

Reasonable data restrictions

Claudia Biancotti, Visiting Fellow

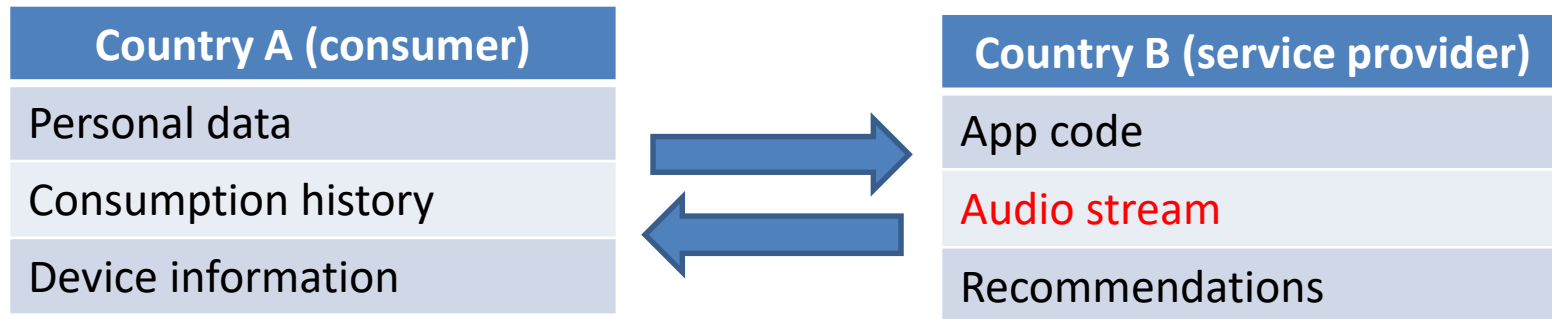


Digital trade

“Digital trade encompasses digitally enabled transactions in goods and services which can be either digitally or physically delivered” (López González and Ferencz, OECD Trade Policy Paper 217, 2018)



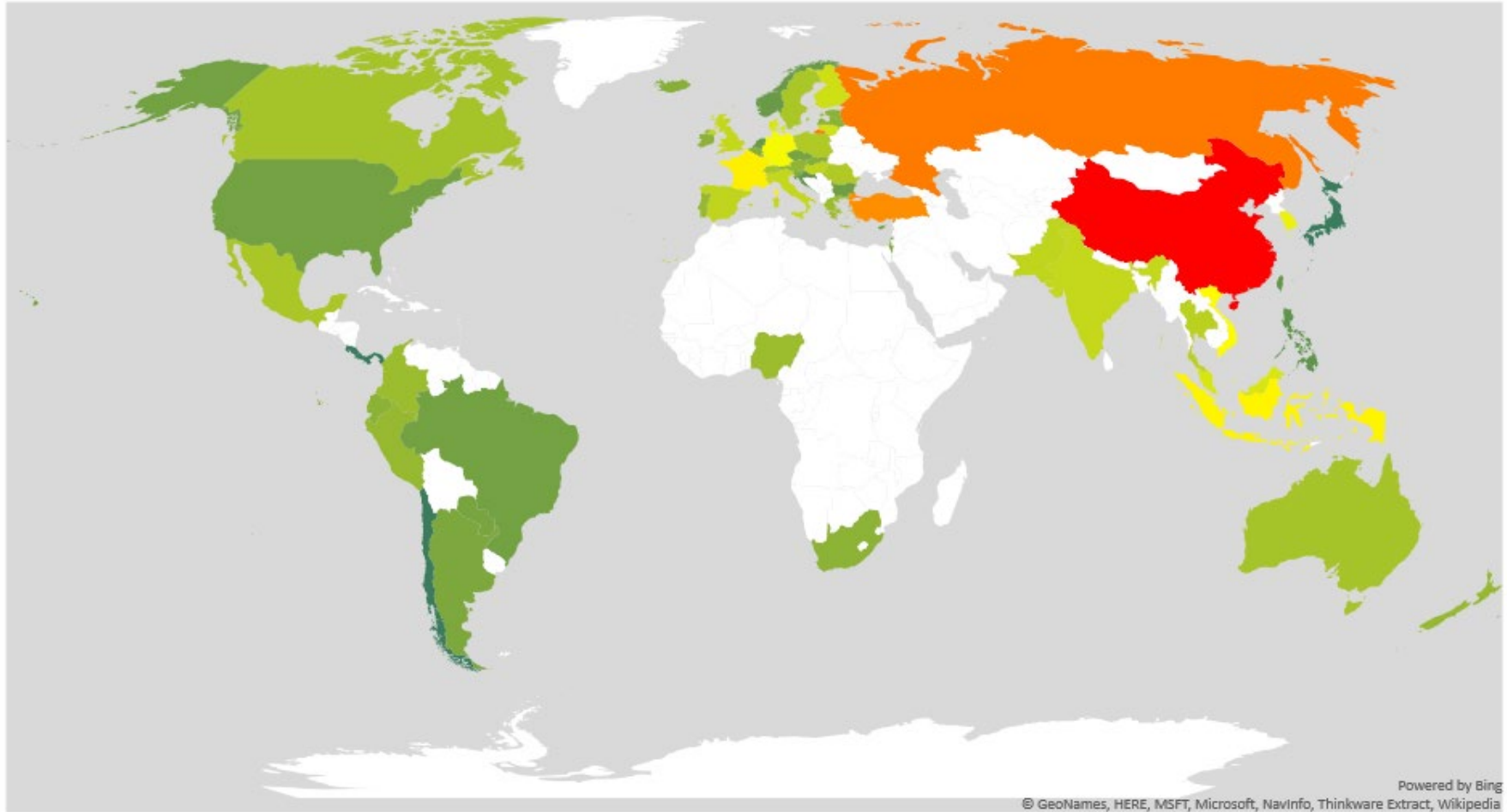
Data flows: a simple example



Data related to the transaction also goes to payment processor, device manufacturer, advertisers, possibly located in third countries



Legal Restrictions on Data Flows, Usage, and Access, 2017



Source: European Centre for International Political Economy, Digital Trade Restrictiveness Index, Restrictions on Data sub-index



Three models of data restrictions

| Model | Barriers to cross-border data flows |
|----------------------------|---|
| US | Almost none |
| EU (digital rights – GDPR) | No outward flows of data on own citizens to countries with low privacy standards |
| China/Russia | No outward flows of data on own citizens, no inward flows through uncensored/unmonitored services |



Reasonable restrictions (i)

Unregulated model (US) maximizes data value domestically, gains from trade. But...

U.S. blocks MoneyGram sale to China's Ant Financial on national security concerns

U.S.: CFIUS Investigation Orders Chinese Firm to Divest Majority in U.S. Startup

U.S. Orders Chinese Firm to Sell Dating App Grindr Over Blackmail Risk

Beijing could exploit the app's personal data for espionage, U.S. officials believe



Reasonable restrictions (ii)

- CFIUS costly, sharp precision tool, can't invoke for every new Chinese app
- US transition to digital rights makes sense:
 - domestic demand for privacy
 - international standards modeled on EU
 - automatic national security safeguard



Thank you!