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ANNENBERG-DREIER  
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BROOKINGS

*Cross Border Data Flows & International Trade:  
Developing New Rules for an Internet Economy  
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# Data flows: privacy laws and localization

## (See US Council for International Business)

- Two broad issues: application of local data privacy laws *and* the forced localization of databases
- Two approaches to data privacy laws: geographical (EU) *versus* accountability (APEC)
- Countries also have sector-specific safeguards, e.g.

**Australia:** health records

**New Zealand:** all tax-related business info must be stored on a server locally

**S.Korea:** some personal banking and financial information can be outsourced overseas, but must retain local office

# Data flows: privacy laws and localization

(See US Council for International Business)

**China:** data from VAS must be stored locally with JV partner; all locational services must have servers in China

**Taiwan:** threatening to restrict the processing of financial transactions offshore

**India and Malaysia:** residential data must be stored on local servers

**Vietnam:** all SNS and general website operators should have in-country server – but not clear how far applies to international Internet companies

# Indonesia: A Current Case

## Government Regulation No. 82 of 2012 on Electronic Transaction and System Operations Regulation (“PP 82”)

- i. Article 3 provides two categories of services provided by Electronic System Providers: (1) the provision of services for **public use**; and (2) the provision of services for **non-public use** but did not define these terms; and
- ii. Article 17(2) provides that: “The Electronic System Operator for the **public service** is **obligated to put a data centre and disaster recovery centre in Indonesian territory** for the purpose of law enforcement, protection, and enforcement of national sovereignty to the data of its citizens.” ....
- iii. **Law on Public Service** (25/2009) defines **public** as *govt. services not including private services to the public*

# Observations

- National and personal data security concerns which need to be addressed seriously
- Crime, money-laundering and terrorism funding genuine concerns in some countries
- Nationalistic economic policies which may work for a large economy, but not so easy for a weaker state
- NTBT as protectionism or/and disguises corruption
- Concerns over tax avoidance and tax evasion, especially where state finances are weak
- Costs of doing business *versus* scale of the business opportunities likely to determine balance of outcomes

# Ways Forward?

- Understand local complexities
- Demonstrate *convincing* alternative commercial benefits to ministries
- Try to *dis-engage* issues from trade negotiations?  
Otherwise in a game of trade-offs and local lobbies = trade negotiations are seen to be a double-edged sword (mutual benefits *versus* pork barrels)
- Data flows are the essence of the Internet – building local digital economies is the basis of engagement with the world economy.

**Thank Q**