Data Localization Laws and Policy

The EU Data Protection International Transfers Restriction Through a Cloud Computing Lens

W. Kuan Hon, Solicitor, Editor, Encyclopedia of Data Protection and Fellow, Open Data Institute

Countries are increasingly introducing data localization laws, threatening digital globalization and inhibiting cloud computing adoption despite its acknowledged benefits. This multi-disciplinary book analyzes the EU restriction (including the Privacy Shield and General Data Protection Regulation) through a cloud computing lens, covering historical objectives and practical problems, showing why the focus should move from physical data location to effective jurisdiction over those controlling access to intelligible data, and control of access to data through security.

‘Displaying great originality and rigour, this book makes the case that location-based personal data protection should have that “Frankenrule” replaced by regulation based on enforcement of security and encryption standards. With an interdisciplinary focus on law, computer security and industrial organisation (in technological and business value chains of data processing), this approach is to be recommended to legal scholars of the Internet.’
– Dr Chris Marsden, Professor of Internet Law, University of Sussex, UK

‘It should be read by every data protection supervisory authority and law-maker in Europe.’
– Rosemary Jay, Author, Data Protection Law and Practice

‘Data localization is not just a short-term phenomenon, but reflects a profound unease with increasing globalization, and a lack of certainty as to whether we want national borders carried over onto the online space. This book helps illuminate the choices that we face as a society in deciding where we want those boundaries to be set.’
– Dr Christopher Kuner, Co-Director, Brussels Privacy Hub, VUB Brussel and Editor-in-chief, International Data Privacy Law

‘This book which is partly a legalistic discussion about terms and concepts is very useful for companies involved in cloud computing, as it explains the challenges in practical terms and with many examples of real cases. The arguments that the author makes are often not only relevant in the cloud computing context, but also apply more generally for cross-border transfers.’
– Privacy Laws and Business Reports

‘The subtitle to this detailed look at ‘data localization’ is ‘The EU Data Protection International Transfers Restriction Through a Cloud Computing Lens’. To turn such subject-matter into a readable text of almost 500 pages is quite an achievement, but I promise you that Kuan Hon has achieved precisely that. It’s so readable that I actually read (almost all) the book when my aim was to read the minimum number of pages possible in order to write a respectable review. . . Data Localization Laws and Policy illuminates the choices that we face as a society in deciding where we want those boundaries to be set.’
– Computers & Law

‘The author provides a thorough analysis of the law and highlights the absurdity of rules which use physical location as a shorthand for data security, while ignoring the impact of encryption, remote access, and cloud computing. The author describes the new General Data Protection Regulation’s approach to data localisation as ‘retrograde’ and advocates an approach that centres on compliance with data protection principles, through control of intelligible access to
personal data, and accountability for what happens to that data, regardless of location. Punchy,
timely, and opinionated.’
– Journal of Cyber Policy

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<tr>
<td>2017</td>
<td>488 pp</td>
<td>Hardback</td>
<td>978 1 78643 196 7</td>
<td>978 1 78643 197 4</td>
<td>£125.00</td>
<td>£112.50</td>
<td>€180.00</td>
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