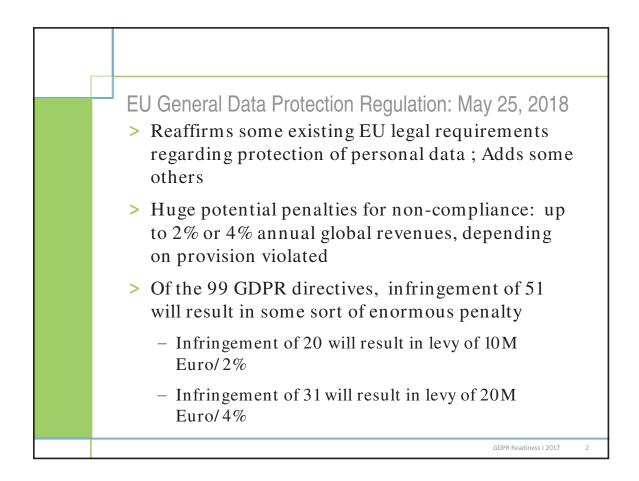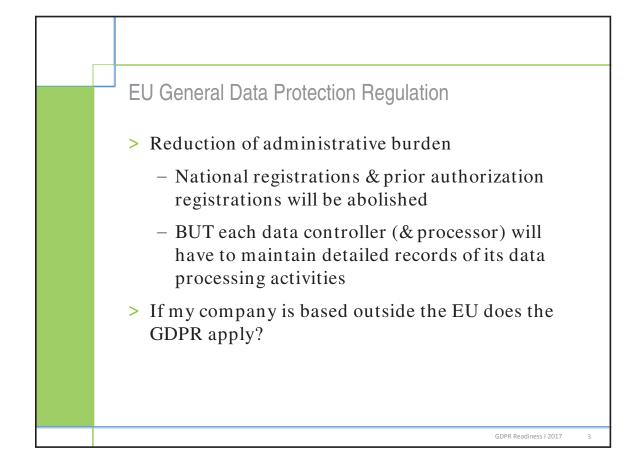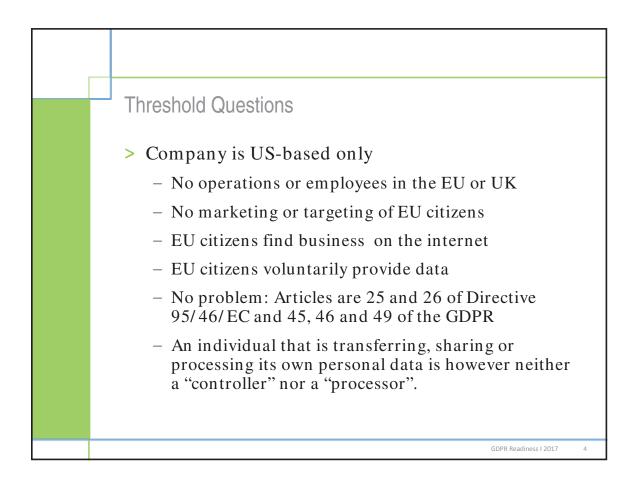# GDPR Readiness in 2017

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Elizabeth Rogers| rogersel@gtlaw.com | 512-320-7256

EU General Data Protection Regulation: May 25, 2018

> Reaffirms some existing EU legal requirements regarding protection of personal data ; Adds some others

> Huge potential penalties for non-compliance: up to 2% or 4% annual global revenues, depending on provision violated

> Of the 99 GDPR directives, infringement of 51 will result in some sort of enormous penalty

  – Infringement of 20 will result in levy of 10M Euro/2%

  – Infringement of 31 will result in levy of 20M Euro/4%

EU General Data Protection Regulation

> Reduction of administrative burden

  – National registrations & prior authorization registrations will be abolished

  – BUT each data controller (& processor) will have to maintain detailed records of its data processing activities

> If my company is based outside the EU does the GDPR apply?

Threshold Questions

> Company is US-based only

  – No operations or employees in the EU or UK

  – No marketing or targeting of EU citizens

  – EU citizens find business on the internet

  – EU citizens voluntarily provide data

  – No problem: Articles are 25 and 26 of Directive 95/46/EC and 45, 46 and 49 of the GDPR

  – An individual that is transferring, sharing or processing its own personal data is however neither a "controller" nor a "processor".

Threshold questions

> Business is headquartered in the US

> Business has sales locations in Paris and Luxemburg

> Total employee count in the EU is 15 and for the company is 125

> Yes, the GDPR will apply to cross border transfers between Paris and Luxemburg

> And, the GDPR will govern international transfer of data to the US and other countries

> Certain GDPR exemptions will apply because under 250 employees (e.g., Accountability requirements)

Summary

> 1)   Under current EU data protection law, a business will not be subject to EU data protection laws as long as it does not use any processor located or equipment situated within the EU (see Article 4 of Directive 95/46/EC).

> In 2018, question will be different: Is entity established in the EU/EEA, processing personal data, whether or not the processing takes place in the EU/EEA?

> 2)   Under GDPR (i.e. as of 25 May 2018), a business will be subject to EU data protection laws only if it is "offering" its services to EU citizens (see Article 3 of the GDPR).

Title search: GDPR Readiness in 2017

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