



Summer 2015

FOC Joint Statement on Restrictive Data Localisation Laws

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The Freedom Online Coalition expresses concern that authoritarian governments are using privacy and security considerations as a pretext to force Internet companies and service providers to store user data on servers physically located within their domestic borders. Such forced data localization measures can be used to stifle freedom of speech, restrict user Internet access, and surveil citizens in a manner inconsistent with democratic principles and States' international human rights obligations. These measures can create a climate of fear and self-censorship, especially when imposed in countries that routinely silence criticism and that improperly access the sensitive and confidential information of investigative journalists, members of minority groups, civil society activists, and perceived political opponents.

The Freedom Online Coalition recognizes that personal data should be protected by reasonable security safeguards against security and privacy risks, but governments should refrain from restricting transborder flows of personal data between their own and another country where sufficient safeguards exist. The Coalition also recognizes that governments may decide that certain data they hold or are responsible for must be stored on servers within their national borders, as one aspect of a comprehensive, secure information management policy. The Coalition notes that the security of data depends not solely on the data's location, but on the robustness of the systems built and maintained to protect them. Accordingly, data localization may increase the vulnerability of information to intrusion and attack, thereby defeating the stated aims of greater data privacy and security. Political activists and human rights defenders are particularly susceptible to such risks. Furthermore, by placing additional requirements on companies and hindering public platforms used for the exchange of ideas, data localization rules are likely to impede the free flow of information, thereby reducing the social, political, and economic benefits derived from the open nature of the global Internet.

The Freedom Online Coalition members support an open and interoperable Internet, as reaffirmed in the "Tallinn Agenda," as well as in the NETmundial Principles and the OECD Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data, and the Coalition calls on all States to do the same. Similarly, the Coalition invites companies, when required by laws or regulations to store data locally, to conduct appropriate human rights due diligence consistent with the UN Guiding Principles on Business and Human Rights.

Freedom Online Coalition Background

The Freedom Online Coalition is a cross-regional group of 27 governments that collaborate to advance Internet freedom worldwide. The Coalition provides a forum for like-minded governments to coordinate efforts and work with civil society and the private sector to support the ability of individuals to exercise their human rights and fundamental freedoms online.

The mission and vision of the Freedom Online Coalition are founded upon the notion that human rights apply online as well as offline, as confirmed in resolutions 20/8 and 26/13, adopted by consensus by the UN Human Rights Council in July 2012 and June 2014, as well as resolutions 68/167 and 69/166, adopted by consensus by the UN General Assembly in December 2013 and 2014.

The FOC seeks to identify best practices regarding the application of human rights in the evolving online landscape, as well as to call attention to conditions that undermine those rights.

The FOC, through the Digital Defenders Partnership, also provides rapid response to a range of threats to Internet freedom; from supporting bloggers and cyber activists who find themselves under digital attack, to helping them enjoy their human rights online in countries where the Internet is censored, not accessible or freedom is otherwise restricted. More information on the Digital Defenders Partnership is available at: <http://www.digitaldefenders.org/>.

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