

GDPR+1 YEAR: BUSINESS STRUGGLES WITH DATA PRIVACY REGULATIONS INCREASING

THOMSON REUTERS SURVEY

The last twelve months have been a watershed for data privacy regulation.

On May 25, 2018, the GDPR or General Data Protection Regulation took effect, representing the most significant change in data privacy regulation in decades.

The global landscape for data privacy has changed significantly in the last year.

And response by businesses to this fast-changing regulatory environment has also dramatically changed.

One year later, businesses are struggling to comply with GDPR and other data privacy regulations.

Thomson Reuters surveyed data privacy professionals at global organizations in nine countries. The surveys were conducted in 2017 and again in December 2018 – both before and after GDPR took effect. The companies surveyed have average global revenues of USD\$282 million dollars and an average of 16,400 employees.

The surveys found that global companies' struggles with data privacy laws and regulations around the world have increased in several ways since GDPR took effect:

- **More companies are failing to meet global data privacy regulations**
- **Many companies have found GDPR compliance more difficult than expected**
- **Half of companies are at risk of falling further behind**
- **An increasing number of companies have now been subject to enforcement actions**
- **Companies are becoming less open and pro-active with consumers**
- **Board and C-suite concern and engagement on data privacy issues is falling**
- **GDPR is now consuming a greater proportion of data privacy budgets**

On the positive side:

- **Nearly all global companies are aware of GDPR**
- **Most companies consider themselves knowledgeable on GDPR**
- **Data protection costs have decreased in most countries**



I. The Global Data Privacy Regulatory Environment Continues to Evolve Rapidly

When GDPR went into effect on May 25, 2018, it brought with it a great deal of uncertainty. While its 261 pages contained plentiful details, there was no way of knowing what impact it would have once put into place. Any organization processing or holding data of European Union residents must follow GDPR and there were no precedents for evaluating what events would trigger enforcement or how sanctions would be determined.

With fines of up to 10 million Euros or 2% of a company's global revenues for a first offense, and double that for a second offense, clearly the stakes are high.

The European Commission reported that as of January 2019, shortly after this latest survey was conducted, 95,180 complaints of alleged violations of GDPR had been filed with data privacy authorities in Europe. The most common complaints involved telemarketing, promotional emails and use of CCTV or video surveillance.

Shortly thereafter, France's data privacy enforcement agency, Commission nationale de l'informatique et des libertés (CNIL) applied a 50 million Euro fine on Google for GDPR violations, citing "lack of transparency, inadequate information and lack of valid consent regarding personalization" of ads delivered to consumers. In addition, a 20,000 Euro fine was assessed against a German social network operator for failing to secure users' data, as well as a 5,280 Euro fine against an Austrian sports betting café for unlawful video surveillance. Several other high-level cases are currently on-going.

Despite a two-year grace period between passage in 2016 and implementation in 2018 which was intended to give organizations ample time to prepare, our survey has found that one year after GDPR went into effect, companies are still struggling to meet its requirements.

With more data privacy laws and regulations coming into effect over the next few years in other countries, including the United States, the challenges facing businesses are mounting.

II. Businesses are Struggling to Meet GDPR and Other Data Privacy Regulations Globally

More companies are either failing to meet regulatory requirements or having trouble keeping up

A whopping 79% of companies surveyed post-GDPR say that they are either failing to meet regulatory requirements, having trouble keeping up to date, or both, compared with 72% prior to GDPR implementation.



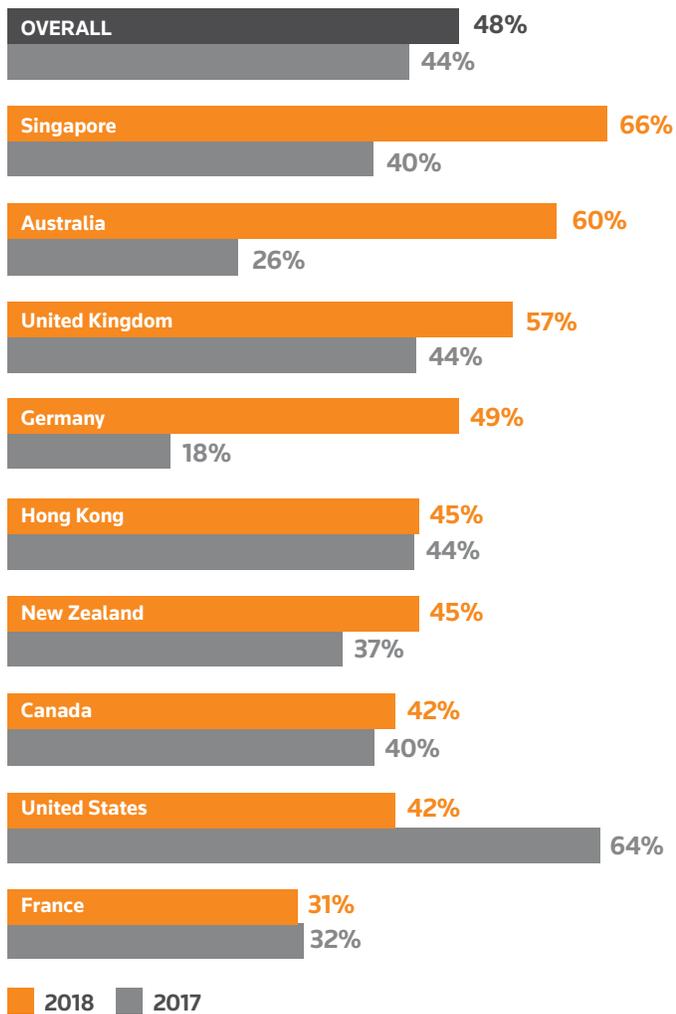
Meeting Current Requirements

Nearly half of companies (48%) say they are failing to meet the requirements of GDPR and other data privacy regulations around the world. That is up from the 44% in 2017.

U.S. companies have seen major improvements. In 2017, U.S. businesses were the most likely by a significant margin to report that they were failing to meet data privacy requirements. Nearly two-thirds of U.S. organizations (64%) said at that time that they were unable to meet requirements. In 2018, that percentage fell to 42% and is now among the lowest among the countries surveyed. Only France is currently reporting better numbers.

Meanwhile, reports of difficulties have increased across some EU countries as well as Australia and Singapore, since GDPR implementation. For example, in 2017, only 18% of companies in Germany and 44% in the UK were failing to meet requirements. Now, those percentages have risen to 49% in Germany and 57% in the UK.

FAILING TO MEET DATA PRIVACY REQUIREMENTS



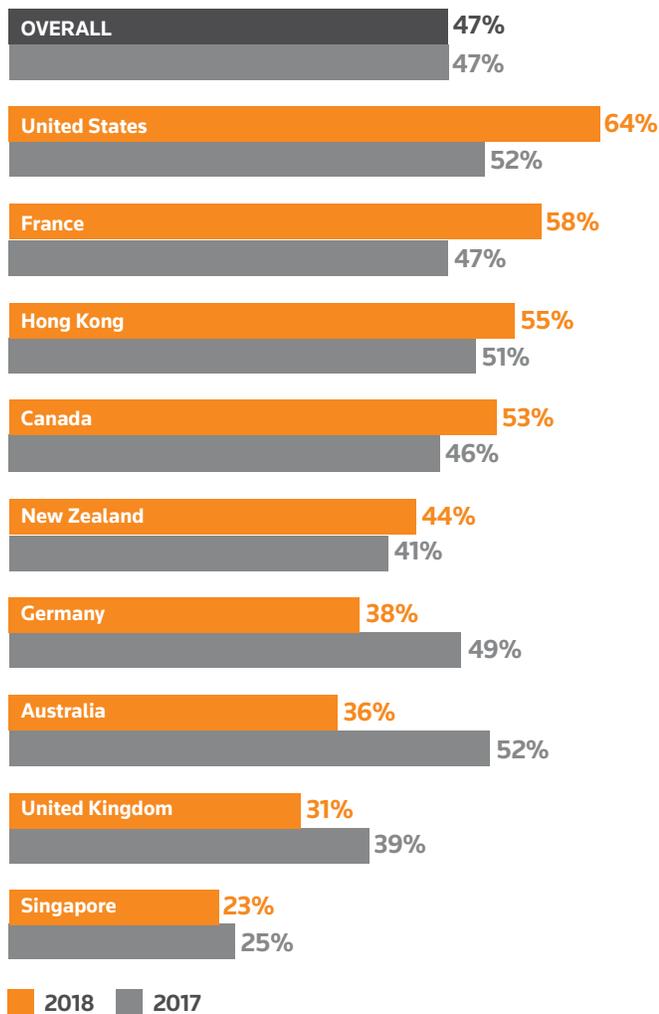
Keeping Up or Falling Behind

Moreover, nearly half (47%) of companies surveyed globally say they are struggling to keep up to date or falling further behind. That figure is unchanged from prior to GDPR implementation.

However, within each country, the numbers have changed considerably. Since GDPR took effect, more companies in the U.S., France, Hong Kong, Canada, and New Zealand are having troubling keeping up compared with a year earlier. Nearly two-thirds (64%) of U.S. companies now say they are having difficulty keeping up, up from 52% a year earlier.

Meanwhile, fewer companies in Singapore, UK, Australia and Germany are saying that they are unable to keep up compared with a year earlier, and those four countries are currently reporting the lowest levels of difficulty keeping up to date on regulatory requirements.

STRUGGLING TO KEEP UP TO DATE OR FALLING FURTHER BEHIND

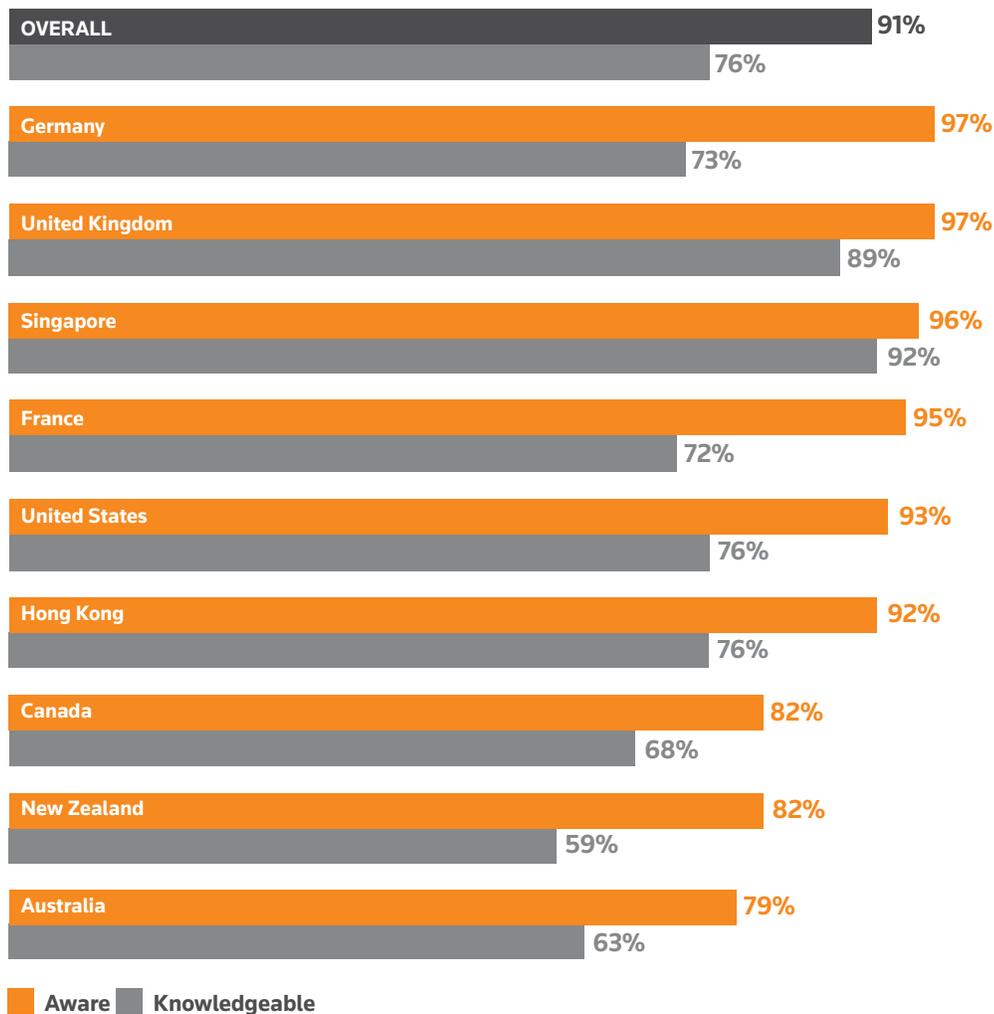


Businesses Are Now More Aware and Knowledgeable About GDPR

Businesses are now almost universally aware of GDPR. Ninety-one percent of companies surveyed are aware of GDPR, up from 86% prior to GDPR implementation. Not surprisingly, the EU countries in the survey are all above the global average, with Germany and the UK reporting 97% awareness. Companies in Canada, New Zealand and Australia currently have the lowest levels of awareness of GDPR, but even so, eight in ten businesses in those countries are aware.

However, there are sizeable gaps between the percentage of companies that are aware of GDPR and those that say they are knowledgeable about GDPR and its 11 chapters and 99 articles. While 91% of companies surveyed globally are aware of GDPR, only 76% say they are knowledgeable about it. Even in Germany, where 97% of companies are aware of GDPR, the percentage that are knowledgeable about GDPR is at a much lower 73%, representing a significant gap between levels of awareness and knowledgeability.

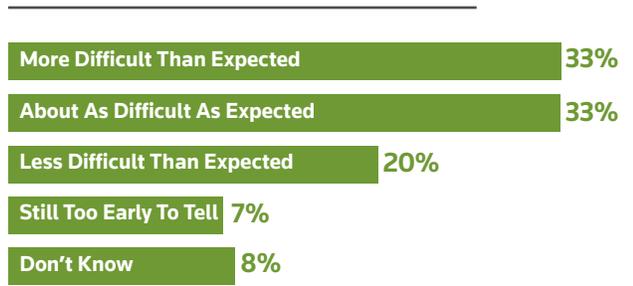
COMPANIES AWARE OF & KNOWLEDGEABLE ABOUT GDPR



A THIRD OF COMPANIES SAYS GDPR COMPLIANCE HAS BEEN MORE DIFFICULT THAN EXPECTED

Companies are split on whether GDPR compliance has been more or less difficult than they expected. A third say it has been more difficult than expected. Another third have found GDPR to be about as difficult as expected. Only 20% said it has been less difficult than expected. Fifteen percent don't know or say it's still too early to tell.

Hong Kong, UK and U.S. companies were most likely to say that GDPR has been more difficult than expected.



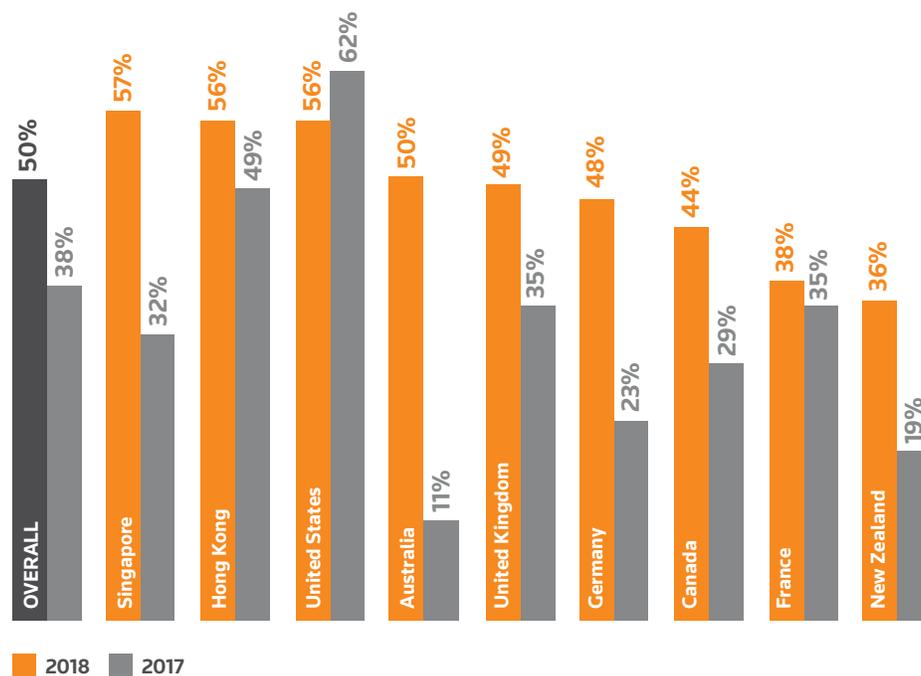
More Companies Are Dealing with Enforcement Actions

Many of these struggles may be because since GDPR went into effect, more companies are dealing with enforcement actions for non-compliance with a data privacy regulation, whether involving GDPR or any other regulations globally.

Half of companies surveyed say they have been the subject of an enforcement action, up from 38% the year before. The percentages were up in every country except for the United States. Singapore has the highest rate at 57%. Even in New Zealand – the country with the lowest rate – more than a third of companies reported receiving enforcement actions.

Australia saw the largest jump, with half of companies surveyed saying they have experienced an enforcement action, compared with only 11% a year earlier.

HAVE BEEN THE SUBJECT OF ENFORCEMENT ACTION



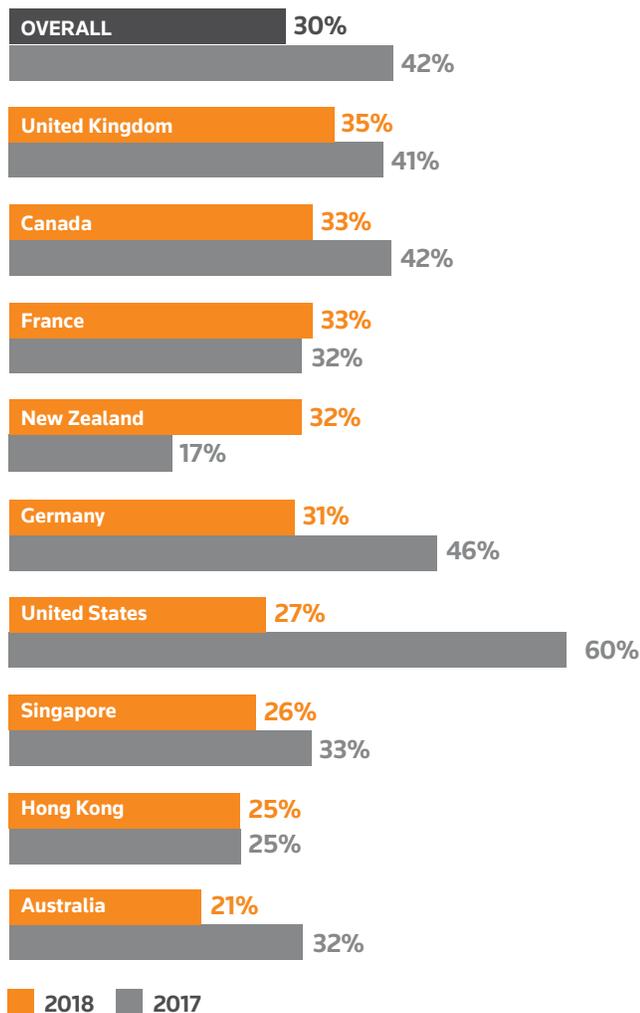
Companies Are Becoming Less Open and Pro-Active With Consumers

Businesses have become less engaged with consumers on data privacy issues since GDPR implementation. Less than one-third (30%) of companies surveyed say they are being open and pro-active with consumers on data privacy, down sharply from 42% before GDPR took effect.

Consumer engagement levels have plummeted in the United States. Before GDPR took effect, U.S. companies were the leaders, with 60% saying they were open and pro-active with consumers. In the year since GDPR, that percentage has fallen by more than half to 27%. And the U.S. has gone from leading the world to falling to the point it is average on being pro-active and the least likely to be open with consumers.

New Zealand is the only country where more companies say they are open and pro-active in engaging consumers since GDPR. France and Hong Kong have stayed about the same both before and after GDPR.

OPEN & PRO-ACTIVE ENGAGING CONSUMERS ON DATA PRIVACY



CORPORATE BOARD & C-SUITE CONCERN & ENGAGEMENT IS DECREASING

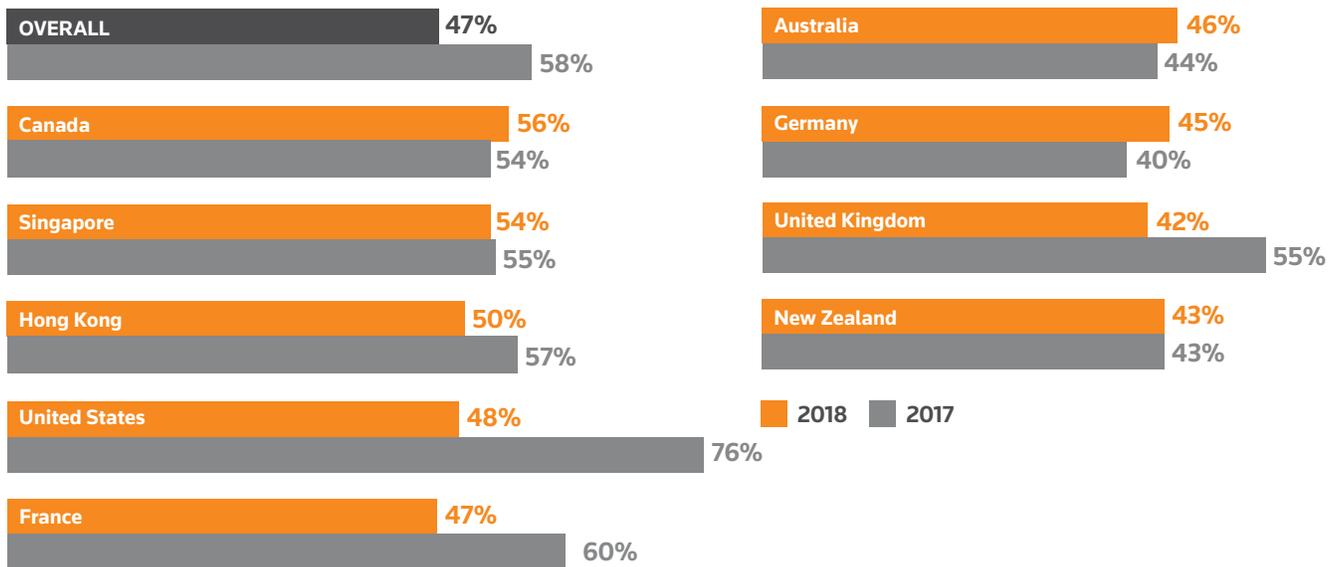
Concern and engagement on data privacy at the board and C-Suite level has fallen sharply in several countries in the last year, most notably in the U.S.

Prior to GDPR implementation, the United States had by far the highest level of executive concern and engagement. In 2017, 76% of U.S. companies said their board or C-Suite was concerned about data privacy. In just one year, that percentage has fallen to less than half (48%).

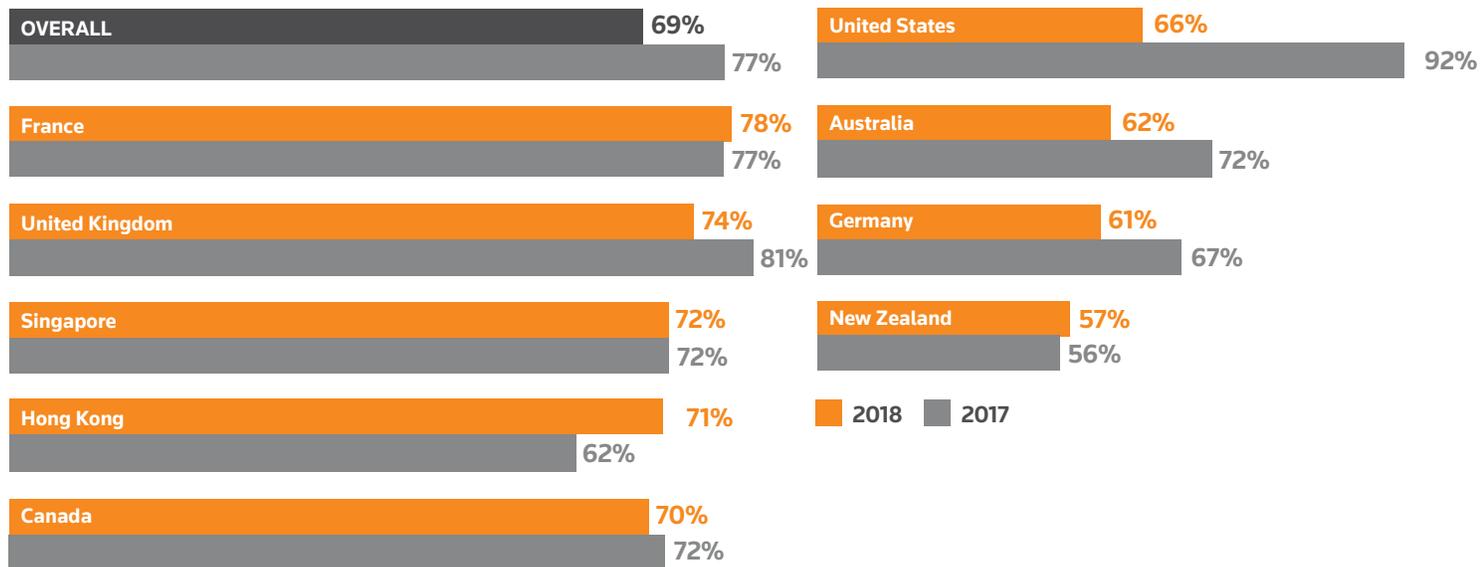
An even larger drop was seen in U.S. engagement levels. A year earlier, an overwhelming 92% of U.S. companies surveyed reported that their board or C-Suite was engaged on data privacy issues. That percentage of engagement has now fallen to 66%, dropping the U.S. from the top spot to below the average of countries surveyed.

Every country surveyed saw drops in either concern or engagement levels, although none of the declines was as dramatic as the U.S.

BOARD/C-SUITE CONCERNED



BOARD/C-SUITE ENGAGED



COMPANIES SPENDING AN AVERAGE OF USD\$1.3 MILLION ON DATA PROTECTION

Companies report spending an average of USD\$1.32 million in 2018 on data protection issues, including employees, software, and third-party resources. This represents a slight decrease from the USD\$1.36 million reported in 2017.

Spending increased in Canada, Australia, New Zealand and France. Data protection costs decreased dramatically in the U.S., going from an average of USD\$2.1 million to USD\$1.5 million. Costs also decreased in Singapore, Hong Kong, Germany, and the UK.

DATA PROTECTION COSTS

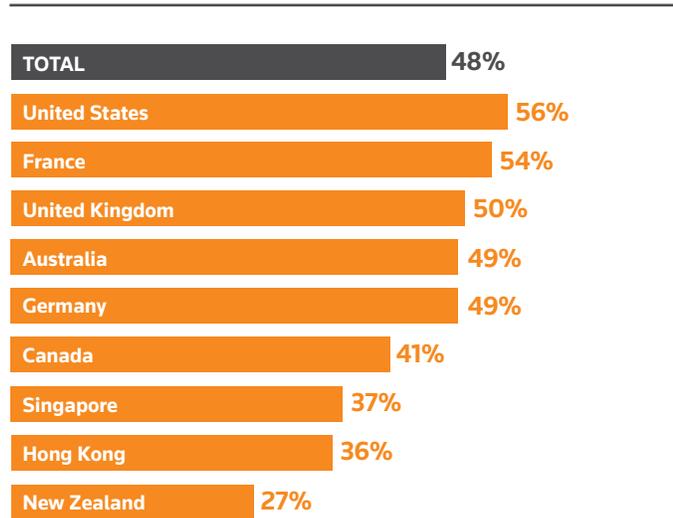
*all figures in USD.

	2018	2017
France	\$1.7m	\$1.2m
UK	\$1.1m	\$1.2m
Singapore	\$0.9m	\$1.6m
Hong Kong	\$1.2m	\$1.5m
Canada	\$1.5m	\$1.1m
OVERALL	\$1.3m	\$1.4m
United States	\$1.5m	\$2.1m
Australia	\$1.8m	\$0.7m
Germany	\$1.1m	\$1.1m
New Zealand	\$0.6m	\$0.4m



Half of Companies Expect Costs to Increase This Year

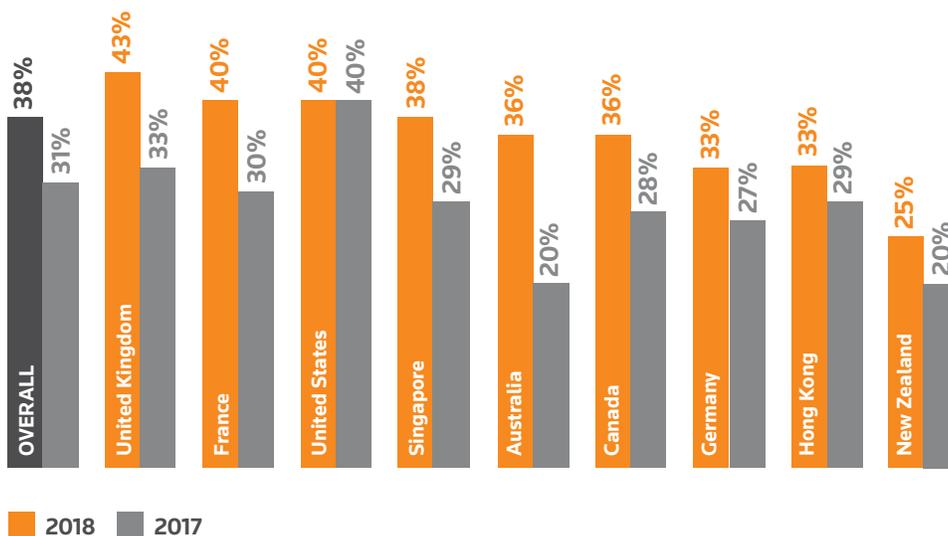
Nearly half (48%) of companies surveyed expect their global cost of data protection to increase this year. Expectations for higher costs are greatest in the U.S. (56%) and France (54%), and lowest in New Zealand (27%).



GDPR is claiming an increasing proportion of data privacy budgets

Meanwhile, GDPR is claiming an increasing proportion of data protection budgets, rising from an average of 31% in 2017 to 38% in 2018. UK companies reported the highest proportion of their budgets being consumed by GDPR at 43%.

GDPR COMPLIANCE AS % OF TOTAL DATA PRIVACY BUDGET



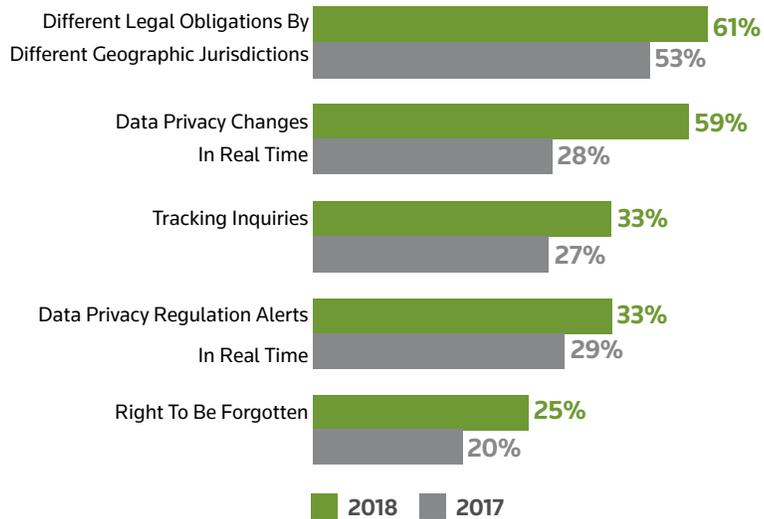
Many Companies Still Lack Adequate Tools

Many companies say that they lack adequate tools for tracking their regulation and consumer engagement obligations.

However, the encouraging news is that more companies reported having at least some tools in place.

POSSESS ADEQUATE TOOLS FOR TRACKING

Different legal obligations by different geographic jurisdictions



III. The Future

GDPR has been described as the most significant in data privacy regulation in more than two decades.

But it may end up being only the first step in a sweeping global transformation of such regulations.

With barely a year of experience dealing with GDPR under their belts, companies are now having to turn their attention to a growing number of new data privacy regulations taking effect worldwide.

According to Thomson Reuters Data Privacy Advisor, several countries passed new data privacy laws in 2018 -- many modeled after GDPR -- including Brazil, Peru, Bahrain, Uruguay and Israel. Other countries are expected to take similar action in 2019.

Even within the European Union, nearly all member states have now adopted national data protection laws that in many cases supplement GDPR, resulting in non-uniformity across the EU on data privacy requirements.

U.S. National Data Privacy Law in the Works?

While the U.S. still lacks a national data privacy law, numerous recent high profile data breaches have raised calls for Congress to pass such legislation. Several bills have been introduced that would establish national privacy requirements, including the American Data Dissemination Act (S. 142) and the Social Media Privacy Protection and Consumer Rights Act of 2019 (S. 189). Both the House Committee on Energy and Commerce and Senate Commerce Committee held hearings to discuss what national data standards could potentially look like.

Even in the absence of a national data privacy law, enforcement of existing data privacy regulations may be stepping up. Facebook recently revealed in a regulatory filing that it is setting aside USD\$3 billion for an anticipated settlement with the Federal Trade Commission over an investigation into its data privacy practices, which would be the largest such fine ever by the FTC.

FTC Commissioner Joseph Simons has suggested that in the future, company executives could potentially face financial and other penalties for their personal responsibilities in data breaches and data privacy violations.



CCPA Awareness

But one of the most important recent developments has been in California, where the California Consumer Protection Act was passed in June 2018. The provisions apply to any organization conducting business within the state.

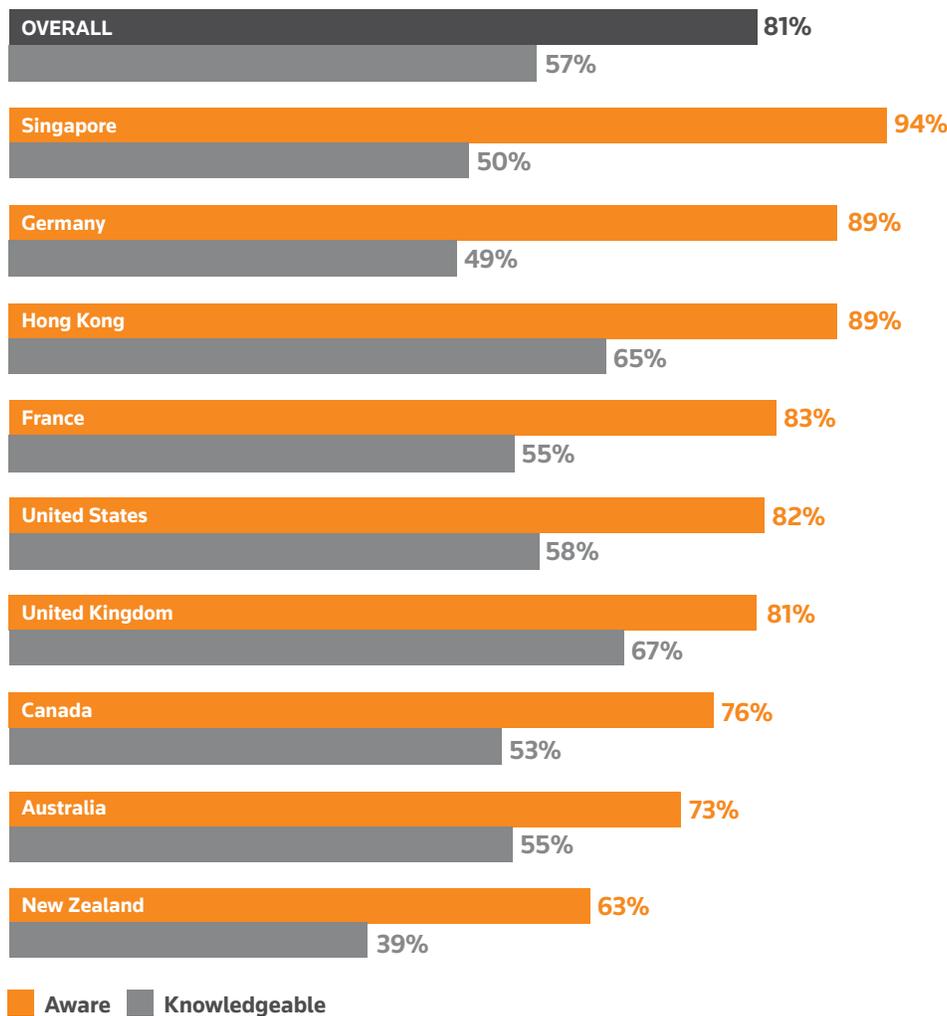
CCPA takes effect on January 1, 2020 and in the wake of its passage, at least 11 other states are also considering similar legislation this year.

Somewhat surprisingly, companies in Singapore, Germany, Hong Kong and France are more likely to be aware of CCPA than companies in the U.S., where awareness is only about at the global average of just over 80%.

UK (67%) and Hong Kong (65%) businesses are most likely to say that they are knowledgeable about CCPA, followed by the U.S. (58%).

For the countries surveyed, awareness and knowledgeability levels around CCPA as its implementation date approaches are mostly lower than similar readings taken for awareness and knowledgeability of GDPR prior to its implementation.

PERCENTAGE OF COMPANIES AWARE & KNOWLEDGEABLE CCPA



Conclusion

GDPR clearly had a major impact on global organizations' ability to meet their data privacy regulatory requirements. Many companies are having difficulty meeting those requirements, and are in danger of falling even further behind.

While the cost of compliance generally did not rise following GDPR taking effect, further cost increases are expected, and many companies still lack vital tools for tracking and meeting the increasingly expanding global regulatory framework they are facing.

Regional, national, state and local data privacy regulations continue to proliferate at a rapid pace. And if the GDPR implementation provides any lessons, it appears to be that organizations are finding themselves increasingly challenged to meet these growing requirements.

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