

Reply to public consultation – JEITA – Guidelines 7/2022

September 7, 2022

Japan Electronics and Information Technology Industries Association (JEITA)

Japan Electronics and Information Technology Industries Association (JEITA) is keen to share with you its comments on the Guidelines, following the adoption of the public consultation version of Guidelines 07/2022 on certification as a tool for transfers (*).

*https://edpb.europa.eu/system/files/2022-06/edpb_guidelines_202207_certificationfortransfers_en_1.pdf

JEITA is the association of Japanese electronics and information technology industries, ranging from materials to electronic components and semiconductors, from consumer electronics to industrial system devices, from IT products to solution services. JEITA represents many companies in these sectors, many of which are active on the European market, both through local manufacturing plants and research centers and through trade with the European Union.

Overall, JEITA warmly welcomes the Guidelines on certification as a tool for transfers and would be pleased to be given the opportunity to submit the following comments on the Guidelines.

1. Overall

- The Guidelines are important to promote the use of the transfer tool and data protection seal, and we hope that further detailed documents will be provided on an ongoing basis.
- Please consider using a "certification logo" or like ensure that the two certifications (national data protection seal and European data protection seal) are properly identified respectively. Stakeholders need to be able to clearly recognise under which certification scheme the data importer was certified.
- We would like to request that you take into account the specific needs of micro, small and medium-sized enterprises as per Article 42(1) of the GDPR and promote the development of certification that do not impose an excessive burden on them. We believe it is important to take into consideration the businesses that will be the importers, especially micro, small and medium-sized enterprises.

2. The role of the exporter in the use of certification as a tool for transfers (section 1.5)

- The obligations in section 1.5 (listed below) should be reviewed as they are not only superimposed (duplicated) but also overly burdensome for data exporters and others, and lead to discourage incentives for transfers using certification.
- Paragraph 20: The data exporter is obliged to check that the data importer has concluded a "certification agreement" with the certification body, but we request that you consider a way for data exporters to easily verify the certified entities on the certification body's website or other means.
- Paragraph 21: Since the data importer is already certified by the certification body for the processing in the third country of data received from the EEA, there should be no further obligation on the data exporter to "assess whether the certification is effective in the light of the laws and practices in force in the third country".
- Paragraph 22: The necessity for "supplementary measures" referred to in Paragraph 22 should also be revealed by the certification body when the certification body certifies the data importer and should not be left to assessment by the data exporter or importer.
- Paragraph 23: Similarly, there should be no obligation imposed on the data exporter if paragraph 22 is not met, such as requiring the data importer to take supplemental measures.

3. The process of certification as a tool for transfer (section 1.6)

- Paragraph 30: It is stated "there is no mutual recognition of different EEA state certifications", but from the perspective of businesses, we strongly request that a mutual recognition system for certifications be established as well. Third-country data importers (businesses outside the EEA) often receive data transfers from multiple EEA member states, so it is desirable that certifications valid in one member state be systematically regarded also valid in the other member states.

We sincerely hope that you will find the above-mentioned comments useful. Thank you very much.