

EU survey outlines privacy state of play

Less than a decade after the introduction of the EU Data Protection Directive, the European Commission has conducted a major survey into consumer and business perceptions of privacy legislation throughout the EU. **Lilly Taranto** examines the findings and looks at the implications for businesses operating in Europe.

The European Commission's survey, published in March this year, is divided into two sections: the first part concerns organisations' perception of data protection law, while the second presents the findings relating to individuals' awareness of, and attitudes towards, privacy issues.

BUSINESS PRIVACY PERCEPTION

The first section of the Commission's survey solicited responses from over 3,000 people who were responsible for privacy compliance, including data protection officers and IT, HR and marketing managers. Differences in business attitudes to data protection varied from country to country, depending upon how member states had implemented the Data Protection Directive. There were also differences between industry sectors.

The survey covered the following topics:

- the perception of existing data protection legislation
- internal data protection compliance; and
- how companies perceive non-compliance with existing legislation.

PERCEPTION OF EXISTING LAW

A majority of respondents (54 per cent) rated the level of protection offered by their respective data protection laws as 'medium'. Although this finding was generally the same across all EU countries, there were differences with regard to the industry sector and size of the company involved. The service sector rated the level of data protection as 'high', whereas the construction sector rated the level 'low'. Moreover, larger organisations tended to regard the level of data protection as high.

The results imply that data protection has penetrated business culture and

is deemed important in most businesses, especially larger organisations. However, the results suggest that there is a need for more data protection information and training to help bring their business practices in line with national and European legislation.

The high level of data protection awareness is reaffirmed by the fact that the vast majority of companies (91 per cent) agreed that data protection legislation is necessary to safeguard consumers' rights.

Nearly half (44 per cent) of the respondents believed that harmonisation of EU data protection laws is not sufficient. This view was prevalent across all EU countries, especially in larger companies and where the respondents came from marketing departments. It demonstrates that many organisations see data protection as limiting the free movement of personal data and obstructing their business processes. It reinforces the need for national authorities to work together to ensure harmonisation and reduce the differences in their legal approaches.

INTERNAL PRIVACY COMPLIANCE

Respondents to the survey were asked whether they used 'Privacy Enhancing Technologies' (PETs). Less than a third of respondents (32 per cent) indicated that they used this kind of technology - the sector with the highest use of PETs was the service sector. This finding implies that companies are resistant to PETs probably because of the perceived limitations that these technologies may impose, but also because of the costs involved. However, these technologies would highly benefit companies by enhancing legal compliance.

Only one in ten respondents indicated that their company transferred data outside the EU. The highest levels of transfers occurred in larger compa-

nies and in the industrial sector. Customer data was the most common type of information transferred overseas (52 per cent). The low level of transfers outside the EU suggests that most transfers occur either nationally or within the EU.

Most respondents indicated that much of the information they are required to provide to customers is not made available to them. Less than half informed consumers about their right to access personal data or provided details on how their information will be used. Larger companies tended to be more upfront as they are exposed to a greater number of customers and are processing large quantities of data. Only 37 per cent of respondents said their organisations reveal the contact details of the person within the organisation responsible for data protection compliance and only 31 per cent replied to individuals' requests.

These findings show that compliance with data protection legislation is far from being achieved, since only larger companies tend to be compliant. This is exacerbated by the low level of complaints. Only 4 per cent of respondents indicated that they had received a privacy-related complaint. This translates to a low incentive for companies to become compliant.

PERCEPTION OF NON-COMPLIANCE

39 per cent of respondents believed that it is the lack of knowledge of data protection legislation that accounts for non-compliance. 28 per cent indicated that deliberate non-compliance is due to the lack of enforcement action taken by national regulatory authorities. Some (17 per cent), however, believed it is due to the fact that companies' adaptation to the new requirements is time consuming - a view that was more

prevalent among larger organisations. Finally, only nine per cent indicated that it is due to the lack of flexibility in data protection law. These findings imply that there is a strong need for education and training to improve knowledge and highlight good compliance procedures.

INDIVIDUALS AND DATA PRIVACY

The second part of the European Commission's survey looked at citizens' views on how companies protect their personal data, questioning over 16,000 people across the EU.

Interestingly, the survey revealed that fundamental variations in attitudes towards privacy issues were based on a country-by-country basis, rather than on a particular socio-demographic characteristic. This implies that data protection is deemed more important in some EU countries than in others.

The results of the survey covered individuals' level of trust in organisations (such as banks and insurance companies, mail order and market research companies), their attitudes towards privacy, and their knowledge of data protection legislation.

LEVELS OF TRUST

On average, 60 per cent of individuals were concerned about the protection of privacy with deep variations between countries – only 9 per cent were concerned in Greece, whereas 38 per cent were concerned in Finland.

Individuals' trust varies from sector to sector. 48 per cent of individuals do not trust insurance companies and banks, although this figure differs between countries. 71 per cent of Greeks, for example, do not trust insurance companies and banks, but 77 per cent of Finns do. The variation in results could be because some countries have had high profile cases involving the financial services sector which has raised the public's awareness of privacy.

The results show that the banking and insurance sector needs to invest internally and externally to become more trustworthy and legally compliant. Good compliance practices will help to avoid business risks such as fines, negative PR, and damaged reputation to the financial services sector in general.

The importance of investing in

legal compliance is also relevant for employers, market research companies and, to a greater extent, for mail order companies. The belief that employers could be trusted to use personal information in an acceptable way was held by 55 per cent of individuals polled. Danish organisations were the most trusted employers. Although mail order companies' image has improved slightly over time, their use of personal information is still not trusted by 68 per cent of individuals across the EU, and this figure rises to 75 per cent in France.

Market research companies were trusted by 43 per cent of individuals polled, with high levels of trust in Denmark, but low levels in Ireland.

Companies maintain that compliance is time consuming and the low rate of prosecutions discourages them from becoming compliant.

VIEWS ON PRIVACY

Nine out of ten individuals agreed that they should be informed why organisations are gathering their data and whether they share it with third parties. This result was high in all EU countries and demonstrates that there are high levels of concern. The results imply that organisations handling personal data must be more effective in providing individuals with information on how they process and control their data.

KNOWLEDGE OF PRIVACY LAW

The survey found that while most individuals said that the level of protection provided by data protection laws was high, they also indicated that general levels of awareness were rather low. This implies a need to provide more education and information to individuals on data protection legislation.

This need is confirmed by another set of results regarding individuals' knowledge of their rights, which reveal that individuals have low awareness of:

- the existence of national data protection authorities (68 per cent unaware)
- the right to access and correct data (68 per cent unaware – only 7 per cent of those that were had exercised this right)
- the right to know why their details are being collected (58 per cent unaware)
- the right to opt-out from marketing contact (51 per cent unaware); and
- the right to consent to certain types of processing (51 per cent unaware).

CONCLUSIONS

The findings of the survey indicate that businesses are willing to become compliant and that individuals are concerned about their personal data. However, both individuals and businesses do not have a sufficient level of awareness of data protection legislation. Companies maintain that compliance is time consuming and the low rate of prosecutions discourages them from becoming compliant.

Despite the lack of incentives, companies must become compliant to avoid business risks linked to negative PR, obtain individuals' trust and, as a result, acquire more customers. An incentive for companies to become compliant could derive from individuals' improved knowledge of the law and their rights. Individuals who are better educated and informed about privacy would be more likely to exercise their rights and demand that organisations adopt robust compliance practices.

However, national authorities will have to invest more resources in data protection education and information in order to ensure higher levels of compliance across the EU.

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FURTHER INFORMATION: The European Commission's data protection survey can be found at: http://europa.eu.int/comm/internal_market/privacy/lawreport_en.htm#actions
