European Commission

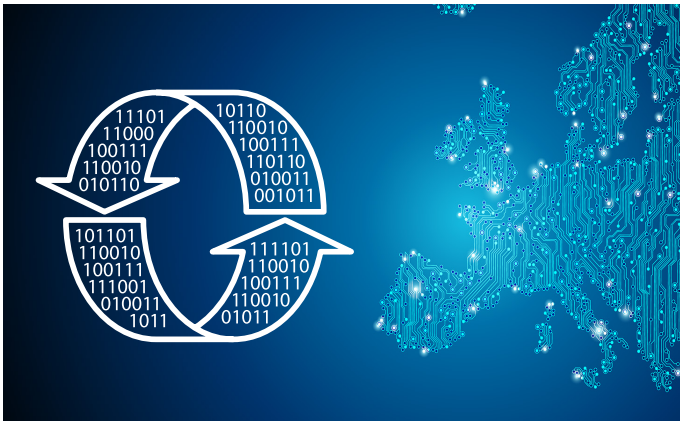
Digital Single Market

FREE FLOW OF NON-PERSONAL DATA

#DigitalSingleMarket

What is the free flow of non-personal data?

Free flow of non-personal data means unrestricted movement of data across borders and IT systems in the EU. It is a key building block of the Digital Single Market and considered the most important factor for the data economy to unleash its full potential and to double its value to 4% of GDP in 2020. The new measures are in line with already existing rules for the free movement and portability of personal data in the EU.



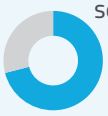
What was the situation previously?

The European Commission has identified 4 types of obstacles to data mobility within the EU:

Data localisation restrictions by Member States' public authorities[1]

62% of surveyed respondents stated that **data localisation restrictions** should be **removed**

Obstacles to movement of data across IT systems (so-called vendor lock-in)[1]



72% of surveyed SMEs that use cloud services **intended to switch providers**

57% of these **experienced difficulties** in doing so

Legal uncertainty leading to caution on the market regarding cross-border data storage and processing[1]

Complex EU legal patchwork applicable in different sectors/situations, but **lack of overarching principle** of free flow of non-personal data

55% of surveyed respondents believe that legislative action was necessary

Lack of trust due to security risks and concerns about the cross-border availability of data for regulatory purposes

57% of **large businesses**

and

38% of **SMEs**

lack trust due to **risks** of **security breaches**[2]

[1] Synopsis Report of the Public Consultation "*Building a European Data Economy*"
Annex to the Synopsis Report of the Public Consultation "*Building a European Data Economy*".
ec.europa.eu/digital-single-market/en/news/summary-report-public-consultation-building-european-data-economy

[2] From Eurostat, "*Factors limiting enterprises from using cloud computing services, by size class, EU-28*", 2014 (% enterprises using the cloud); ec.europa.eu/eurostat/statistics-explained/index.php/Cloud_computing_-_statistics_on_the_use_by_enterprises

Updated 28 May 2019

Timeline of this initiative

13 September 2017	19 June 2018	4 October 2018	9 November 2018	18 December 2018	29 May 2019
Commission published the proposal	Political agreement reached between Council and the EP	European Parliament votes on the legislative proposal	Adoption by the Council of the EU	Regulation comes into force	Commission publishes Guidance on rules applying as of 28 May 2019

What has been agreed?

One single principle across the EU, guaranteeing free flow of non-personal data:

- The **free flow of non-personal data principle** removes unjustified data localisation restrictions imposed by public authorities, enhancing legal certainty and raising trust.
- The principle of **data availability for competent authorities** makes sure that the data remains accessible for regulatory and supervisory control also when stored or processed across borders in the EU.
- Actions to encourage cloud service providers to develop self-regulatory **codes of conduct** for easier switching of provider and porting data back to in-house servers, which must be implemented by mid-2020.
- **Security requirements on data storage and processing remain applicable**, also when businesses store or process data in another Member State. The same applies when they outsource data processing to cloud service providers.
- **Single points of contact** in each Member State, to liaise with other Member States' contact points and the Commission to ensure the effective application of the new rules on the free flow of non-personal data.

What are the benefits for the EU?

A basis to maximise the full potential of the Digital Single Market[3]:

Lower costs for data services and greater flexibility for companies could boost the EU GDP by 4% until 2020[3].

- Easier to do business across borders in the EU (no more duplication of data storage facilities).
- SMEs and startups will scale up more easily and enter new markets across borders.
- The new rules complement existing rules for personal data that have applied since 25 May 2018. Together both frameworks will enable free movement of all types of data in the Single Market.
- Potential savings of up to 55% for service providers. Lower prices for users of data storage and processing services.
- A competitive EU Single Market for secure, reliable and affordable cloud services.
- Enabling the scale-up of innovative data services across the EU.

Examples of predicted additional revenue by sectors (2015-2020) assuming that data localisation restrictions are removed[4]:

Manufacturing	Distribution, retail & hotels	Finance & business services	Government, education & health
+ €1.9 billion	+ €4.5 billion	+ €2.5 billion	+ €1.5 billion

[3] This legislative proposal is the most important factor in leading to the 'high-growth scenario' of 4% additional EU GDP, from study SMART 2013/0063, IDC, "European Data Market".
'Savings of up to 120% ...': from study SMART 2015/0016, London Economics "*Facilitating cross border data flow in the Digital Single Market*", ec.europa.eu/digital-single-market/en/news/facilitating-cross-border-data-flow-digital-single-market.

[4] From study SMART 2014/0031, Deloitte, "*Measuring the economic impact of cloud computing in Europe*".

Guidance on free flow of non-personal data

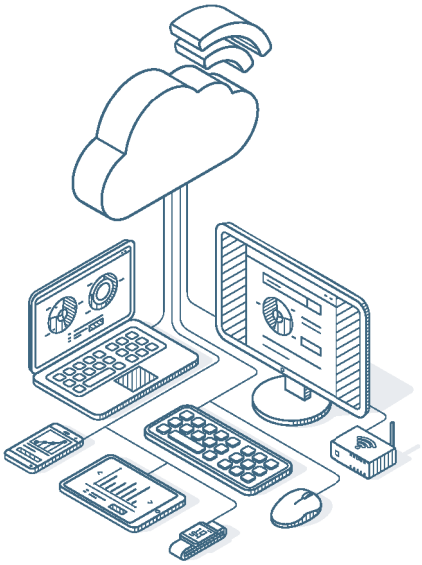
The Commission's guidance aims to help users – in particular small and medium-sized enterprises – understand the interaction between the Regulation on the free flow of non-personal data (FFD) and the General Data Protection Regulation (GDPR), especially as regards datasets composed of both personal and non-personal data.

Examples of mixed datasets:

- A company's tax record, mentioning the name and telephone number of the managing director of the company;
- Datasets in a bank, such as those with client information and transaction details;
- A research institution's anonymised statistical data and the raw data initially collected, such as the replies of individual respondents to statistical survey questions;
- Analysis of operational log data of equipment in the manufacturing industry.

Personal versus non-personal data:

- The GDPR's free flow provision applies to the personal data part of the dataset
- The free flow of data Regulation applies to the non-personal data part of the dataset

The two Regulations will function together to enable the free flow of any data, creating a common European space for data.

If a business processes mixed datasets, neither the FFD nor the GDPR obliges it to separate or store personal and non-personal data separately. If it decides not to separate them and process them as mixed datasets, the data protection rules will apply to the entire mixed dataset. The FFD and the GDPR together create legal certainty for companies, and guarantee that personal and non-personal data (even when they are included in a mixed dataset) can move freely within the EU. Therefore, companies can decide to store, transfer or process the mixed dataset anywhere in the EU, where they think it is the most beneficial for them.