

EU

Delegation from Civil Liberties Committee Discuss Data Protection Issues During Visit to Washington DC

A delegation from the Civil Liberties Committee has visited Washington to discuss issues such as data protection and legislation on surveillance activities, the EU's data protection reform and on counter-terrorism initiatives, including the passenger name records (PNR) proposal. One of the main objectives of the Committee's visit was to discuss the importance of ensuring that individuals whose personal data processed in the EU are transferred to the US enjoy the rights for effective judicial redress as US citizens, without any discrimination. The delegation also met with members of the US Trade Representative's Office and stressed the importance of data protection remaining outside the scope of the Transatlantic Trade and Investment Partnership, which is currently being negotiated between the EU and the US.

[European Parliament Press Release](#)

France

CNIL Facilitates International Transfers of Data for Companies Who Have Adopted BCRs

The French Data Protection Authority (CNIL) has issued a press release advising that it will be simplifying the data transfer notification formalities for those companies that have adopted Binding Corporate Rules (BCRs). The CNIL will grant a single decision to each group that adopted BCRs, so that group entities subject to compliance with the French Data Protection Act will no longer have to apply for each transfer outside of the European Union to be granted an authorisation.

[CNIL Press Release](#)

United Kingdom

Court of Appeal Rules That There Is No Requirement for Pecuniary Loss to Claim for Damages Under the Data Protection Act 1998 (DPA)

Google has lost a Court of Appeal bid to prevent consumers having the right to claim damages under DPA. In the case, three individuals complained that Google had collected private information about their Internet usage without their knowledge or consent. The individuals sought to claim compensation under section 13 of the DPA for damage and distress. Google argued that the claimants were not entitled to recover damages for distress as the claimants were not alleging that they suffered pecuniary loss in addition to their distress; and their claims do not relate to the processing for any of the special purposes. The Court of Appeal looked at whether "damage" under article 23 of the Directive 95/46/EC (Directive), which the DPA was intended to implement, includes non-pecuniary loss. The court held that article 23 of the Directive does not distinguish between pecuniary and non-

pecuniary damage and therefore section 13 of the DPA, interpreted literally, has not effectively transposed article 23 of the Directive into UK domestic law. The court dismissed the appeal, holding that the claims raise serious issues which merit a trial.

[Court of Appeal Judgment](#)

High Court Rules on Subject Access Request Made by an Individual Outside the UK

The Claimant, who is on death row in Kenya for kidnapping and murder of British nationals, made a subject access request (SAR) to the Metropolitan Police who were involved in the investigation of the Claimant's crimes in Kenya. The Metropolitan Police refused the request claiming that it was an abuse of process. The Court considered whether the making of the SAR was an abuse of process and whether to direct the Police Commissioner to comply with the request. The Court agreed that it was common ground that it had jurisdiction to order compliance even though the Claimant had never been to the UK, as the relevant data was held by the Police Commissioner. The Court ruled that the making of the SAR was not an abuse of process as the reason for the request was to determine whether there were any inaccuracies in the data held by the Metropolitan Police. The Court ordered the Metropolitan Police to comply with the SAR as the purpose of the request was a proper statutory purpose.

[Kololo v. Commissioner of Police for the Metropolis \[2015\] EWHC 600 \(QB\)](#)

Government Releases Report on Cyber Security Insurance

The Government has published a report, "UK cyber security: the role of insurance in managing and mitigating the risk", which evaluates how insurance can help make UK companies more resilient to cyber threat. The report highlights the growing threat of cyber-attacks and the consequences on businesses as well as the lack of awareness on the availability of insurance; less than 10% of companies have cyber security insurance. The Report centres on a new joint initiative between the Government and the insurance sector to help firms to get to grips with cyber risks. The report recommends companies see cyber threats as a commercial risk rather than an IT issue; finding that 81% of large businesses and 60% of small companies suffered a cyber-security breach last year. The report also found that insurers can assist companies in managing their cyber risks and encourages the use of the Government's recently-launched Cyber Essentials, which aims to guide businesses in protecting themselves against cyber threats by setting out the basic technical controls that all organisations should have in place.

['Cyber security: the role of insurance in managing and mitigating the risk' Report](#)

ICO Recommends More Transparency on Government Outsourcing

The ICO has published the “Transparency in outsourcing: a road map” report urging more transparency on services and functions outsourced by local authorities. It also considered the role of Freedom of Information requests in this area. The report identified a ‘transparency gap in the provision of public services’ and sets out possible solutions to tackle the issue. The ICO has also produced a separate document on outsourcing and transparency, which gives practical guidance for public authorities.

[ICO Press Release](#)

Smart Metering Implementation Programme: Consultation on the Timing of the Review of the Data Access and Privacy Framework

The Department of Energy and Climate Change has published a consultation on the Smart Metering Implementation Programme. The Consultation is seeking views on the proposed change of timing of the review of the smart metering Data Access and Privacy Framework. The Framework determines access levels that suppliers, network operators and third parties have to energy consumption data from smart meters, the purpose for which they can use it and the choices consumers will have about it. The Department of Energy and Climate Change proposes that the Framework be completed in 2018 rather than by June 2016.

[Department of Energy and Climate Change Consultation](#)

Finance and Leasing Association (FLA) Manifesto 2015

The FLA has published its Manifesto proposing five areas which could assist the UK to boost its growth and productivity. The FLA recommends that credit markets handle personal data responsibly and urges the Government to ensure that any new EU data protection regulations do not make it more difficult for lenders to lend responsibly. The FLA noted that in order to lend responsibly, lenders are required to use the data voluntarily provided by consumers to assess whether the consumer would be able to meet the terms of the agreement. The FLA note that if the draft EU Data Protection Regulation is implemented in its current form it would prevent credit providers accessing data they need.

[FLA 2015 Manifesto](#)

Supreme Court Rules Letters by Prince Charles to be Disclosed

The case involved a request under the Freedom of Information Act 2000 (FOIA) and Environmental Information Regulations 2004 (EIR) by a journalist to see letters written by Prince Charles to various governmental departments. The governmental departments refused to disclose the letters on the ground that they considered the letters were exempt. The journalist complained to the Information Commissioner, who upheld the departments’ refusal. The journalist appealed and the matter was transferred to the Upper Tribunal. The Upper Tribunal decided that many of the letters should be disclosed. The determination was not appealed but the Attorney General issued a certificate under section 53(2) FOIA and regulation 18(6) EIR preventing disclosure. The journalist issued proceedings to quash this certificate. The matter reached the Supreme Court which held that the Attorney General was not entitled to issue the certificate overriding the Upper Tribunal’s decision in the manner that he did and therefore that the certificate

was invalid. The Court also held that reg.18(6) EIR is incompatible with Council Directive 2003/4/EC, which provides public access to environmental information.

[Supreme Court Judgement](#)

ICO Issues Enforcement Notice to ‘Lead Generation Firm’

The Enforcement Notice issued by the ICO requires the firm to stop sending nuisance texts. The Notice was issued after the ICO raided a SIM farm last May after received 796 complaints about spam text messages. The ICO seized SIM cards and computer equipment and carried out an investigation which revealed the company had sent over 4.5 million spam text messages over an eight month period covering a range of subjects.

[ICO Enforcement Notice](#)

US

Federal Trade Commission Revises Children’s Online Privacy Protection Act (COPPA) FAQs

The Federal Trade Commission (FTC) has revised their COPPA FAQs to address the issue of student privacy in the US. The FTC has updated a number of items, with the aim of creating greater communication with parents. The FTC FAQs consider whether educational institutions can consent to the collection, use or disclosure of student’s personal information. The FAQs also consider best practices for keeping parents informed of the way the data is used and addresses State laws which may apply. The amended FAQs allow schools to consent to online collection and use of children’s personal data for educational purposes. However the FTC has made it clear that parents’ consent is necessary where the data is intended for commercial use or for the use and benefit of the school. The FTC FAQs also includes questions that schools should consider before entering into an arrangement with operators to collect, use and disclose student’s personal data.

[Federal Trade Commission Revised FAQs](#)

FTC Announces the Formation of New Technology Research and Investigation Office

The FTC Bureau of Consumer Protection has announced the formation of the Office of Technology Research and Investigation (OTRI). The OTRI will provide expert research and insight to the agency on technology issues involving privacy, data security, big data, and the Internet of Things amongst other matters. OTRI will be the successor to the FTC’s Mobile Technology Unit to expand the FTC’s technology expertise. The aim of this new initiative is to ensure that consumers enjoy the benefits of technological progress without being placed at risk of deceptive and unfair practices.

[Federal Trade Commission Press Release](#)

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