

**OECD Expert Consultation on
“Unlimited Government Access to Personal Data Held by the Private Sector”**

Tuesday July 7, 2020

Business at OECD Intervention

- Unlimited government access to personal data, which we interpret here as government request for access to personal data held by the private sector in bulk, has adverse impact on business organizations and their operations.
- Business organizations have received requests from public authorities for data as part of the pandemic response. In some specific cases, Authorities requested a complete database of users for several purposes, such as conducting surveys or delivering financial aid to vulnerable people.
- Members have expressed concern that in such cases, such broad scope request of data exceeds the required purpose, and may not have any basis under the jurisprudence of the country’s constitutional court.
- This kind of request generates a high legal uncertainty for businesses especially when the definition of public interest or legitimate interest is unclear.
- With such requests, companies may be confronted with the dilemma to comply with a request that has no legal basis and prove to be illegal at a later stage. If they reject the request on the basis to preserve consumer privacy and rights, they may risk being fined.
- Members emphasize that requests for data must be proportional to the objective, indicate legitimate and limited use for a specific purpose, and guarantee the deletion of the collected data once the “emergency” situation has concluded.
- Transparency, accountability and independent oversight mechanisms and bodies are key.
- As was raised by our colleagues at Microsoft we appreciate the Secretariat’s efforts to establish evidence on the impact of unlimited government access to personal data and data localization.
- We also emphasize that requests should respond not only to current legal regulations, of which many countries have exceptions, but strive to have users’ options to choose who their info should be used by. User trust will be tantamount in any economic recovery or sustainable economic growth going forward.