

EU

EDPS Backs Article 29 Working Party in Opinion on Draft ePrivacy Regulation

On 24 April 2017, the European Data Protection Supervisor (EDPS) issued its [opinion on the draft ePrivacy Regulation](#) (ePR) which is set to replace the current ePrivacy Directive, a few months following Article 29 Working Party's similar opinion. The EDPS welcomed measures aiming to provide a high level of protection such as ensuring consistency across the European Union through a regulation rather than a directive, extending its scope to cover over-the-top (OTT) providers, modernising current consent requirements and using the same authorities to supervise rules under the GDPR and the ePR. The EDPS did, however, express some concerns about the proposed legislation, warning that the daunting complexity of the rules may bring a risk of unintended gaps in protection.

Germany

Baden-Württemberg Data Protection Authority Appeals to Private Camera Drone Users

In a [press release](#), the Baden-Württemberg Data Protection Authority (DPA) has called for private camera drone users to uphold their privacy obligations amid the ever increasing private use and purposes of drones, including making inspections, helping emergency teams, pollinating flowers or, in the case of farmers, detecting fawns and rescuing them from the harvester. The DPA stated it has received numerous complaints about private drones, the issue being that drone users can rarely be identified. It has, therefore, announced that the private use of camera drones requires consent and they must be used in areas where rights of third persons cannot be breached. The DPA pointed to a 2015 ruling by the District Court of Potsdam, which prohibited a flying drone from taking photos of a neighboring property, and the resolution of the "Düsseldorfer Kreis" from 15-16 September 2015.

Consumer Association Nordrhein-Westfalen Finds Data Protection Deficits in Wearables and Fitness Apps

In a [press release](#), the Consumer Association of Nordrhein-Westfalen (*Verbraucherzentrale NRW*) announced the result of its examination of 12 wearables and 24 fitness apps, revealing deficits in data protection. According to the study, most apps were sending information to providers, particularly health data. However, the study found that these apps often did not inform consumers of the use of such data in their privacy statements. For example, only two providers had informed consumers about the sensitivity of the health data processed and only one provider had asked for consumer consent for the processing of its health data. In consequence, the association has given warnings to nine providers.

Federal Data Protection Commissioner Comments on Bundestag Adoption of New Data Protection Act

Andrea Voßhoff, the German Federal Data Protection Commissioner, has both [welcomed and criticised the Bundestag adoption of the draft law on a new Federal Data Protection Act based on the General Data Protection Regulation](#). Voßhoff acknowledged that the Bundestag significantly strengthened the rights of data subjects in comparison to the government draft. She also welcomed the plan to have a uniform and efficient representation of German supervisory authorities within the European Data Protection Board. However, she expressed concern on the reduced control rights of police and judicial authorities. Under the current draft law, the Federal Data Protection Commissioner has no enforcement powers but only the right to non-binding objections, which contradicts EU law according to Voßhoff. The draft must still be approved by the Bundesrat, who is expected to discuss it on 12 May 2017.

UK

ICO's Highest Nuisance Calls Fine Reaches Record £400,000

On 10 May 2017, the ICO fined Keurboom Communications Ltd [a record £400,000](#) for making automated marketing calls to 99.5 million people over an 18 month period. More than 1,000 people complained, stating that the company was making repeat calls regarding road traffic accidents and PPI claims, sometimes on the same day and during unsociable hours, and was hiding its identity whilst doing so. The ICO found that this contravened Regulation 19 and Regulation 24 of the [Privacy and Electronic Communications Regulations 2003 \(SI 2003/2426\)](#). The company has now been placed in voluntary liquidation. This penalty was issued amid a [government plan to introduce a new law](#) allowing the ICO to fine company directors behind nuisance call firms. The rationale is to prevent directors from avoiding fines by putting their company into liquidation.

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