CROSS-BORDER DATA TRANSFERS & DATA LOCALIZATION

The Global Data Alliance is a cross-industry coalition of companies, with headquarters in different regions of the world, that are committed to high standards of data privacy and security. Alliance companies rely on the ability to transfer data responsibly around the world to create jobs and make local industries more competitive. Cross-border data transfers power innovation and growth across the globe and all sectors of the economy–from manufacturing and farming to local start-ups and service providers.

Cross-border data transfers also enable the deployment of tools that facilitate teleworking, virtual collaboration, online training, and the remote delivery of services, including virtual healthcare solutions. These tools–which include cloud-based libraries and databases, video-conferencing applications, and interactive collaboration platforms–help foster cross-office R&D and innovation; build workforce productivity and skills; contain costs and carbon emissions; and promote public health and safety.

Data transfers enable the digital tools and insights that are critical to enabling entrepreneurs and companies of all sizes, in every country, to create new kinds of jobs, boost efficiency, drive quality, and improve output.

The Alliance has come together to advance policies around the world that promote the responsible movement of data across borders without imposing unnecessary data localization mandates or restrictions on data transfers. Data localization requirements and restrictions on international data transfers are estimated to reduce growth by billions of dollars in countries that implement them. These measures hurt local companies by preventing them from accessing innovative technologies, which can preclude local industry from participating in global supply chains and accessing customers in foreign markets. Goods and services that use data in various phases of their lifecycles are

more competitive if they can use data from around the world. In addition, because data transfer restrictions create a significant burden on the implementing country's overall competitiveness, they also undermine the country's attractiveness as a destination for investment and R&D.

Several grounds are frequently cited as the basis for imposing data restrictions, but they are based on misconceptions, as discussed in this document. The Alliance will work to correct such misconceptions and show policymakers that they can achieve their goals without impeding the free flow of data.

🌐 CYBERSECURITY

It has been argued that data localization and data transfer restrictions are necessary to ensure cybersecurity. In fact, how data is protected is much more important to security than where it is stored. Data localization requirements and limits on data transfers often undermine data security. When governments restrict a company's ability to move data, they create unnecessary obstacles to data security. Cross-border data transfers are important for cybersecurity for several reasons. Companies may choose to store data at geographically diverse locations to obscure the location of data and reduce risk of

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physical attacks, to enable companies to reduce network latency, and to maintain redundancy and resilience for critical data in the wake of physical damage to a storage location. In addition, cross-border data transfers allow for cybersecurity tools to monitor traffic patterns, identify anomalies, and divert potential threats in ways that depend on global access to real-time data. When governments mandate localization or restrict the ability to transfer and analyze data in real-time, they create unintended vulnerabilities.

PRIVACY

It has also been argued that data localization and data transfer restrictions are necessary to ensure that companies process and use data consistent with a country's data protection laws. This is not the case. In reality, organizations that transfer data globally should implement procedures to ensure that the data is protected even when transferred outside of the country. Where differences exist among data protection regimes, governments should create tools to bridge those gaps in ways that both protect privacy and facilitate global data transfers. Taking into account widely accepted privacy principles and industry best practices, governments should also aim to ensure that privacy frameworks are interoperable and allow for the seamless flow of data across borders.

LAW ENFORCEMENT

Some claim that data localization and data transfer restrictions are necessary to ensure that regulators and law enforcement authorities will have access to data relevant to conduct investigations. The location of the data, however, is not the determining factor. Responsible service providers work to respond to lawful requests for data consistent with their obligations to their customers and to protect consumer privacy. If the service provider has a conflicting legal obligation not to disclose data, law enforcement has several options: International agreements–including Mutual Legal Assistance Treaties (MLATs) or Agreements (MLAAs), multilateral treaties, and other agreements, such as those authorized by the United States Clarifying Lawful Overseas Use of Data (CLOUD) Act–can establish foundations for mutual legal assistance and reciprocal transfers of law enforcement data. Courts may also issue requests to authorities abroad for the transfer of data through letters rogatory.

These are some, but not the only, grounds upon which countries seek to impose data restrictions. The Alliance will work to promote the responsible movement of data across borders without unnecessary data restrictions, while accounting for countries' legitimate policy concerns.

GLOBAL DATA ALLIANCE
TRUST ACROSS BORDERS