

New European Data Privacy Rules Could Cause American Companies and Govt Some Trouble

December 17, 2015 –“ The European Union is about to approve new data protection rules that are likely to be at odds with the interests of American companies and, more importantly, US Federal Court rulings. The rules give individual EU countries broad powers to regulate the way that companies collect and use online data. The rules also have some real teeth; allowing companies to be fined up to 4% of their global revenues for violations.

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Under the new rules, every member state of the EU will have the power to regulate how companies can use online data including banning companies from collecting data without consumer permission. The rules also allow each country to issue its own fines for rule violations. This means that in any major investigation that crosses EU borders, a company could actually face massive fines from multiple governments all at the same time.

Companies that collect or link to online data, such as search engines, will have to provide a mechanism to allow consumers to remove data that they don't want made public. This is widely referred to as the "right to be forgotten."

Even companies that aren't really considered to be online businesses will also be subject to the new data breach provisions of the rules. These require companies to notify authorities within three days of finding out about a data breach. Interestingly enough, this provision is likely to help American consumers. That's because even though Congress is moving forward with a bill that will weaken data breach notification standards in the US, the EU rules will require American companies that have customers in the EU to comply with their rules or face huge fines.

In fact, all of the rules will be enforced against companies with customers in the EU even if the companies don't have a physical presence of their own located there.

As previously mentioned, the rules are likely to cause some issues with American courts which have already issued orders to American companies to turn over data stored on their European servers. Courts here have held that American companies are subject to American law even if enforcing that law would violate the laws of other countries. There is a case going on right now involving Microsoft that you can read about [here](#).

EU nations are expected to adopt the new rules next week and they are expected to go into effect early in 2017.

by Jim Malmberg

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