

Irish Data Protection Commission – DPC

The Irish Data Protection Commission,

Pursuant to the request by Groupon International Limited on behalf of the Groupon group, received on 21 May 2019, for approval of their binding corporate rules for controller;

Having regard to Articles 47, 57 and 64 of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation or GDPR);

DECISION APPROVING BINDING CORPORATE RULES OF Groupon International Limited

1. Having regard to Article 47(1) of the EU General Data Protection Regulation 2016/679 (GDPR), the Data Protection Commission (DPC) shall approve Binding Corporate Rules (BCRs) provided that they meet the requirements set out under this Article.

Whereas:

2. In accordance with the cooperation procedure as set out in the Working Document WP263 rev01¹, the Controller BCRs application of Groupon International Limited were reviewed by the DPC, as the competent supervisory authority (SA) for the BCRs (BCR Lead) and by two Supervisory Authorities acting as co-reviewers. The application was also reviewed by the concerned SAs to which the BCRs were communicated as part of the cooperation procedure.
3. The review concluded that Groupon International Limited comply with the requirements set out by Article 47(1) of the GDPR as well as the Working Document WP256 rev01² and in particular that the aforementioned BCRs:
 - i) Are legally binding and contain a clear duty for each participating member of the Group including their employees to respect the BCRs by entering in an Intra-Group Agreement;
 - ii) Expressly confer enforceable third party beneficiary rights to data subjects with regard to the processing of their personal data as part of the BCRs via the Binding Corporate Rules Policy (BCR Policy), Part 2, Section C, Rule 18 of the BCRs;

¹ Endorsed by the EDPB on 25 May 2018.

² Endorsed by the EDPB on 25 May 2018.

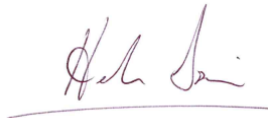
- iii) Fulfil the requirements laid down in Article 47(2) of the GDPR:
- (a) The structure and contact details of the group of undertakings and each of its members are described in the Application form WP264 that was provided as part of the file review and the BCR Policy, Part 1, paragraph 5 and appendix 1 of the BCRs;
 - (b) the data transfers or set of transfers, including the categories of personal data, the type of processing and its purposes, the type of data subjects affected and the identification of the third country or countries in question are specified in the BCR Policy, Part 1, paragraph 5 and appendix 1 of the BCRs;
 - (c) the legally binding nature, both internally and externally, of the Controller BCRs is recognized in the Intra-Group Agreement;
 - (d) the application of the general data protection principles, in particular purpose limitation, data minimisation, limited storage periods, data quality, data protection by design and by default, legal basis for processing, processing of special categories of personal data, measures to ensure data security, and the requirements in respect of onward transfers to bodies not bound by the binding corporate rules are detailed in the BCR Policy, Part 2, Section A, Rules 1 to 9 of the BCRs;
 - (e) the rights of data subjects in regard to processing and the means to exercise those rights, including the right not to be subject to decisions based solely on automated processing, including profiling in accordance with Article 22 of the GDPR, the right to lodge a complaint with the competent supervisory authority and before the competent courts of the Member States in accordance with Article 79 of the GDPR, and to obtain redress and, where appropriate, compensation for a breach of the binding corporate rules which are set forth in the BCR Policy, Part 2, Section A, Rule 10, Section C, Rule 18 and appendix 2 of the BCRs;
 - (f) the acceptance by the controller or processor established on the territory of a Member State of its liability for any breaches of the binding corporate rules by any member concerned not established in the Union as well as the exemption from that liability, in whole or in part, only if the concerned party proves that that member is not responsible for the event giving rise to the damage are specified in the BCR Policy, Part 2, Section C, Rule 18 & 19 of the BCRs;
 - (g) how the information on the binding corporate rules, in particular on the provisions referred to in points (d), (e) and (f) of Article 47.2 of the GDPR are provided to the data subjects in addition to Articles 13 and 14 of the GDPR, is specified in the BCR Policy, Part 2, Section A Rule 1 of the BCRs;

- (h) the tasks of any data protection officer designated in accordance with Article 37 of the GDPR or any other person or entity in charge of monitoring the compliance with the binding corporate rules within the group of undertakings, or group of enterprises engaged in a joint economic activity, as well as monitoring training and complaint-handling are detailed the BCR Policy, Part 2, Section B, Rule 11A of the BCRs;
 - (i) the complaint procedures are specified in the BCR Policy, Part 2, Section B, Rule 12 of the BCRs and appendix 2 of the BCRs;
 - (j) the mechanisms put in place within the group of undertakings for ensuring the monitoring of compliance with the binding corporate rules are detailed in the BCR Policy, Part 2, Section B Rule 11A & 13 and appendix 3 of the BCRs. Such mechanisms include data protection audits and methods for ensuring corrective actions to protect the rights of the data subject. The results of such monitoring are communicated to the person or the entity referred to in point (h) above and to the board of the controlling undertaking of the group of undertakings and are available upon request to the competent supervisory authority;
 - (k) the mechanisms for reporting and recording changes to the rules and reporting those changes to the supervisory authority are specified in the BCR Policy, Part 2, Section B, Rule 14 and appendix 4 of the BCRs;
 - (l) the cooperation mechanism put in place with the supervisory authority to ensure compliance by any member of the group of undertakings is specified in the BCR Policy, Part 2, Section B, Rule 15 and appendix 5 of the BCRs; The obligation to make available to the supervisory authority the results of the monitoring of the measures referred to in point (j) above is specified in the BCR Policy, Part 2, Section B, Rule 11A & 13 and appendix 3 of the BCRs;
 - (m) the mechanisms for reporting to the competent supervisory authority any legal requirements to which a member of the group of undertakings is subject in a third country which are likely to have a substantial adverse effect on the guarantees provided by the binding corporate rules are described in the BCR Policy, Part 2, Section B, Rule 16 of the BCRs;
 - (n) finally, Rule 17 of the BCR Policy provide for an appropriate data protection training to personnel having permanent or regular access to personal data.
4. The EDPB provided its opinion 06/2022 in accordance with Article 64(1)(f) of the GDPR. The DPC took utmost account of this opinion.

DECIDES AS FOLLOWING:

5. The Controller BCRs of Groupon International Limited provide appropriate safeguards for the transfer of personal data in accordance with Article 46(1) and(2)(b) and Article 47(1) and (2) GDPR and hereby the DPC approves the Controller BCRs of Groupon International Limited. However, before making use of the BCRs, it is the responsibility of the data exporter in a Member State, if needed with the help of the data importer, to assess whether the level of protection required by EU law is respected in the third country of destination, including onward transfer situations. This assessment has to be conducted in order to determine if the guarantees provided by BCRs can be complied with in practice, in light of the circumstances of the possible impingement created by the third country legislation with the fundamental rights and the circumstances surrounding the transfer. If this is not the case, the data exporter in a Member State, if needed with the help of the data importer, should assess whether it can provide supplementary measures to ensure an essentially equivalent level of protection as provided in the EU.
6. Where the data exporter in a Member State is not able to implement supplementary measures necessary to ensure an essentially equivalent level of protection as provided in the EU, personal data cannot be lawfully transferred to a third country under this BCR. Therefore, the data exporter is required to suspend or end the transfer of personal data.
7. The approved BCRs will not require any specific authorization from the concerned SAs.
8. In accordance with Article 58(2)(j) GDPR, each concerned SA maintains the power to order the suspension of data flows to a recipient in a third country or to an international organization whenever the appropriate safeguards envisaged by Controller BCRs of Groupon International Limited are not respected.

Signed:



Helen Dixon

Commissioner for Data Protection

Dated: 6th May 2022

ANNEX TO THE DECISION

The Controller BCRs of Groupon International Limited that are hereby approved cover the following:

- a. **Scope:** Only members of Groupon International Limited acting as Controller that are legally bound by the BCRs, as specified in the BCR Policy, Part 1, paragraph 5 and appendix 1 of the BCRs.
- b. **EEA countries from which transfers are to be made:** Belgium, France, Germany, Ireland, Italy, The Netherlands, Poland, Spain;
- c. **Third countries to which transfers are to be made:** USA, Australia, India, Switzerland, United Arab Emirates, UK;
- d. **Purposes of the transfer:** The purposes are detailed in the BCR Policy, Part 1, paragraph 5 of the BCRs.
- e. **Categories of data subjects concerned by the transfer:** Those categories are specified in the BCR Policy, Part 1, paragraph 5 of the BCRs.
- f. **Categories of personal data transferred:** Those categories are specified in BCR Policy, Part 1, paragraph 5 of the BCRs.