

1 Myth: The data protection regulation will stop the free flow of data and harm the European economy

Currently, rules are not harmonised in Europe, instead we have a fragmented market situation where businesses have to comply with 27 different sets of data protection legislation. The regulation will create one law and a unified digital single market for the entire continent, facilitating the free flow of data.

Moreover, the digital economy needs trust and consumer confidence in order to be able to flourish. There are numerous opinion polls that show a profound lack of trust, both among EU and US citizens, that “self-regulatory” solutions have failed to change. A harmonisation in Europe will transform a disadvantageous situation for European SMEs and start-ups into one that gives them a global competitive advantage.

2 Myth: Disparate privacy rules on both sides of the Atlantic pose a threat to a robust ecosystem of innovation-based growth

The United States and European Member States are completely different jurisdictions. The EU is currently seeking to harmonise respect for the fundamental right to privacy in 27 nations with highly diverse legal systems. Companies providing services that target European citizens will need to respect privacy legislation, as they currently need to respect any piece of legislation (such as in relation to the environment or health) which the EU has deemed necessary.

3 Myth: Strong privacy legislation means administrative “burdens”

Competitive markets need coherent, predictable, well-enforced legislation – the “burdens” are minimal compared with the benefits. Bizarrely, parts of business that are lobbying against strong data protection are calling for more complexity – with each data processing activity categorised on “case by case” basis to determine whether specific identification numbers, location data or online identifiers should “in accordance with [changing] technological developments” be considered as personal data, with differing rules based on whether the data are theoretically (but not necessarily in reality) anonymous, pseudonymous or “personal”.

4 Myth: Self-regulatory measures would be sufficient, over-regulating will lead to more expensive offers for end-users

The experience in the USA is that self-regulation simply does not work. For example, when Microsoft decided to implement a default “do-not-track” option in Internet Explorer, the online advertising companies said they would simply refuse to comply.¹

5 Myth: Explicit consent means that every single interaction online would need positive identification of end-users

Companies would simply need to show that an end-user could only have used the service if they had provided explicit consent for the processing of their data. Lobbyists who argue that this is not the case are simply not telling the truth.

By re-affirming the principle of informed consent, the proposed regulation strengthens control and transparency, which are crucial elements for rebuilding trust in the online environment. Particularly in an online environment, transparency regarding the use of personal data will increase.

¹ http://www.computerworld.com/s/article/9233030/Yahoo_to_ignore_Microsoft_s_Do_Not_Track_signal_from_IE10