



Towards a European Free Flow of Data Cooperation Framework

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The digital revolution is built on data

Most economic activity will depend on data within a decade
Potential of the data-driven economy

2015

2020


€272 bn


With adapted policy
& legal solutions

€739 bn

 1.9% GDP

 3.17% GDP

 6 million
people
employed

 7.4 million
people
employed

Creating a European Digital Economy and society with growth potential

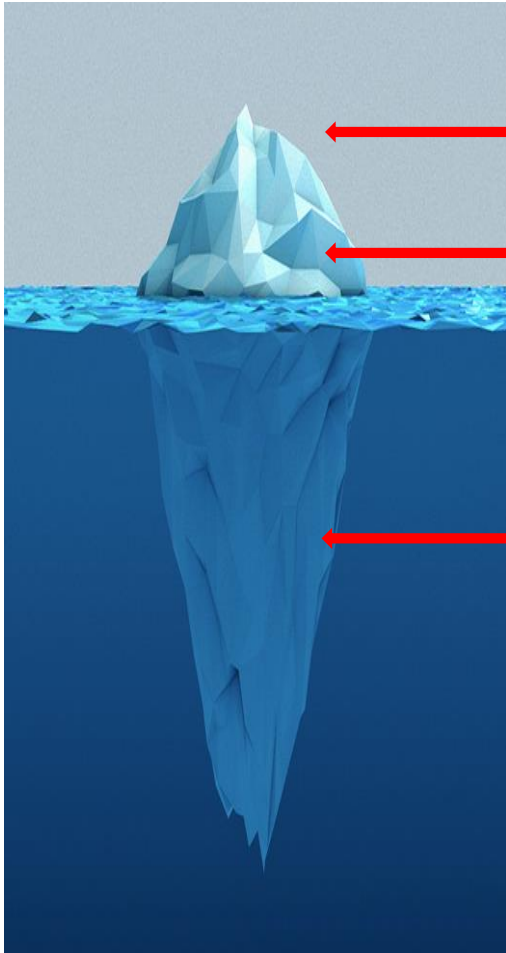


Pillar 3 ECONOMY & SOCIETY

Ensuring that Europe's economy, industry and employment take full advantage of what digitalisation offers.

- Digitising industry ✓
- Cloud ✓
- Inclusive digital economy and society ✓
- e-government ✓
- Standardisation & interoperability ✓
- Digital skills ✓
- **Data economy** ✓

The data localisation problem



Around **50 restrictions** – legal and administrative rules identified so far

Restrictions yet **to be discovered** (e.g. regulatory practices, public procurement requirements)

Strong **perception** by businesses and public sector organisations of the need to localise data in a particular Member State, including perceived threat of unfavourable regulatory scrutiny if data is not stored and processed locally

Barriers to data-based innovation

- *Data localisation restrictions, legal uncertainty and lack of trust, leading to:*
- **Suboptimal cross-border business & investment conditions in the EU**
 - **Obstacles to innovative cross-border data ecosystems in Europe**
 - **Duplication of IT expenditure for user companies**
 - **Perceived risk of vendor lock-in undermining technology adoption/ lack of data portability in the B2B context**
 - **Insufficient cloud uptake (ca. 20% of European companies)**
 - **Inefficient allocation of data centres leading to higher costs for users**

Lock-in effect / Data Portability

- Data flows imply that **data can be exported** from one cloud service provider in order **to be imported** to another cloud service provider of the user's choice or back to the user's own system on premises
- **Portability of data** in the cloud context refers to the ability to **easily transfer** data from one system to another without being required to re-enter data
 - *It is often impossible for cloud customers to get their data from a cloud service provider (customer "lock-in")*
 - *The technical features to export the data are under-developed or they are not functioning properly*
 - *Data portability options are costly*

Digital Single Market Strategy

10 May 2017: Mid-Term Review adopted - COM(2017) 228

Chapter on the European Data Economy:

"The Commission will by autumn 2017, subject to Impact Assessment, prepare a legislative proposal on the EU free flow of data cooperation framework which takes into account the principle of free flow of data within the EU, the principle of porting non-personal data, including when switching business services like cloud services as well as the principle of availability of certain data for regulatory control purposes also when that data is stored in another Member State".

Outcome of Structured Dialogue & Bilateral Meetings with the Member States

Main Challenges identified:

Legal Uncertainties

- *Existing/Emerging/
Perceived Data Localisation
Restrictions*
- *Patchwork of EU rules*
- *No precedent case law*
- *Lack of adequate, effective
and comprehensive rules*

Lack of Trust

- *Data security
risks/concerns*
- *Uncertainties on
availability/cross-border
access to data*
- *Risk of vendor lock-in &
anti-competitive behaviour*



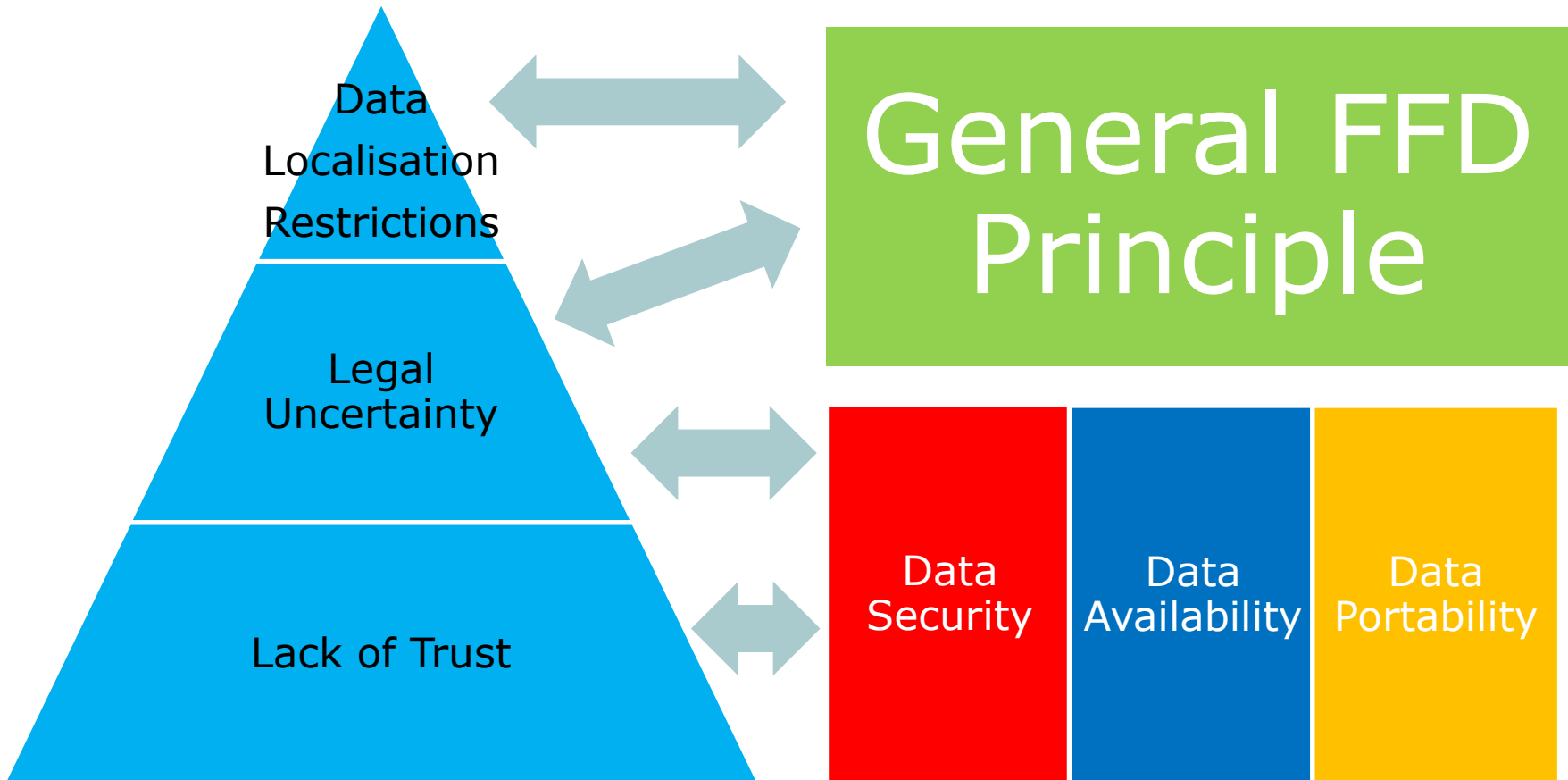
Support for legislative action

Public Consultation

- *380 responses, 113 position papers*
 - 308 businesses
 - 25,3% SMEs or Start-ups
 - Predominant sectors: IT, automotive, manufacturing
 - **Majority of respondents sees high/medium impacts from data localisation restrictions**
 - **Greatest impacts perceived on costs and on the ability to launch new products/services**
 - **Demand for services allowing for portability of non-personal data but the offer of portability features is limited**

FFD Iceberg

FFD Building Blocks



Synthesis - Free flow of data needed for growth

- Creating a **single market** for data processing / storage services
- Ensuring **legal certainty** for users and providers of data-services
- Enhancing IT **expenditure efficiency** of European businesses by 20% to 50% through cloud adoption (Deloitte 2016)
- Ensuring **availability** of data to relevant authorities
- Stimulating **data-based innovation** by technology (AI, machine learning, virtual reality) in sectors like manufacturing, transport, finance