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WEEKLY DATA PRIVACY ALERT
8 DECEMBER 2014

UK

New ICO Guidance on the Use of Drones

The ICO has published guidance for the public on the data protection issues connected to the use of drones. The guidance states that if a drone has a camera its use has the potential to be covered by the DPA but that purely personal use of drones will not normally be covered. However, it states that all users of drones should still consider the guidance, which sets out tips for responsible use of drones, to avoid having an unnecessary impact on people's privacy.

ICO Drone Guidance

EU

European Commission's View on Regulating the Use of Drones in Europe

The Justice and Home Affairs Council ('the Council') met on 4 December to seek a partial general approach on the proposal for a General Data Protection Regulation. Discussion focused on Chapter IX of the Draft Regulation. The Council also held an orientation debate on the "one-stop shop" mechanism on the basis of a proposal presented by the Italian Presidency. A majority of ministers endorsed the general architecture of the proposal however, it was concluded that going forward, further technical work was required.

Council of the European Union Press Release

European Commission's View on the Regulation of the Use of Drones in Europe

The European Commission has conducted two studies into the development of the drone market in Europe and the potential safety, security, privacy, liability or public acceptance issues. The Commission has concluded that the current rules governing privacy, data protection and ethics in relation to drone use is sufficiently robust to safeguard the public. However, the Commission identified a need to ensure that the drone industry is educated about its obligations and enforcing current legislation. The Commission has recommended the development of a privacy impact assessment framework and awareness-raising activities targeted at the drone industry.

Studies on Remotely Piloted Aircraft Systems (RPAS)

Article 29 Working Party Issues Opinion on Device Fingerprinting

The Article 29 Working Party (WP29) has adopted an opinion on device fingerprinting. The Opinion addresses the applicability of Article 5(3) of the ePrivacy Directive 2002/58/EC, as amended by Directive 2009/136/EC. Article 5(3) stipulates that Member States shall ensure that "the storing of information, or the gaining of access to information already stored, in the terminal equipment of a subscriber or user" is only allowed on condition that the subscriber or user concerned has given his or her consent, having been provided with clear and comprehensive information in accordance with Directive 95/46/EC6 (the Data Protection Directive), about the purposes of the processing. The key message of the Opinion is that Article 5(3) of the ePrivacy Directive is applicable to device fingerprinting.

Article 29 Working Party Press Release

Giovanni Buttarelli the Next European Data Protection Supervisor

The European Parliament's President has announced that Giovanni Buttarelli has been voted as the next European Data Protection Supervisor (EDPS) by the Civil Liberties Committee, replacing Peter Hustinx. Buttarelli is the former Assistant Supervisor of the EDPS. Wojciech Rafał Wiewiórowski has been appointed Buttarelli's Assistant Supervisor.

European Parliament Press Release

ITALY

Italian Data Protection Authority Releases New Rules Regulating the Use of Biometrics

The Italian Data Protection Authority (DPA) has released new rules in relation to the use of biometrics. The rules include a requirement to notify the DPA of all data breaches or cyber incidents involving biometric systems within 24 hours. New simplified rules, in which the DPA's prior authorization for use of biometrics is no longer needed, were also included. The resolution identified a number of safety measures needed for biometrics use, and called for particular attention to be paid to the safety of mobile devices that could be easily be compromised or lost.

Italian Data Protection Authority Press Release

GERMANY

Privacy Watchdogs Criticize Anti-Doping Draft Law

German privacy watchdogs have released a critical assessment of an anti-doping draft law from German federal ministries. The watchdogs generally welcomed the draft law as to date the collection of athletes' data has been based on non-voluntary and vague consent.

Assessment of anti-doping draft law

Federal Social Court: Electronic Health Card May Contain Chip and Photo

Electronic health cards containing a computer chip and a passport photo do not breach the right of an insured person to informational self-determination, the German Federal Social Court has ruled. The complainant had argued that the photo was not necessary for identification purposes. He had also complained that the chip allowed for the storage of highly sensitive patient data and that it was not possible to trace the use and processing of such data. The Court held that chips and photos served the common interest of prevention of misuse and that this prevails over privacy interests.

Press Release

Consumer Association Reviews Draft Law on IT Security

The Federation of German Consumer Associations (Verbraucherzentrale Bundesverband - vzbv) has released a report on the draft law for a better IT security by the German Federal Ministry of the Interior. Under the draft law, telemedia providers shall have the right to retain and process user data for a maximum of six months in order to prevent misuse. The Federation sees this as a new form of data retention surpassing the narrow limits set by the German Federal Constitutional Court and the European Court of Justice.

VZBV Report

US

Settlement Reached With Hospital Over Allegations of Data Security Breach

The Massachusetts Attorney General has announced that the Beth Israel Deaconess Medical Center ("BIDMC") in Boston has agreed to pay a total of US$100,000 in settlement of allegations relating to a data breach, where a laptop containing unencrypted personal data of 4,000 patients and employees was stolen from an unlocked office of a BIDMC physician. As part of the settlement, BIDMC must also "take steps to ensure future compliance with state and federal data security laws and regulations," including the implementation of enhanced device management, encryption and training policies.

Attorney General's press release

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