

EU

European Commission Reaches Industry Agreement on Cybersecurity

The EU Commission has launched a new public-private partnership on cybersecurity as part of its Digital Single Market strategy. This new initiative intends to make Europe more competitive in the cybersecurity sector and better equipped to handle cyber-attacks. The EU will invest €450 million into the initiative, with cybersecurity companies expected to invest up to three times this figure. With at least 80% of European companies experiencing at least one cybersecurity attack over the last year, the Commission hopes the move will reinforce cross-border and cross-sector cooperation, as well as aid in the development of innovative and secure products, technologies and services across the EU.

[Press release](#)

Advocate General Issues Opinion on EU Data Retention

On 19 July 2016, Advocate General Henrik Saugmandsgaard Øe issued his non-binding opinion on two joined cases relating to the compatibility of UK and Swedish data retention legislation with EU data privacy law. He said that the UK and Swedish laws “may be compatible with EU law [but] subject to satisfying strict requirements.” The Advocate General stressed that such laws should only be aimed at fighting serious crime and must be “strictly necessary” for and proportionate for this aim. The Advocate General’s opinion is intended as advice to the European Court of Justice (ECJ) which is usually (but not always) followed. The ECJ’s verdict on the case is awaited.

[The Opinion](#)

Article 29 Working Party and EDPS Release Opinions on the ePrivacy Directive

The Article 29 Working Party and the European Data Protection Supervisor (EDPS) have released non-binding opinions on the ePrivacy Directive. Both stressed the fact that the new rules must complement the safeguards available through the General Data Protection Regulation. Recommendations include extending the scope of the Directive from that of the traditional telecom provider, protecting the confidentiality and security of electronic communications, deleting specific data breach rules, harmonising provisions on unsolicited communications and providing specific rules for enhancing the transparency of government access requests.

The Article 29 Working Party’s [Opinion](#) and the European Data Protection Supervisor’s [Opinion](#)

EU Regulators Will Not Challenge Adequacy of Privacy Shield for at Least One Year

The Chairwoman of the Working Party has announced that data protection regulators will not challenge the adequacy of the EU-US Privacy Shield (reported in [last week’s alert](#)) for at least a year or until after the first mandatory joint annual review scheduled for May 2017.

[Press Statement](#)

France

CNIL Serves Formal Notice on Microsoft to Force Compliance with French Data Protection Law

The President of the French Data Protection Authority (CNIL) has issued a formal notice to Microsoft Cooperation urging the company to make Windows 10 compliant with French data protection law within three months. The CNIL highlighted the following issues :

- The telemetric service used for the purpose of diagnosing issues and improving the services also collects data on the use of all Windows and Windows store apps downloaded by the user. The CNIL considers this unnecessary for the relevant purpose and therefore excessive.
- Microsoft provides a four-digit pin code system to allow users to authenticate all services at the same time, with an unlimited number of trials. The CNIL considers that this does not offer adequate security.
- The advertising ID is activated automatically by default, whereas French law requires user consent.
- The information provided to the user about cookies is insufficient and no adequate opt in or out options are available.
- Transfers to the US are still governed by the invalidated Safe Harbor arrangements.
- The services used to fight against fraud should have been submitted for prior authorisation to the CNIL.

Microsoft’s failure to comply within three months may result in a fine of up to €150,000 under the current regime or up to €3 million when the new French Digital Republic law is implemented later this year. Microsoft has announced its cooperation with the CNIL and will release an updated privacy statement next month.

[Press release](#) (in French)

Germany

Higher Administrative Court of Hamburg: Facebook May Require Real Name of German Users

The Higher Administrative Court of Hamburg has rejected an appeal brought by the Hamburg Data Protection Commissioner against the Court's ruling in March 2016 to require German Facebook users to use their real names. The Court had held that the German right to use a pseudonym was not applicable since the German subsidiary of Facebook was operating mainly in the advertising industry. The Court held that EU law is indeterminate on the question of whether national data protection authorities can take action against a company based in another member state on the basis of that competent authority's national law.

[Press release](#) (in German)

Bavarian Data Protection Authority Releases Paper on Video Surveillance

The Bavarian Data Protection Authority has issued a brief paper on video surveillance under the General Data Protection Regulation (GDPR), as part of its regular non-binding information on the GDPR. The Authority emphasised that the detailed German law on video surveillance will cease to apply once the GDPR becomes applicable in May 2018. Under the GDPR, companies using video surveillance will first have to conduct a privacy impact assessment. In more complicated cases, a prior consultation with the competent data protection authority will also be necessary. The Authority recommends that businesses document the purpose of their video surveillance system, the reasons why it is necessary and proportionate, and the risks which arise for data subjects along with the respective counter-measures.

[Video Surveillance Paper](#) (in German)

UK

Elizabeth Denham is the New Information Commissioner

Elizabeth Denham has been announced as the new UK Information Commissioner. Ms. Denham replaces Christopher Graham, who stepped down after seven years in the role, and will be responsible for leading the UK's Information Commissioner's Office for a period of five years.

[Press release](#)

Contacts



Annette Demmel

Partner, Berlin
T +49 30 7261 68 108
E annette.demmel@squirepb.com



Caroline Egan

Consultant
T +44 121 222 3386
E caroline.egan@squirepb.com



Stéphanie Faber

Of Counsel, Paris
T +33 1 5383 7400
E stephanie.faber@squirepb.com



Francesca Fellowes

Senior Associate
T +44 113 284 7459
E francesca.fellowes@squirepb.com