

UK

ICO Publishes Results of Telephone Preference Service Study

The Information Commissioner's Office (ICO) and Ofcom have published the results of a study measuring the effectiveness of the Telephone Preference Service (TPS). The results show that registering with the TPS reduced the average volume of live sales or marketing calls per month by 31% and 45% of those registered with the TPS did not receive any unsolicited live marketing calls. A TPS registration also resulted in a 35% fall in the volume of nuisance calls received per month. The ICO and Ofcom will share these results with the government to inform its consultation later this year on extending the powers of the ICO to enable enforcement action to be taken more easily against companies who break the TPS opt-out rules.

[Ofcom and ICO – Research into the effectiveness of the Telephone Preference Service – 24 July 2014](#)

ICO Serves £150,000 Monetary Penalty Notice

The ICO has imposed a monetary penalty of £150,000 on an online travel services company for serious breaches of the Data Protection Act. The company's website was hacked and the insecure coding used on the site allowed 1,163,996 credit and debit card records to be compromised. No reviews or security checks had ever been carried out on the site.

[ICO news release – online travel services company exposes more than a million customer records to a malicious hacker – 24 July 2014](#)

Surveillance Road Map Published

The UK Government has announced the publication of the Surveillance Road Map, a document that aims to clarify the roles and responsibilities of the seven main bodies involved in overseeing surveillance legislation in the UK. It explains the role that each body undertakes, to facilitate effective working together. It also gives an overview of the avenues available to individuals who wish to challenge any surveillance to which they are subject.

[Gov.uk – Surveillance Road Map, 22 July 2014](#) and [Surveillance Road Map – a shared approach to the regulation of surveillance in the United Kingdom](#)

Data Retention and Investigatory Powers Bill Receives Royal Assent

The Data Retention and Investigatory Powers Bill has now received Royal Assent and the majority of its provisions are already in force. The Bill was introduced as an emergency measure in response to a recent European Court ruling which invalidated the Data Retention Directive. There has been uncertainty across Europe as to whether the effect of this ruling was also to invalidate national member state legislation implementing the Directive. The new Data Retention and Investigatory Powers Act 2014 is intended to fill the gap in the event that the UK's implementing legislation is indeed invalid. The Act will remain in force until 31 December 2016.

[Parliament.co.uk](#) and the [Data Retention and Investigatory Powers Act 2014](#)

Regulations Made Under New Data Retention Act

Draft Regulations made under the Data Retention and Investigatory Powers Act 2014 have been published by the UK Government. The Data Retention Regulations 2014 give the Secretary of State power to issue notices to telecommunications operators requiring them to begin retaining specified communications data under the new Act. The Regulations also set out the standards required of telecommunications operators in terms of the integrity and security of the data they retain and confirm that the Information Commissioner will audit compliance with these standards. The ICO is likely to receive additional funding to cover this extra regulatory duty.

[Data Retention Regulations 2014](#)

Information Commissioner to Gain NHS Audit Powers

The UK Government has announced that the ICO will be given extended powers to carry out compulsory data protection compliance audits on public sector providers of NHS services. The ICO's new powers will be available from the end of this year.

[Gov.uk – consultation outcome](#) and [Ministry of Justice – Assessment Notices under the Data Protection Act 1998 – Extension of the Information Commissioner's powers – July 2014](#)

France

CNIL Cookie Investigation

In July 2014 the Commission nationale de l'informatique et des libertés (CNIL) indicated that it would launch, in October 2014, an in-depth investigation into compliance with cookie regulations. This forms part of its investigation program for 2014, which was announced in April 2014, and its participation in the Mobile apps Sweep day organised by the Global Privacy Enforcement Network. This follows a change in law, on 17 March 2014, which gave wider powers to the CNIL to carry out investigations. Previously, the CNIL's powers were limited to on-site inspections, document reviews and hearings.

<http://www.cnil.fr/linstitution/actualite/article/article/cookies-des-contrôles-a-partir-doctobre/>

EU

CJEU Rules That Legal Analysis is Not Personal Data

The Court of Justice of the European Union (CJEU) has held that a legal analysis contained in an administrative document relating to an application for a residence permit did not constitute a data subject's personal data. Consequently, the data subject had no right to that legal analysis. The CJEU also held that a data subject's right of access to personal data under the Directive was satisfied by merely providing a summary of the personal data contained in the document.

[Ruling of the CJEU in *YS v Minister voor Immigratie, Integratie en Asiel* – July 2014](#)

WP29 Guidance on Implementation of the Right to be Forgotten

The Article 29 Working Party (WP29) is to meet with search engines to discuss the implementation of the CJEU's recent "right to be forgotten" ruling. The meeting is in advance of new WP29 guidance to be released this autumn.

[WP29 press release – July 2014](#)

EDPS Guidelines on Exporting Data to Third Countries

The European Data Protection Supervisor (EDPS) has issued guidelines to organisations that export data outside the EU. The EDPS said that increased use of cloud computing and mobile applications had created new challenges but that the principle of adequate protection must always be adhered to when data was being exported. The EDPS said that it would use supervision and enforcement tools to ensure that the right of EU citizens to the protection of their data was being respected, including imposing temporary or permanent export bans on non-compliant organisations. Some organisations would, in addition, be required to undergo prior checks where a data transfer outside the EU was likely to present specific risks to the rights and freedoms of data subjects.

[European Data Protection Supervisor – the transfer of personal data to third countries and international organisations by EU institutions and bodies – Position Paper – July 2014](#)

International

Canada's Privacy Watchdog Rules Out Use of Genetic Tests

The Office of the Privacy Commissioner of Canada (OPCC) has urged the life and health insurance industry not to use genetic test results for the purpose of assessing risk. Canada's data protection legislation allows organisations to use personal data where it has a commercial need to do so but, in its recent statement, the OPCC said that this does not allow organisations to use "any and all personal data on the basis that it might be useful or relevant".

[Office of the Privacy Commissioner of Canada – Statement on the use of genetic test results by life and health insurance companies – July 2014](#)

For further information on any of these items, please contact [Mark Gleeson](#), Partner (Barrister) in our London office or Stephanie Faber in our Paris office.

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