



Regulatory Focus Beyond Privacy

Competitive and cultural imperatives

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Better decisions, faster.



New Rulings and Regulations Impact Data Approaches

Not just privacy driving regulation

Much of the narrative on new ad regulation worldwide has been built around consumer privacy. Yet there are other considerations regulators focus on in defining how data is used in advertising practices.

This will further limit how data can be used in the EU, which could [profoundly shift ad-funded consumer services](#). Many markets worldwide follow GDPR principles so that the implications could be global in the longer term.

A [judgment](#) handed down by Europe's highest court, the Court of Justice of the European Union (CJEU), in a case between Meta and the German competition authority (FCO), expanded how GDPR applies to the use of third-party data for personalized advertising.

The OMG Privacy and Data ethics team has produced a [detailed ruling analysis](#).

The [case's background](#) is somewhat complex but focuses on Meta's complaint that anti-trust rules cannot be mixed with privacy laws such as GDPR.

The court has judged that the two domains are relevant, that 'a national competition authority can find, in the context of the examination of abuse of a dominant position, that the GDPR has been infringed'.

This supports the German Authority's view that the [third-party data collection represented an abuse of market power](#), given Facebook's dominant share of its sector.



This ruling has numerous implications for Meta, whose [stock has rebounded](#) from other policy challenges over the past eight months—also any platform with a dominant position in its sector.

Meta ruling implications

The immediate implication of the ruling is that Meta's Facebook must now [comply with a 2019 ruling](#) that it cannot combine data from its site with data on WhatsApp, [without user consent](#), to target people with ads.

The court also proposed a law to allow regulators to share more information about privacy breach investigations and fines. As well as how [competition and data protection agencies can cooperate](#).



The ruling further narrows the scope of the [legal basis](#) upon which dominant players can process personal data to personalize advertising.

A January ruling defined [contractual necessity](#) as being off-limits for ad personalization in Europe with 1P data.

Legitimate interest has often been the fallback legal basis. The CJEU stated that users [could not reasonably expect their data collected by third parties to be processed by Facebook](#). It says, 'personalized advertising by which the online social network Facebook finances its activity, [cannot justify, as a legitimate interest...the processing of the data at issue, in the absence of the data subject's consent](#).'

Significantly the ruling states that when a company has a dominant position in a sector that 'may influence a consumer's decision to consent,' that consent is invalid.

The narrower legal basis for data processing will, at least, limit the variety of data that can be processed, meaning that some sectors may see inventory volumes and effectiveness decrease.

Sharing data around the world

In what is likely to be a far more positive change for [Meta](#), the European Commission [approved the proposed EU-US Data Privacy Framework](#). It concludes that a recent executive order by President Biden [ensures adequate protection](#) for personal data transferred from the EU to US companies.

This means that with near immediate effect, personal data can flow safely from the EU to US companies participating in the framework and safeguarding against legal risk for [around EUR 1 trillion of EU service exports](#) to the US.

However, privacy campaigners believe the protections need to go further and [plan to challenge](#) them in the courts. Without new US federal privacy laws protecting EU citizens, the challenges may succeed, re-introducing risk to trans-Atlantic data sharing.

Do check [Annalect Privacy Hub](#) for updates.



Canada's Bill C-18 Funding local news

Another aspect of regulation is governments implementing laws to protect their local media ecosystems. Canada's [Bill C-18 - the Online News Act](#) forces platforms to negotiate compensation for news organizations for posting or linking to their work.

In response, both Google and Meta have started to pull news from their Canadian services. This [OMG primer](#) explains the controversy in detail.

There may yet be a [compromise](#) to avert the removal of news services and address [platforms' objections](#). Canada is also seeking to redress other imbalances caused by digital disruption, such as [Bill C-11](#) in the streaming video market. [California is considering](#) a similar news law to protect local news sources.

A platform response

Online news is a small part of the tech platform's business, representing only [around 3% of Facebook](#) traffic. Yet these issues impact local media sectors and national cultures to a far greater degree as business models are becoming less able to support high-quality journalism.

OMG Canada is supporting [the Canadian Media Manifesto](#), which aims to increase the proportion of digital investment that goes to local publishers to 25% by 2025. There are numerous mechanisms to support this ambition, such as competitive deals with all Canadian Media partners, a digital inventory marketplace, and the OMG Diverse Creators Network.

OMG Canada continues to develop broad solutions that benefit our market and support our local media industry. Our local content, technology and data partnerships drive innovation in our market		
OMG Marketplaces Our OMG Marketplaces product delivers our curated Canadian-partner inventory, via transparent and industry-leading technology partners, including our launch partner Canada-owned Index Exchange .	Omni Built for Canada Our marketing orchestration platform Omni is built for Canadian marketers and our planning and targeting capabilities are fueled with data partnerships including Pelmorex , Numeris and Bell-owned Environics Analytics .	OMG Diverse Creators Network OMG Canada's Diverse Creator Network is our curated database of diverse creators designed to help drive business outcomes through the connection to the tapestry of Canadian culture.

Legislators increasingly focus on managing platforms' [market power](#) for various economic, security, and cultural reasons. This means some of the techniques that created that power will be challenged.

We witnessed this in the extreme two years ago when previously successful start-ups that relied almost entirely on Facebook leads went [out of business](#) as ATT became enforced.

Therefore a greater diversity of approaches, partners, and techniques is required.

A response enabled by platforms, such as Omni, Omnicom's global data platform and operating system, allows access to a wider variety of inventory and approaches from the platforms, local suppliers, and diverse communities of creators alike. All within common measurement and decision frameworks to enable more resilient investments for the long term.



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