

Commissioner Věra Jourová
Commissioner for Justice, Consumers and Gender Equality

(by e-mail)

6 February 2019

Dear Commissioner

I am writing on behalf of the International Regulatory Strategy Group (IRSG), one of the leading cross-sectoral groups in Europe focusing on regulatory issues. The IRSG comprises, and draws upon the expertise of, senior practitioners, including firms that are headquartered in the UK, EU and internationally.

One of the key issues for the IRSG is ensuring the continued free flow of personal data between the UK, EU and third countries when the UK leaves the EU; member firms, as well as their clients, rely heavily on the frictionless flow of personal data across national boundaries.

The IRSG believes that the most legally sound and stable option of ensuring the continued ability to transfer personal data between the UK and the EU27/EEA and international destinations, is to secure mutual adequacy decisions between the EU and UK and we strongly support the UK government's wish to begin an adequacy assessment as soon as possible.

With the significant increase in the risk of a no deal for Brexit, the IRSG is concerned that insufficient measures are in place to ensure the continued and uninterrupted flow of personal data post Brexit. The UK government has taken steps, on a transitional basis, to ensure the continued flow of data from the UK to the EEA countries, and UK-based firms are preparing for no-deal by putting alternative data transfer arrangements in place, as provided for under GDPR.

However, we are concerned at the levels of preparedness by EU-based firms, who will continue to need to transfer personal data to the UK following its departure from the EU. The guidance they have been given requires them to rely on the provisions under the EU GDPR, as applicable to all non-equivalent third countries. IRSG members who are based in the UK have indicated low levels of requests from EU-based firms to agree to e.g. Model Contracts. This would imply that EU firms are unaware of the regulatory risk, or believe that there will be some form of regulatory forbearance. We believe the failure of EU firms to act now could have a significant impact on vendor, customer and other relationships going forward, where EU-based firms are sharing personal data with the UK.

For financial organisations, examples of data transfers from the EU to the UK include:

- 3rd party supplier agreements;
- HR processes such as recruitment, access to training systems, performance management;

In the light of this situation, we recognise that a more immediate solution is required. We believe that a temporary adequacy agreement would provide the best option. Should this not be possible before 29 March 2019, other options could include a period of non-enforcement (similar to the Safe Harbour precedent) to safeguard personal data transfers from the EU to the UK, to avoid unprecedented disruption to firms and individuals.

Yours sincerely



Mark Hoban
IRSG Chair

cc:

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