

Does EU GDPR Affect U.S. Hospitality Companies?

By Alvaro Hidalgo

The EU General Data Protection Regulation has set a path towards protecting personal data which many other countries will follow. In a global industry such as hospitality, it should be a primary objective to take the steps towards compliance.



The new EU General Data Protection Regulation (GDPR) has been in force since May 25th, 2018 — less than a month — and the question asked in the headline has a clear answer: of course it does and with great impact. So, first things first: why does a foreign legislation affect U.S. companies?

It is clear that any U.S.-based company that operates in the EU will be subject to that jurisdiction and therefore will have to comply with their laws and regulations. But why will U.S. companies also be affected by EU GDPR within their domestic operations? This is when the lines between foreign and domestic become blurred. Whilst it is true that the actual service delivered by a U.S. company on U.S. soil is purely domestic, it is also true that on many occasions that service is offered abroad to foreigners. If we understand that, for instance, an advertising campaign must comply with the legislation of the country in which it takes place, we should also understand that if we are addressing our services to EU data subjects, then the services that are advertised must also comply with EU laws.

Since the Internet allows anyone to check what our websites offer, how can anyone prove that those services are addressed to EU data subjects? Something as simple as indicating prices in Euros (€) on a website would

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suffice to state that a U.S.-based company is offering its services to EU-based data subjects. Therefore that U.S. company, which carries its business domestically, would be subject to EU GDPR. Please do note that I used the word “offering”— no transaction or payment is needed. But then, this not only applies to companies offering goods or services.

Data Collection

It is important to understand that the EU sets forth that the “Regulation protects the rights and freedom of the natural persons and in particular the right to the protection of personal data” and as such, the protection to this right must be permanent.

So, it is irrelevant if we offer our products in Euros or not, if a company consistently monitors behavior of EU-based data subjects, then it will be subject to EU GPDR. Thus, any proper analytics of a consumer’s behavior will indicate consistent processing; therefore it will be subject to EU GDPR.

We can go even further. Let us imagine a U.S. citizen which is stranded in an European airport and wants to make a change in his connecting flights — for instance from New York City to Miami which he will fly on a U.S. airline — and makes a reservation through an EU-based OTA for the U.S. flight and hotel. Since the data was processed by an EU-based controller, all companies involved — including the U.S. airline and hotel — will be subject to GDPR.

The entry into force of the law is very recent, and many issues and situations will require further interpretation and guidelines which will have to be adopted in various degrees by the different industries.

HOSPITALITY-SPECIFIC GDPR RESOURCES

As hospitality companies prepare to make operational changes to conform with the EU GDPR, the HFTP GDPR/HDPO Task Force has prepared the following resources for the industry. Reference these guidelines as your company fits its security operations to comply with regulations.

[Vendor Compliance Query Template](#)
(English, French, Spanish and German)

[Privacy Policy Guidelines](#)

[Hospitality Data Protection Officer Job Description](#)

[Registration Card](#)
(Guest consent management guidelines)

[Hospitality Organization Data Flow Charts](#)

[Locate these resources at \[www.hftp.org\]\(http://www.hftp.org\).](#)

The hospitality industry is all about personal data. Personal data is collected for reservations, a guest’s itinerary and behavior before arrival is tracked by OTAs, etc. On arrival, personal data is again collected (or verified) and processed, and every action of a guest leaves a trace in the different systems (PMS, CRS, IBE, online payments, in-house payments, guest satisfaction, etc). Hospitality is indeed all about personal data. Therefore, the question should not be if GDPR affects U.S.-based companies, but how to proactively deal with it.

Move Toward Compliance

The point to consider is that the EU GDPR is not an isolated law. It is at the apex of a worldwide trend to protect personal data and the EU GDPR has set a path towards which many other jurisdictions will converge. Currently, Australia, Singapore, Canada and Japan are developing their GDPR to match the EU’s regulation, and many other countries will follow. So, by preparing to comply with the EU GDPR, any company will ensure its compliance with most other personal data protection legislations.

Based on the above and considering how global our industry is, it

should be a primary objective for any U.S. hospitality company, regardless of its specific subsector or geographical area of influence, to take the necessary steps to achieve GDPR compliance.

Preparing our companies to comply with GDPR is not a simple process. The law requires that a company knows and understands how personal data flows among different departments and locations; how data is collected, managed and stored; how data is accessed; and how to rectify and correct it. It requires that processes are in place to generate records of all the above, stating dates of collection, purpose, foreseen data retention period and consent (when and how was it given). And these records must be kept updated.

To assist in this process, HFTP has brought together a group of industry professionals, the HFTP GDPR/HDPO Task Force which I have the privilege to chair, to converge their experiences and develop guidelines on different matters related to the EU GDPR. So far, the task force has generated a set of compliance tools for the hospitality industry. The task force will continue to be thought leaders in this developing field and lead the hospitality industry towards compliance. ★