



Asia-Pacific
Economic Cooperation

2007/CSOM/019
Agenda Item: II

APEC Data Privacy Pathfinder

Purpose: Consideration
Submitted by: CTI/ECSG



Concluding Senior Officials' Meeting
Sydney, Australia
2-3 September 2007

EXECUTIVE SUMMARY

The ECSG developed a Data Privacy pathfinder initiative to enable APEC member economies to work together on the implementation of the APEC Privacy Framework adopted by APEC Ministers in 2004. Thirteen APEC member economies have agreed to develop a framework for accountable flows of personal data across the region, focussing on the use of cross-border privacy rules by business. This will promote consumer trust and business confidence in cross-border data flows. It will support business needs, reduce compliance costs, provide consumers with effective remedies, allow regulators to operate efficiently, and minimise regulatory burdens.

Required Action/Decision Points

It is recommended that SOM:

1. Endorse the APEC Data Privacy Pathfinder.
2. Submit the Pathfinder for formal adoption and launching by Ministers and Leaders.

APEC Data Privacy Pathfinder

APEC has developed a Privacy Framework, which has been endorsed by Ministers in November 2004. Economies have been working for the last year on implementing the APEC Privacy Framework related to cross-border transfers of personal information through instruments such as cross-border privacy rules. The goal is to create a foundation of trust that promotes accountable data flows across the region. These cross-border data flows are the currency of the digital economy that fuels growth in the information age that was the subject of both the ambitious Bogor Goals and the Ha Noi Action Plan to implement the Busan Roadmap.

Both the 2006 Leaders' Declaration and APEC Ministerial Meeting (AMM) Statement "...recognized the significance of the cross border privacy rules concept in ensuring responsible and accountable cross-border information flows without creating unnecessary barriers".

In the 2006 AMM Statement, Ministers further "...encouraged officials to facilitate this goal by developing and disseminating implementation frameworks..." and "...reaffirmed the importance of developing policies and capacity building projects conducive to realizing the benefits of electronic commerce".

In support of the direction by both Leaders and Ministers, economies agree to work together to create implementation frameworks by pursuing multiple projects that work toward achieving an overarching set of objectives and accountable cross-border information flows.

Specifically, the Data Privacy Pathfinder's main objectives are:

1. **Conceptual Framework Principles.** Promoting a conceptual framework of principles of how cross-border rules should work across economies, in consultation with the various parties that may be actors in the implementation and enforcement of these rules.
2. **Consultative Process.** Promoting the development of consultative processes on how best to include stakeholders including regulators, responsible agencies, lawmaking bodies, industry, third party privacy solutions providers and consumer representatives both in the creation of the rules and processes and in their operational review and optimization.
3. **Practical Documents.** Promoting the development of the practical documents and procedures that underpin cross-border privacy rules such as self-assessment forms, review criteria, recognition/acceptance procedures and dispute resolution mechanisms.
4. **Implementation.** Exploring ways in which various documents and procedures may be implemented in practice with due consideration to the mandates of the parties involved and the legal frameworks in which they operate, in a manner which is flexible, credible, enforceable, predictable and less bureaucratic.
5. **Education and Outreach.** Promoting education and outreach that will be needed to allow stakeholders and potential participants to consider how to enable accountable data flows across the participating economies.

The approach under the Data Privacy Pathfinder recognizes that economies are at differing levels of development and implementation of privacy frameworks within their economies.

List of Participating Economies:

Australia
Canada
Chile
Hong Kong, China
Japan
Republic of Korea
Mexico
New Zealand
Peru
Chinese Taipei
Thailand
United States
Viet Nam