

Government Access to Data held in the Private Sector



Policy Guidance on Trusted GA and its Business Impacts OECD December 2020

Policy Guidance to be proposed	
1	the legal bases upon which governments may compel access to personal data;
2	requirements that access meet legitimate aims and be carried out in a necessary and proportionate manner;
3	transparency;
4	approvals for and constraints placed on government access;
5	limitations on handling of personal data acquired, including confidentiality, integrity and availability safeguards;
6	Independent oversight;
7	effective redress.



Reasons for Government Access

1. National Security

Surveillance and National Security

2. Technology Transfer

Product Design and standard-essential patent

3. Common Public Interest

Public Well-being
Disaster Prevention and Recovery

4. Discovery

Criminal Investigation and Disclosure

5. Protectionism

Discriminatory Protection of local industry

Potential Impacts on Business

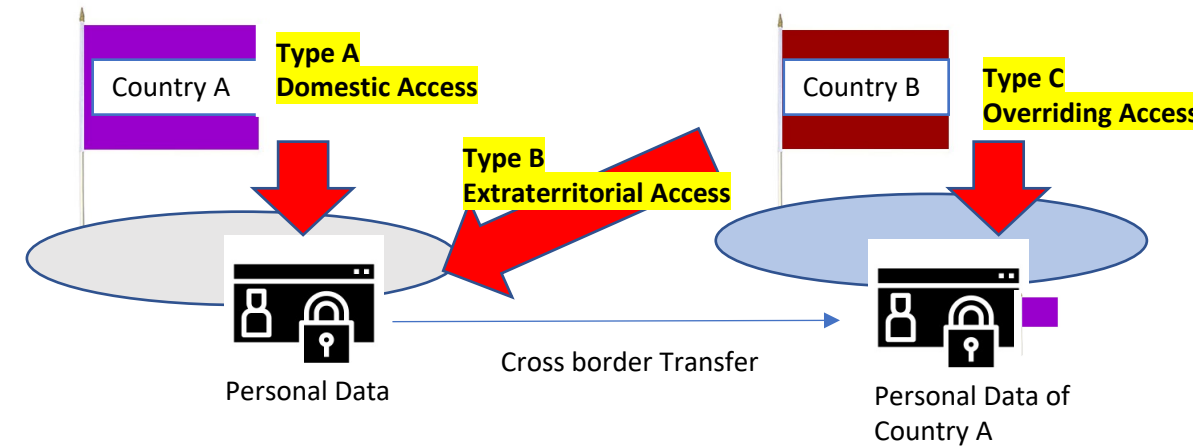


Example concerns in Government Access

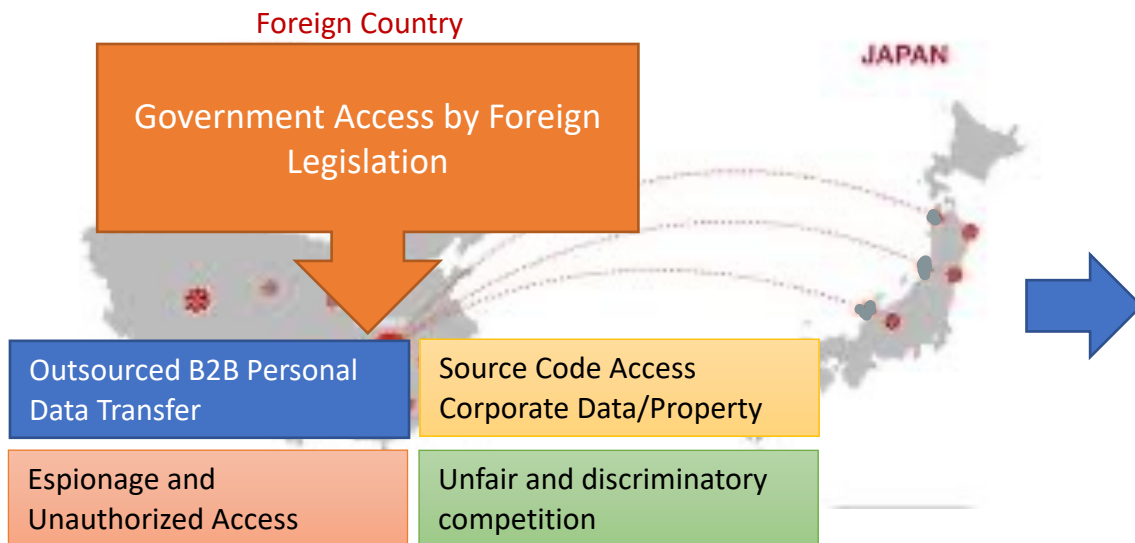


Business Concerns on GA matrix

	Domestic Gov. Access	Cross border Gov. Access
Non-Personal Data	<ul style="list-style-type: none"> Effectiveness in economic analysis Fairness in Social Governance 	<ul style="list-style-type: none"> Data Localization Tech. Transfer Economic Security Discrimination
Personal Data	<ul style="list-style-type: none"> Visibility of well-being Secure human rights Conflicting Regulations Transparency Oversight and safeguards 	<ul style="list-style-type: none"> National Security and Surveillance Non-transparent sovereignty claims Unpredictable Access by Foreign Authority



Outsourced Personal Data Processing to Foreign companies



Risk of intervention by foreign governments in cross-border business cooperation	
background	Some of the data processing in Japan is outsourced overseas, and there are many examples where the quality of the management of data has been compromised.
concerns	Without proper government access to transferred data, personal information can be accessed by the government of another country without being noticed.
Impact	This is a major obstacle to the development of the digital economy, as it would undermine confidence in the free flow of cross-border data by making trustless government access a given fact.
statement	As data is in its nature of cross-border transmission, there is a need for harmonized standards for government access among countries, with sufficient transparency to make the risks more predictable for businesses and their customers.