



16 March 2020

Respectfully to: Ministry of Public Security

Department of Cyber Security and Hi-tech Crime Prevention and Control (A05)

No. 40A Hang Bai, Hang Bai Ward, Hoan Kiem District, Hanoi

## **COMMENTS ON DRAFT DECREE ON PERSONAL DATA PROTECTION**

Dear Sirs,

The Global Data Alliance<sup>1</sup> welcomes the opportunity to share its views on Vietnam's Draft Decree on Personal Data Protection. The Alliance is a cross-industry coalition of companies, headquartered in different regions of the world, that are committed to high standards of data privacy and security. Alliance companies rely on the ability to transfer data responsibly around the world to create jobs and make local industries more competitive. Cross-border data transfers power innovation and growth across the globe and all sectors of the economy — from manufacturing and farming to local start-ups and service providers. Data transfers enable the digital tools and insights that are critical to enabling entrepreneurs and companies of all sizes, in every country, to create new kinds of jobs, boost efficiency, drive quality, and improve output.

Global Data Alliance members share a deep and long-standing commitment to protecting personal data across technologies and business models, as they recognize that today's cross-border economy depends on the trust of consumers and the general public. The Alliance, therefore, supports policies that protect personal data while enabling data to move across borders.

BSA supports Ministry of Public Security (MPS) efforts to promote robust personal data protection, which should be promoted through a legal framework that is flexible, fosters innovation, and better enables international data transfers. Because the ability to transfer data internationally is the lifeblood of the modern digital economy, we would like to particularly highlight the importance of a framework that allows companies to responsibly transfer data outside Vietnam.

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<sup>1</sup> The Global Data Alliance is a cross-industry coalition of companies that are committed to high standards of data responsibility and that rely on the ability to transfer data around the world to innovate and create jobs. The Alliance supports policies that help instill trust in the digital economy while safeguarding the ability to transfer data across borders and refraining from imposing data localization requirements that restrict trade. Alliance members include BSA members and American Express, Amgen, AT&T, Mastercard, Panasonic, United Airlines, Verizon, Visa, and WD-40 Company. BSA | The Software Alliance administers the Global Data Alliance.

Limitations on the cross-border transfer of personal data in the form of data localization or other highly restrictive requirements do not advance data protection goals and trigger unintended consequences. They disrupt companies' operations and make it costlier to provide services in Vietnam, even if that is not the intent, effectively depriving end-users in Vietnam of advanced services and putting them at a competitive disadvantage compared with companies in other countries. For these reasons and those explained in the ***Cross-Border Data Transfers & Data Localization*** paper attached,<sup>2</sup> which clarify various misconceptions about data localization, we strongly recommend these measures be avoided.

Finally, we would also want to highlight our concern regarding section 27 of the *Draft Decree*, which is a placeholder for a provision on "registration of transfer of personal data abroad". This potential registration requirement, if implemented, would only consume Government of Vietnam's resources and significantly increase the regulatory burden on data controllers (including micro-, small-, and medium-sized enterprises), without increasing data protection. For this reason, we recommend this requirement not be added to the Decree.

We appreciate the opportunity to share these recommendations and we hope they will be helpful as MPS works on the Decree on Personal Data Protection to create a robust personal data protection environment in Vietnam, while allowing responsible stewardship of data to continue benefiting the citizens of Vietnam and the Vietnamize economy.

Thank you for your time and consideration.

Sincerely,

*Brian Fletcher*

Brian Fletcher

Director Policy - APAC

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<sup>2</sup> At: <https://www.globaldataalliance.org/downloads/02112020GDAcrossborderdata.pdf>