

ARTICLE 29 Data Protection Working Party



Brussels, 23 OCT. 2009
D(2009) 16367

John Vassallo
Vice President of EUAffairs
Microsoft Corporate Affairs Europe
85, Avenue des Nerviens
Brussels - 1040

Dear Mr. Vassallo,

On 11 February 2009, the Article 29 Working Party organised a hearing with four search engine operators. The Working Party wishes to express its gratitude for your participation on behalf of Microsoft.

The hearing focussed on three topics: the retention period for personal data related to searches, including search terms, IP addresses and cookies, the method of deletion or anonymisation of personal data upon expiry of the justified retention period and the applicability of European data protection law to non-EU based operators.

The Working Party welcomes the efforts you have made to bring your policy in line with European Data protection legislation as specified in the Opinion on Search engines (WP148, 4 April 2008). The Working Party acknowledges your clear stance that anonymisation implies the deletion of IP addresses, as well as the removal of cross-session identifiers such as persistent Cookie IDs.

However, there are still some issues which deserve further clarification. The Working Party especially invites you to improve your data retention policy.

Anonymisation

In its Opinion on search engines, the Working Party has outlined that anonymisation must be done in a completely irreversible way.

By de-identifying search history immediately (meaning that search logs are stored separately from registration data that identify an individual directly, such as name and address) and by effectively anonymising search log data Microsoft has shown its leadership in protecting the online privacy of its users with its complete anonymisation scheme which removes full IP addresses and all cross session-identifiers.

Data Retention

The Working Party welcomes your statement that you are willing to reduce the retention period before anonymisation to six months. However, the Working Party regrets that this

This Working Party was set up under Article 29 of Directive 95/46/EC. It is an independent European advisory body on data protection and privacy. Its tasks are described in Article 30 of Directive 95/46/EC and Article 15 of Directive 2002/58/EC.

The secretariat is provided by Directorate D (Fundamental Rights and Citizenship) of the European Commission, Directorate General Justice, Freedom and Security, B-1049 Brussels, Belgium, Office No LX-46 01/190.

Website: http://ec.europa.eu/justice_home/fsj/privacy/index_en.htm

statement is made conditional, and only takes effect if other search engine operators commit to the same retention period that would lead to the creation of industry standards. The Working Party is not convinced by the justifications put forward for such longer retention periods and strongly recommends you achieve a six month or shorter retention period, in line with technological developments.

Behavioural targeting

The Working Party still has questions on the subject of behavioural targeting in combination with search, and how search queries are used to enrich interest profiles linked to a cookie. This will however be the subject of a more comprehensive opinion on behavioural targeting.

Taking into account the steps you have already made to improve the processing of search related personal data, and taking into account the great importance you attach to the trust of your users and your commitment to provide your users with a level of privacy that secures this trust, the Working Party strongly recommends you commit to a six months data retention period for search related data collected in the European Economic Area in order to comply with the principles of the European data protection legislation.

We would welcome your response within 3 months from receiving this letter.

Yours sincerely,

A handwritten signature in black ink that reads "Alex Türk". The signature is written in a cursive style and is positioned above a solid horizontal line.

Alex Türk
Chairman

cc. Thomas Myrup Kristensen, EU Policy Director