally Connected World

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## ❑ I apply for a new bank account

- My identity is verified
- My risk profile is populated
- A unique product is developed
- My permissions are sought and validated
- Agreements are reached
- Money moves

## ❑ Raising the questions;

- How much data were used?
- How many locations did it touch?
- How many systems were refreshed?
- Who had enforcement authority and when did they have it?

## ❑ Welcome to the analytics-driven economy

# Conference Challenge

- ❑ How do we assure data protection in a world in which data do not respect borders?
- ❑ Many believe the answer lies with organisational accountability
- ❑ But what does accountability mean, and how do we measure it?
- ❑ This presentation will look at those issues

# OECD Global Privacy Dialogue

- ❑ OECD Global Privacy Dialogue led to the work that will be discussed in this presentation
  - Galway paper looks at essential elements for accountability
  - The Privacy Projects paper by Professor Paul Schwartz looked at specific data transfers at six leading companies
- ❑ The papers help us understand the application of the OECD accountability principle
- ❑ Conclusion is that accountability is dependent on responsible companies

# What Has Changed

- ❑ Professor Paul Schwartz, author of The Privacy Projects study:
  - In the past point-to-point transfers
  - Today “Multipoint, continuous data transfers with an expanded number of participants”
- ❑ We often underestimate how habitual cross-border data transfers have become
  - As organisations and individuals we move our data as we use it, often without thinking about it

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# What Does This Mean For Our Approach to Governance?

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- ❑ Data no longer stay in one jurisdiction
- ❑ Its movement are not always easy to map before transfer
- ❑ The jurisdictions will be many and varied
- ❑ Determining an organisation's commitment and privacy management becomes more manageable than judging the jurisdictions where data may be seen and touched

# Accountability is the Score

- ❑ Established in guidance
  - OECD
  - APEC
  - PIPEDA
  - Joint standard we are discussing in Madrid
- ❑ Limited guidance on how and what we measure

# So How Does One Measure Accountability?

- ❑ This has been a challenge
  - Binding corporate rules
  - Cross-border privacy rules
  - US security requirements
  - Canadian PIPEDA requirements
- ❑ Comparing policies to laws and principles has been an approach
  - But it is incomplete
- ❑ One must measure the willingness and capacity to comply

# Galway Project

- ❑ Define the essential elements of accountability
- ❑ Work with global experts to develop and discuss
- ❑ Facilitated by the Office of the Irish Commissioner
- ❑ OECD and BIAC sponsored plenary
- ❑ Centre acted as secretariat
- ❑ Paper published in October

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# The Essential Elements

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1. Organisational commitment to accountability and adoption of internal policies consistent with external criteria
2. Mechanisms to put privacy policies into effect, including tools, training and education
3. Systems for internal ongoing oversight and assurance reviews and external verification
4. Transparency and mechanisms for individual participation
5. Means for remediation and external enforcement

# Attributes of Accountable Organisations

- They:
  - Have sound policies based on law and public expectations
  - Build privacy in from start to finish
  - Understand data and risks from collection to destruction
  - Validate their programs
  - Correct their mistakes and make good
- Privacy is professionally managed
- To be accountable, responsible organisations must be answerable for the manner in which they manage information

# Prerequisite for Accountability

- Professor Schwartz recent work noted:
  - The professionalization of corporate data protection
  - The shift to a process-oriented approach
  - The call for accountability-based data protection governance
- He found the two trends are linked together
  - The process-oriented professional approach to corporate data protection is a necessary prerequisite for accountability

# Responsibility to Accountability is a Work in Progress

- ❑ Accountability builds on the professionalism noted by Professor Schwartz
- ❑ We need the mechanisms to judge an entire programme in an objective manner
- ❑ The infrastructure for oversight must grow
- ❑ Clear objectives for data protection must come from global bodies such as this