



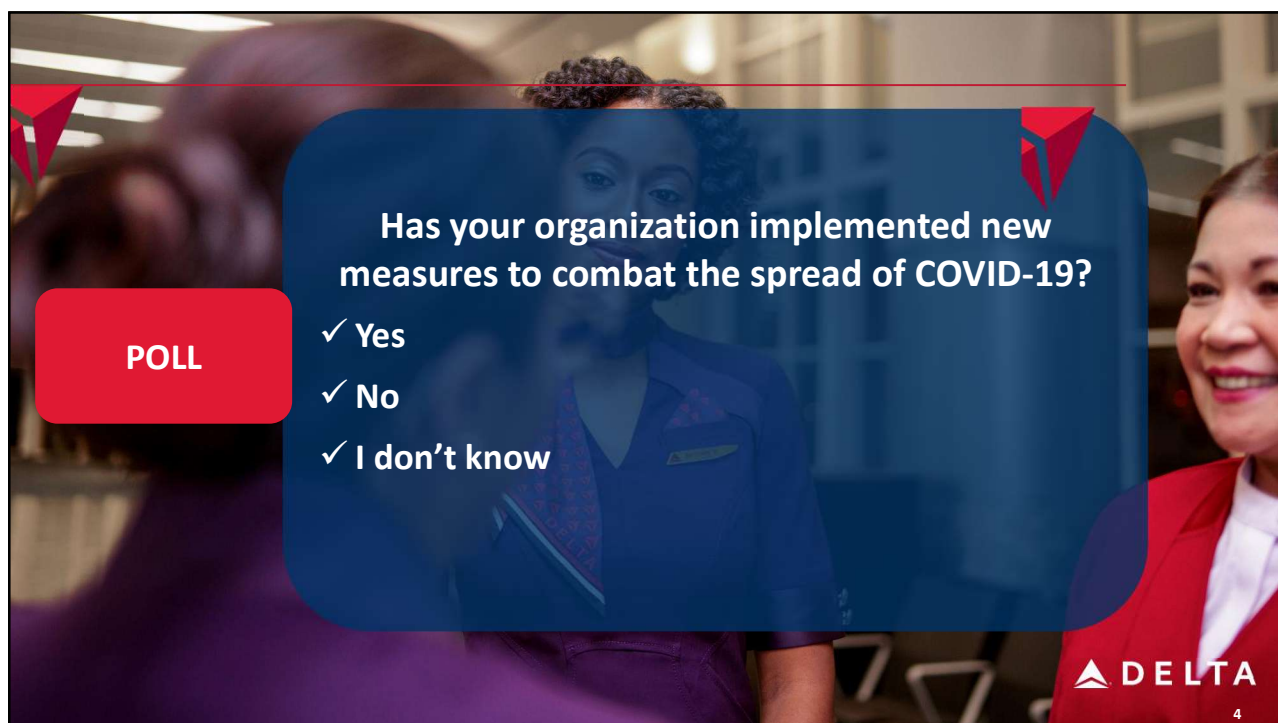
1



2



3



4

## Temperature Screening

- Employers may mandate temperature screening in the U.S.
- A regional German data protection office launched a probe into Apple's plan to take the temperature of its store customers.
- Recent European Data Protection Board guidance refers to the requirements of national data protection and employment laws.



5

5

## Temperature Screening

- **France:** Employers may not mandate temperature checks.
- **Netherlands:** Employers may conduct temperature screening, but processing of health data as a result of the screening is not allowed.
- **Germany:** Employers may mandate temperature checks, without recording the result of the screening.
- **Italy:** Employers may record the fact that the temperature is exceeded, but not the temperature reading.



6

6



## Contact Tracing

- Most contact tracing apps use Bluetooth technology.
- The key question is: How is the data used and stored?
- The Google-Apple system localizes the data on the individual's phone.
- EU Commission's Guidelines minimize the intrusiveness of the app functionalities, including voluntary installation, deactivation of the app once the emergency is over, and data minimization.



7

7

## Contact Tracing

- Singapore's app uses Bluetooth signals between cellphones.
- Hong Kong requires smart wristbands for quarantine compliance.
- France's contact tracing app uses Bluetooth technology.
- The UK has opted for a centralized app to store information about users' contacts. The data is expected to be anonymized.
- The data collected by Italy's voluntary app must be deleted no later than 12/31/2020.



8

8

# Contact Tracing

As of mid-May:

- 47 contact tracing apps are used in 28 countries.
- 23% of the apps have no privacy policy; 53% don't disclose how long they plan to store user data; and 60% have no publicly stated anonymity measures.
- Other digital tracking devices are used in 35 countries.

Source: <https://www.top10vpn.com/research/investigations/covid-19-digital-rights-tracker/>

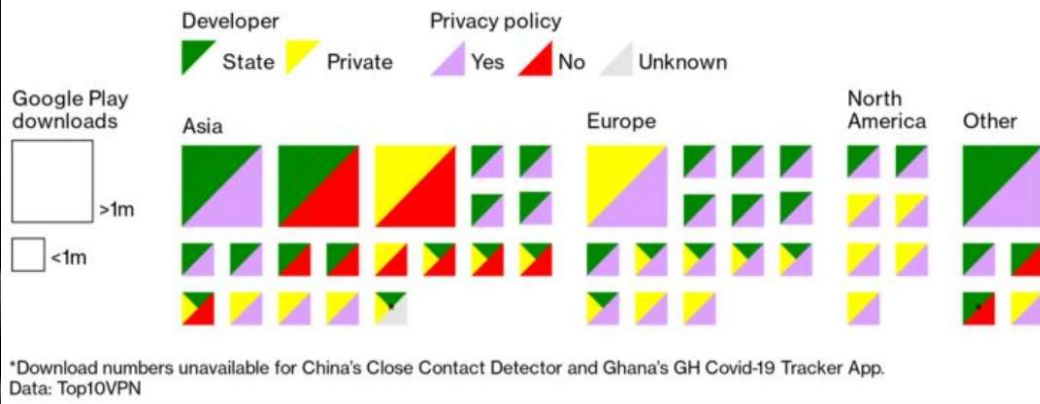


9

9

# Contact Tracing

## Contact-Tracing Apps



10

10

## Surveillance Technology

- The government in South Korea uses smart phone location data, credit card data, and CCTV video.
- According to a [NY Times report](#), in Israel, the government authorized a government agency to track millions of citizens' cellphones during the pandemic.
- The government in Bulgaria adopted new powers to monitor people who have been placed in quarantine.

DELTA

11

11

## Use of Drones

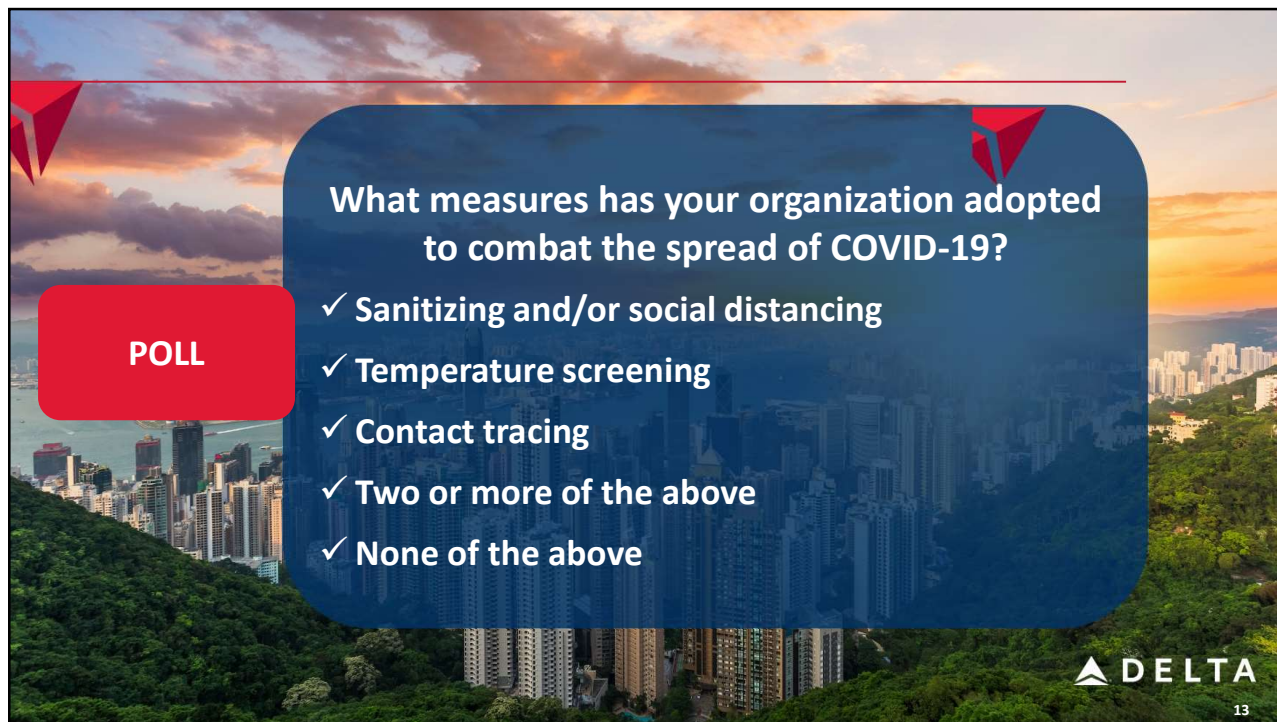
- France recently banned the use of surveillance drones by police to monitor compliance with COVID-19 restrictions.
- Spain and Belgium have used drones to monitor the public's compliance with lockdown rules.
- German police tested the use of drones in Dortmund and Dusseldorf.

DELTA

12

12





**POLL**

**What measures has your organization adopted to combat the spread of COVID-19?**

- ✓ Sanitizing and/or social distancing
- ✓ Temperature screening
- ✓ Contact tracing
- ✓ Two or more of the above
- ✓ None of the above

**DELTA**

13

13



**Recap – Privacy Considerations**

- Define the scope of COVID-19 data and legal bases
- Update your privacy notices
- Be proportionate and adhere to data minimization
- Retain information no longer than necessary
- Have security at the forefront of your mind
- Check national data protection and employment laws
- Conduct a Data Protection Impact Assessment

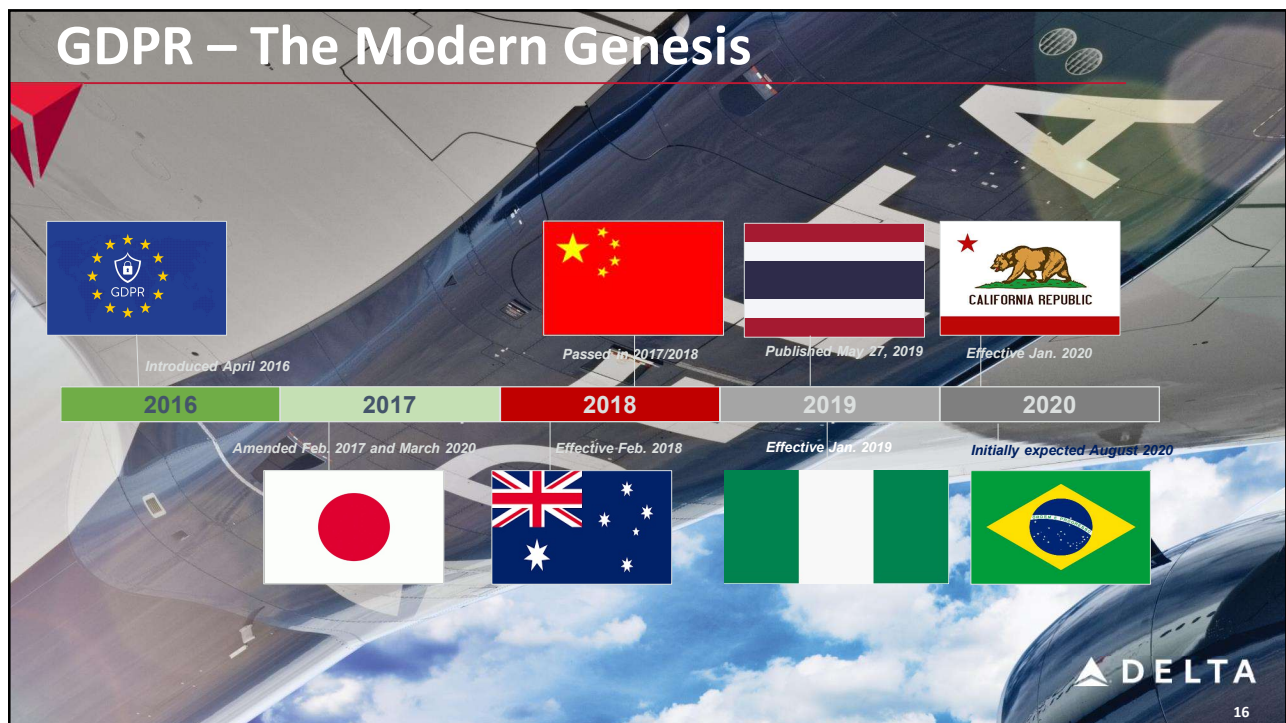
**DELTA**

14

14



15



16



Do any of these laws apply to your organization?

**POLL**

- ✓ All of them apply to my organization
- ✓ Some of them apply to my organization
- ✓ Few of them apply to my organization
- ✓ None of them apply to my organization

**DELTA**

17

This slide features a background image of a person wearing a hard hat. A dark blue rounded rectangle contains the poll question and options. A red rounded rectangle on the left contains the word 'POLL'. The Delta logo is in the bottom right corner.

17

**Brazil**

- The Brazilian General Data Protection Law (LGPD) was published in August 2018.
- The LGPD defines personal data as any information related to an identified or identifiable natural person.
- Anonymized data is not considered personal data.
- The LGPD established the National Data Protection Authority (“ANDP”).

**DELTA**

18

This slide features a background image of a city at night with lights reflecting on water. A dark blue rounded rectangle contains a list of bullet points. A red rounded rectangle on the left contains the word 'Brazil'. The Delta logo is in the bottom right corner.

18

**Brazil**

- The LGPD lawful bases are largely aligned with the GDPR. They include:
  - ✓ Consent
  - ✓ Compliance with a legal or regulatory obligation
  - ✓ Execution of public policies
  - ✓ Contract or in a judicial or administrative procedure
  - ✓ To protect life or physical safety
  - ✓ To protect health or prevent fraud

**DELTA**

19

19

**Brazil**

- Prior consent is needed to transfer personal data to other jurisdictions unless certain conditions are met.

The LGPD does not specifically address electronic marketing.

- Obtaining opt-in consent from consumers prior to sending marketing e-mails is recommended.

**DELTA**

20





A photograph of a Delta airplane cabin interior. A man in a suit is seated, talking on a mobile phone. The Delta logo is visible on the wall behind him. A blue semi-transparent box with a red Delta logo in the top right corner contains text about Brazil's LGPD. A red box on the left contains the word 'Brazil'. The Delta logo and the number '21' are in the bottom right corner.

**Brazil**

- Breach notification requirements if the breach is likely to result in risk or harm to data subjects.
- The LGPD provides for significant penalties.
  - Up to 2% of the revenues for a total maximum of R\$50 million per infraction.
- The enforcement by the ANDP is uncertain.

**DELTA**  
21

21



A photograph of a Delta airplane cabin interior. A man in a suit is seated, talking on a mobile phone. The Delta logo is visible on the wall behind him. A blue semi-transparent box with a red Delta logo in the top right corner contains text about Nigeria's NDPR. A red box on the left contains the word 'Nigeria'. The Delta logo and the number '22' are in the bottom right corner.

**Nigeria**

- The Nigerian Data Protection Regulation (NDPR) was issued in January 2019 by the National Information Technology Development Agency (NITDA).
- NDPR protects the data of individuals residing in and outside Nigeria, as well as those of “Nigerian descent.”
- NDPR requires the appointment of a Data Protection Officer for Nigeria.

**DELTA**  
22

22

**Nigeria**

- The NDPR requires independent audits by Data Protection Compliance Officers (DPCOs).
- The DPCO must conduct an initial audit of a company's data protection practices and file it with NITDA.
- After the initial audit, the DPCO must perform annual audits.

**DELTA** 23

23

**Nigeria**

- Lawful bases for processing:
  - ✓ Consent
  - ✓ Performance of a contract
  - ✓ Compliance with a legal obligation
  - ✓ Protect the vital interest of the data subject or another person
  - ✓ Necessary to perform a task carried out in the public interest or as an official public mandate
- No "legitimate business interest"


**DELTA** 24

24



**Nigeria**

- Processing by a third party should be memorialized through an agreement.
- A data protection clause is required.
- Personal data may be stored on servers outside Nigeria only if adequate level of protection is provided. Otherwise consent is required.
- Consent can be revoked or withdrawn.


 DELTA

25

25

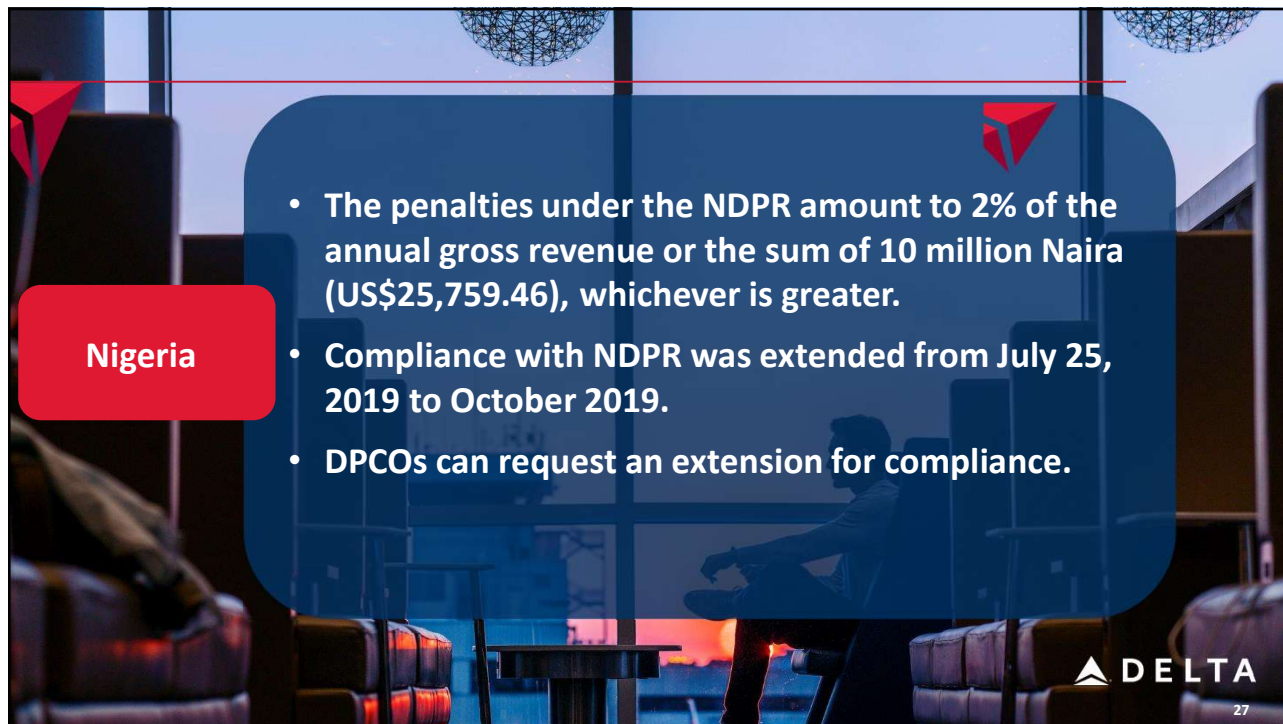
**Nigeria**

- NDPR requires the inclusion of certain information in a privacy policy.
  - ✓ What constitutes the data subject's consent
  - ✓ Description of collectable personal information
  - ✓ Purpose of the collection
  - ✓ Technical measures used to collect and store personal information, such as cookies, web tokens, etc.
  - ✓ Access of any third parties to personal data and the purpose of the access

 DELTA


26

26



**Nigeria**

- The penalties under the NDPR amount to 2% of the annual gross revenue or the sum of 10 million Naira (US\$25,759.46), whichever is greater.
- Compliance with NDPR was extended from July 25, 2019 to October 2019.
- DPCOs can request an extension for compliance.

 DELTA

27

27



### III. EMERGING TECHNOLOGIES AND PRIVACY

 DELTA

28

28



**POLL**

Which of the following characteristics are considered biometrics?

- ✓ Fingerprints
- ✓ Typing cadence
- ✓ Gait analysis
- ✓ All of the above
- ✓ None of the above

**DELTA**

29

# Biometrics

**Physical** —

**Behavioral** —

- Facial Recognition
- DNA
- Retinal/Iris Scan
- Ear Shape (or lack thereof)
- Typing Cadence / Finger Movements on Touch displays or trackpads
- Vein Mapping
- Gait Analysis
- Olfactory
- Heartbeat Monitoring
- Hand Geometry
- Fingerprints
- Voice Pattern

**DELTA**

Image: Courtesy of King & Spalding LLP

30

# Biometrics

**Biometrics Uses**


- Law enforcement
- Access control and Single Sign On (SSO)
- Banking – transaction authentication
- Airport security
- Time and attendance



DELTA 31

31

# Biometrics



DELTA 32

32



## Biometrics

### Global Regulation

- Biometric data is likely sensitive information under comprehensive privacy laws.
- GDPR restricts its processing, subject to certain conditions (*e.g.*, explicit consent).
- Potential further limitations may apply under Member State laws.

 DELTA

33

33

## Artificial Intelligence

### What Is It?

- The process of intelligence being learned, developed, and used by machines.
- Collect vast amounts of individuals' data
- Identify, re-identify, and track individuals
- Make inferences, predictions, and decisions about individuals

 DELTA

34

34



# Artificial Intelligence

**Global Regulation**

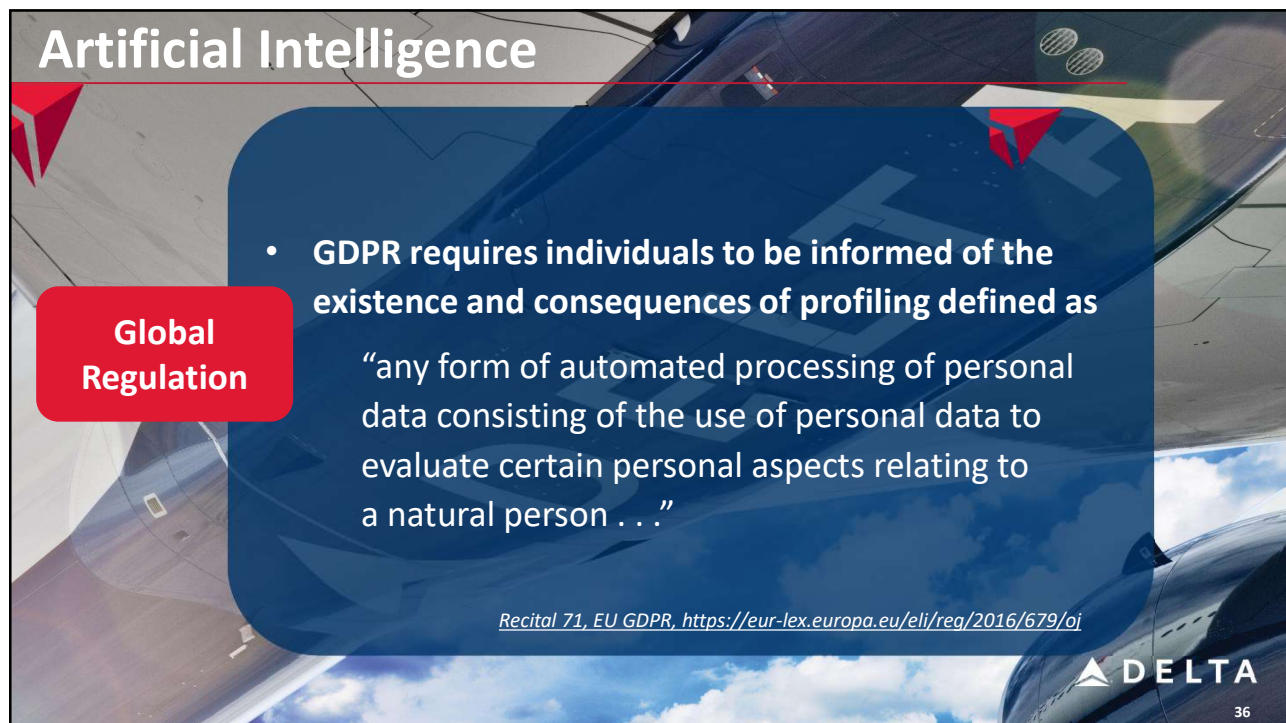
- **OECD Principles on Artificial Intelligence:**
  - ✓ Inclusive growth, sustainable development, well-being
  - ✓ Human-centered values and fairness
  - ✓ Transparency and explainability
  - ✓ Robustness, security, and safety
  - ✓ Accountability

<https://www.oecd.org/going-digital/ai/principles/>

**DELTA**

35

35



# Artificial Intelligence

**Global Regulation**

- **GDPR requires individuals to be informed of the existence and consequences of profiling defined as**  
“any form of automated processing of personal data consisting of the use of personal data to evaluate certain personal aspects relating to a natural person . . .”

*Recital 71, EU GDPR, <https://eur-lex.europa.eu/eli/reg/2016/679/oj>*

**DELTA**

36

36





37

## Cookies

Global Regulation

- ePrivacy Directive requires consent to use cookies on websites.
- GDPR requires opt-in consent.
- European Court of Justice has found that pre-ticked checkboxes are insufficient.

DELTA

38

38



## Cookies

### Enforcement

- France fined Google \$58 million for targeted advertising practices under the GDPR.
- Bavarian & Dutch regulators conducted “cookie sweeps” for website compliance.
- Spain fined IKEA under national law.



39

39

## Questions and Discussion



40