



Department for  
Digital, Culture  
Media & Sport

**Rt Hon John Whittingdale OBE MP**  
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Angus Brendan MacNeil MP  
Chair  
International Trade Committee  
House of Commons  
London SW1A 0AA

INT2021/08791/DC  
5 May 2021

Dear Angus

I am writing to you following our session of 21 April, in which you sought clarification on how UK citizens can enforce their rights in practice should their personal data be compromised by a Japanese company based on Japanese soil. I am also adding an explanation to the questions posed regarding voluntary undertakings.

As I explained during the evidence session, the UK-Japan Comprehensive Economic Partnership Agreement (CEPA) does not change the current position in relation to the protection of UK personal data when it is transferred to Japan. Personal data transfers to Japan (and any other third country) continue to be governed by the UK GDPR.

The UK GDPR sets out principles for ensuring that the level of protection it establishes is not undermined when personal data is transferred to a third country (i.e. outside the UK). It states that a data controller or processor may only transfer personal data to a third country if they provide appropriate safeguards, and on condition that enforceable data subject rights and legal remedies for data subjects are available.

The UK GDPR goes on to present a number of ways by which personal data can be transferred outside of the UK - for example, transfers on the basis of an adequacy decision or transfers subject to appropriate safeguards such as standard contractual clauses. These mechanisms in turn will have conditions for such transfers, including conditions for the onward transfer of personal data from one third country to another. This ensures that UK personal data remains protected to high standards, even when it is transferred outside of the UK.

In reference to your query regarding how a UK citizen could pursue a complaint where they feel their data protection rights have been contravened by a US, Australia, or Japan based organisation, a UK citizen, in the first instance, should contact the organisation in question directly to make them aware that a breach has taken place and seek redress. UK citizens can also raise a complaint with the Information Commissioner's Office (ICO) who can engage with international counterparts to provide assistance.

A UK citizen could complain directly to the US Federal Trade Commission (FTC), the Office of the Australian Information Commissioner (OAIC), or the Japanese Personal Information Protection Committee (PPC) if they prefer or if they do not get a satisfactory response from the organisation in question. The ICO has Memoranda of Understanding (MoU) with the FTC and the OAIC which enables it to cooperate with these data protection authorities on cases involving UK citizens' personal data. The ICO does not currently have an MoU with the PPC, but has a good working relationship with them.

Further, CEPA requires Japan to publish information on the personal information protections it provides, including how individuals can pursue remedies, and how businesses can comply with any legal requirements. This information will assist UK citizens to take steps to enforce their rights in Japan.

During the session, clarification was sought regarding the reference to "laws that provide for the enforcement of voluntary undertakings by enterprises relating to privacy" found in the footnote to Article 8.80 of CEPA. Article 8.80 of CEPA is specifically devoted to personal information protection and is where both parties commit to adopt or maintain a legal framework for protecting the personal information of users of electronic commerce.

The footnote was included to provide examples of measures that the UK or Japan could adopt or maintain to comply with the requirement to adopt or maintain a legal framework for the protection of personal information. It does not otherwise affect the existing legal data protection frameworks both countries operate.

In summary, CEPA does not in any way lower data protection standards, nor does it interfere with individuals' ability to seek redress either in the UK or internationally. The personal information protection provisions in CEPA support and complement the high standards of data protection provided by our domestic regime.

I hope this provides the assurances you sought.

With best wishes,

A handwritten signature in black ink that reads "John Whittingdale". The signature is written in a cursive style with a large initial 'J' and a long horizontal stroke at the end.

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