

Privacy as a public good at the 41st International Conference of Data Protection and Privacy Commissioners

By Annelies Moens

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Introduction

This year's [41st International Conference of Data Protection and Privacy Commissioners](#) was held in Albania, a country almost 30 years out of Communism. The capital, Tirana, a lively city, full of cafes and restaurants and developing its new way of life with a mix of old and new generations aspiring to make Albania the next EU member state.

Our host, the Albanian Data Protection Commission, alongside the Prime Minister and Mayor welcomed us with Albanian hospitality. The Albanians have a saying that the House of the Albanian belongs to God and Guest, originally attributed to Albanian author Ismail Kadare.

Privacy as a public good

This year's theme of "privacy as a public good" was developed early in the conference's open sessions with a plea from the Guardian's journalist, Carole Cadwalladr, to privacy professionals and regulators to enact change. She spoke about the profound unease she and the public felt as the [Cambridge Analytica and Facebook scandal](#) broke that our data is out there with no end in sight to its processing. Whilst privacy has traditionally been seen as an individual right, it is rapidly being characterised also as a public good because, elections and democracies are threatened by large-scale data acquisitions and manipulation.

As [Jon Evans, TechCrunch Reporter](#) wrote: "Privacy is like voting. An individual's privacy, like an individual's vote, is usually largely irrelevant to anyone but themselves ... but the *accumulation* of individual privacy or lack thereof, like the accumulation of individual votes, is enormously consequential".

Convergence of privacy, consumer protection and competition regulation

The official conference theme this year was convergence and connectivity – raising global data protection standards in the digital age. Privacy as a discipline is affecting every aspect of our lives and regulators in other areas, such as consumer protection and competition are quickly realising the effect of data aggregation and misuse on markets and consumers. The Federal Trade Commission (FTC) in the USA has long regulated some aspects impacting privacy through its misleading and deceptive conduct regulation and other powers. In the rest of the world, most competition/consumer protection and privacy regulators have traditionally been operating in silos, but that is changing rapidly.

Rohit Chopra, FTC Commissioner spoke on remedies to combat bad behaviour. He was of the view that fines are not a sufficient deterrent and provided the example of the USD 5 billion fine Facebook incurred after the FTC [investigated](#) Facebook's dealings in the Cambridge Analytica scandal. Traditionally, competition regulators had considered "price" as an indicator of competition, but that no longer holds true as many services are provided for "free", which is the most dangerous price according to Chopra.

Chopra and Simon Hanna, Uber's Chief Privacy Officer were of the view that bans on processing data or holding Directors to account were more likely to change behaviour than the imposition of fines. Hanna spoke of the #deleteUber campaign which arose out of sexual harassment claims and other protests against Uber having significant impact on Uber. They argued that individual accountability and bans on processing that have top line effect on company's revenue have greater impact on deterring privacy violations and other bad behaviour.

Accountability

Continuing with accountability as a way to promote better privacy practices, Christopher Docksey, Hon. Director-General, EDPS gave a [keynote](#) on the history of accountability in privacy regulations commencing with its application in practice in Canada's privacy laws in 2000, followed by the APEC Privacy Framework in 2005, Mexico in 2010, Australia in its Privacy Principles as amended in 2014, the recent EU General Data Protection Regulation and now in the updated Convention 108.

Docksey describes accountability provisions (such as privacy by design, privacy impact assessments, privacy officer requirements etc) not just as more legislative requirements, but rather as "*helpful tools rather than as extra obligations, as part of the solution rather than the problem*".

The great digital divide

Jamie Bartlett, the author of 'People vs Tech' and BBC series presenter of 'Secrets of Silicon Valley' challenged delegates with the idea that the great digital divide is not what we think. It will be the rich that don't use technology and pay privacy premiums. It will be the poor that will be the slaves of technology and data use. The inequality of the future will be the freedom of mind, clarity of thought and attention, which currently technology drains from us.

Bartlett also warned regulators that it is the job of regulators to ensure that people don't become anti-tech. He could imagine that people will sabotage technology when they become disempowered as we move more and more to automation. He gave the example of driverless trucks – those drivers don't have the skills to become retrained as machine-learning engineers. So, they will just rebel by adding graffiti to line markings so that driverless trucks cannot find the road lanes. People will tamper with technology if it is not designed to help them.

Resolutions

Each year, the ICDPPC passes resolutions during the closed conference sessions which are then [published](#). Global issues demand global regulatory approaches. Resolutions this year related to: the role of human error in data breaches, the convergence of privacy and consumer protection and competition regulation, dealing with incendiary content on social media platforms (consider the recent continuing protests in Hong Kong and the shootings in Christchurch, New Zealand). The new name for the ICDPPC going forward will be the Global Privacy Assembly.