



*Big Data individual rights and enforcement*

*Speech at EDPS-BEUC Joint Conference*

*European Commission, Berlaymont, Brussels, 29 September 2016*

*Giovanni Buttarelli*

Ladies and gentlemen,

Like Monique Goyens I would like to extend a warm welcome to you all to this conference on Big Data Individual Rights and Enforcement.

This is a truly interdisciplinary exercise and today is going to be a truly international discussion. We have experts from Japan and United States, as well as from almost every country in the EU and the EEA.

We have a very rich and very full agenda today with so many excellent, highly esteemed speakers. So my opening remarks will be brief.

The EDPS launched this debate in 2014 with a Preliminary Opinion on the subject of this conference today.

We compared the legal frameworks in the EU for privacy and data protection, consumer protection and competition.

It stimulated a great conversation on what these areas of law have in common: what enforcement of existing laws can achieve; and what enforcement in the different areas cannot be expected to achieve.

After lots of workshops and studies later, and after a handful of very important concrete cases, where are we?

We published last week an Opinion to take stock, to refresh our analysis in the light of what we have learned, and to make practical recommendations.

What do we propose?

We all are familiar with the famous dictum of one of Silicon Valley's favourite sons:

*Move fast and break things.*

Well, like BEUC, EDPS wants regulators to move fast and fix things.

What needs fixing, from the perspective of an individual active in the digital society?

I am thinking of things like:

- walled gardens where consumers and their data get trapped;
- non negotiable terms and conditions;
- covert surveillance of our online activity.

These are constraints on our freedoms and privacy which we do not accept in the real world.

And with our lives and everyday objects moving online, we should not accept these constraints in cyberspace.

Choice and freedom and privacy are tied up together.

If you promote any one of these three, then you are probably also at the same time promoting the others.

So we as regulators should be pushing in the same direction, because these are universal values, shared by EU and US and Latin America.

It's not just western hemisphere.

Now 111 countries with data privacy rules, most of them outside Europe.

Today we will have a big delegation of senior officials from Japan government, who I suspect have the same concerns about big data concentrations and the need for proper safeguards for individuals.

We were invited this year to a conference at the US Congress called 'America's Monopoly Problem'.

Last week, Assistant Attorney General US Department of Justice, Renata Hesse, delivered an excellent, thoughtful speech at Global Antitrust Enforcement Symposium.

'Big is not bad', she said.

I fully agree.

But, let's be frank.

'Big' does mean more risk and so more responsibility and accountability.

'Big' means that regulators have to be more vigilant.

And as Assistant Attorney General Hesse suggested, the burden of proof for big data mergers should be on the merging parties to demonstrate the public interest, the burden should not be on the consumer or the regulator.

We need, as regulators, a healthy scepticism. Monopolies may have good intentions for the public good but according to the law, that is no defence.

Some people might ask why we, as an EU privacy regulator, are pushing for action in this area.

I was appointed with a specific mandate to develop a longer term vision and to think outside the box.

As we say in our opinion, these are central and strategic concerns for privacy and consumer regulators.

Our area of data protection law developed out of:

- a concern about growing informational and computational power one side;
- and weaker and weaker positions of ordinary individuals without specialist knowledge on the other side.

Regulators need to be conversant with the new technologies and the emerging behaviours and business models in the markets.

We are honoured to have five of Europe's national data protection commissioners attending speaking at today's conference on Tuesday – Belgium, Hungary, Romania, Cyprus and Norway – as well as delegates and contributions from several other regulators DPAs.

This shows the importance which my colleagues attach to this issue.

So why is this an urgent discussion?

I believe that there is a real urgency now.

You see this in political debates on both sides of the Atlantic, and it is not a partisan concern.

All sides are worried about excessive market power, monopolies, and concentration of data and power in too few hands.

It is time for regulators to get into shape.

There has been so much concentration in digital space - just read the OECD studies of recent years.

We have to learn from the Facebook Whatsapp and Google Double Click mergers.

I argue that, yes, the competition authorities could have been more longer term in their assessment of potential effects on consumer welfare.

But also privacy regulators should be more organised collectively, to give voice to the concerns of ordinary user

Speculation in the last few days about the future of Twitter, for example. What if Twitter were acquired by a digital giant ?

This should be of interest to consumer enforcers and antitrust, as well as the privacy community. It would have real implications for freedom of expression online.

Merger control provides for the protection of media plurality – this is a concern from an analogue world.

We need to update this for the digital reality, as more and more of our lives and objects go online.

Later today I will talk a little more about our plans to begin a Digital Clearing House.

But first of all I would like to introduce the first of our two highly esteemed keynote speakers. Later today we will hear from Federal Trade Commissioner Terrell McSweeney.

Margrethe Vestager is in danger of becoming that rarest of commodities: a genuine real superstar among distinguished EU Commissioners.

Her work is under intense spotlight, and she has to cope with enormous expectations.

I have had the pleasure of discussing these matters with her.

It is an example of fruitful cooperation between institutions.

I have also had the pleasure of bumping into her on the way to the supermarket. It turns out we are neighbours!

I have no doubt whatsoever that she is performing her tasks with high level professionalism, great integrity, diligence and deep concern for the consumer and competition.

Commissioner Vestager, we are delighted to have you with us. And I wish you all a most successful discussion today.