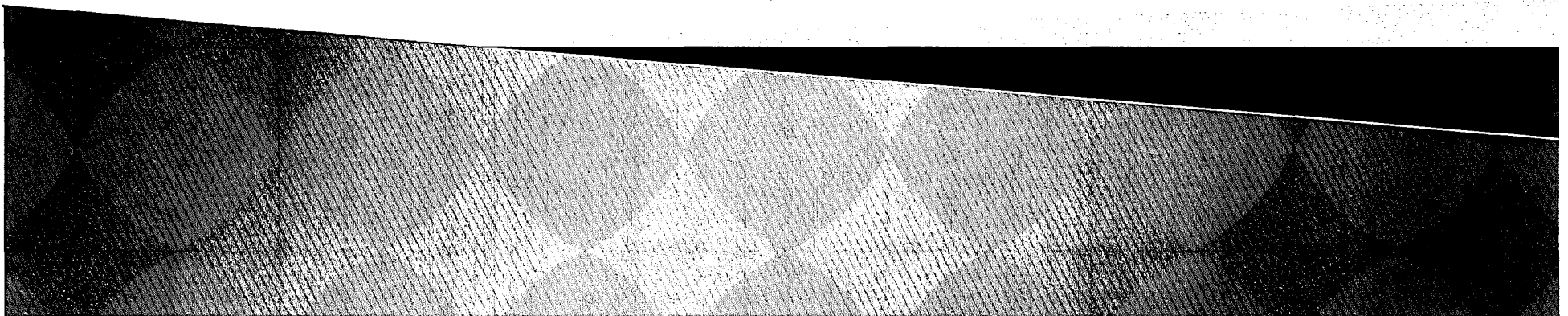


Centre For
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Privacy Law and Digital Trade

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Centre for Information Policy Leadership

- ▶ Global policy center and think tank
- ▶ Speak for myself not others
- ▶ I am an anthropologist, my comments are culturally based

Three Privacy Impediments to Trade

1. Data protection law creates barriers to data transfers
2. Cultural differences between observation in the U.S. and other states with data protection laws
3. Legal obstacles to big data and analytics

Data and Trade are One in the Same

- ▶ Data drives every organization
- ▶ Every organization today has global data flows
- ▶ Even the smallest, one person organization is part of the global market

Data Protection and Barriers to Transfer

- ▶ Privacy enforcement, particularly how it is done in the U.S. directly targets the harm from misuse
- ▶ Data protection creates control mechanisms to indirectly prevent harms
- ▶ The outcomes are similar, but the processes are different

There is a Difference Between Data Protection and Privacy Enforcement

- ▶ Many data protection laws prevent transfers to countries that don't have "adequate" laws
- ▶ Our privacy regime doesn't procedurally match – therefore not adequate
- ▶ Various legal mechanisms to accommodate data movement

Measuring Organizations Rather than National Laws

- ▶ OECD accountability principle is the foundation for governing transfer based on internal rules and processes rather than national laws
- ▶ Creates the basis for interoperability

Cultural Differences on Observation

- ▶ Observation linked to U.S. First Amendment
- ▶ Any touching of data is a processing in data protection regimes
- ▶ Requires permission
- ▶ Historically a friction point

Legal Obstacles to Big Data

- ▶ Processing in the U.S. is almost never an issue
- ▶ Processing in data protection countries requires a legal basis
- ▶ Work is ongoing to establish that legal basis

Conclusion

- ▶ There are impediments to the free flow of data
- ▶ Those related to data transfers and big data will be resolved
- ▶ Differences on observation are more problematic