

Brussels, December 10, 2008

ARTICLE 29 DATA PROTECTION WORKING PARTY

The Article 29 Working Party held its 68th plenary session in Brussels on December 10, 2008.

Binding Corporate Rules

Continuing its efforts to facilitate the use of Binding Corporate Rules (BCR) by global companies, the Working Party approved two new Frequently Asked Questions by stakeholders on the terminology to be used by the companies to draft their BCRs and on the level of detail to be provided on the processing and transfers of personal data within the group of companies.

The Working Party also discussed a new FAQ on data subject rights in ensuring compliance with BCR.

The Working Party will continue its work on BCR.

Thirteen DPAs have joined the mutual recognition procedure whereby the positive opinion on a BCR by the lead DPA is accepted by the other DPAs as sufficient basis for providing their own national permit or authorisation for the BCR. The countries are: Cyprus, France, Germany, Iceland, Ireland, Italy, Latvia, Liechtenstein, Luxembourg, the Netherlands, Norway, Spain, and the United Kingdom.

Follow-up on search engines

In its 68th meeting, the Working Party has reaffirmed its opinion 1/2008 on data protection issues related to search engines (WP148), adopted in April 2008.

Due to limited meeting resources for its December meeting, the Working Party had to decide to postpone the hearing with representatives of four search engine

operators to its next plenary meeting in February 2009. The four operators to be invited are Google, Ixquick, Microsoft and Yahoo. Opinion WP148 will be the starting point for the hearing. The hearing will be a fact finding exercise based on the replies of the search engine operators to this Opinion.

The Working Party acknowledged a fair and fruitful co-operation with search engine operators following the adoption of its Opinion WP 148, and has noted that operators make progress with regard to data protection. As regards the retention period for a maximum of 6 months, some operators even consider that the Working Party's recommendation should become an industry standard.

The Working Party will present its findings after the hearing has taken place.

Panoramic street level view services

The Working Party discussed the issue of panoramic street level view services as it raises privacy and data protection concerns and they are becoming a reality in many EU Member States.

A unified approach across EU would certainly be beneficial for both – individuals and businesses providing such service.

The Working Party will therefore write a letter to one of the main providers of such services, that intends to operate throughout Europe, with questions aimed at informing the Working Party of the lawfulness of the processing, and the safeguards and guarantees provided by such service.

E-discovery

The Working Party had a fruitful discussion with a view to adopting a working paper hopefully during its next plenary, in February 2009.

Body scanners

The Article 29 Working Party will provide the European Commission (DG TREN) with an assessment of the impact of body scanners as an aviation security measure on the protection of personal data.

The Working Party provides this input in the light of a Resolution adopted by the European Parliament on 23 October 2008 on the impact of aviation security measures and body scanners on human rights, privacy, personal dignity and data protection. The resolution of the European Parliament asks the Commission, amongst others, to consult the Article 29 Working Party on this matter.

SWIFT

Belgium informed the Working Party that Swift had notified its processing to the public register of Belgium, and that SWIFT has agreed to recognize and assume well-delimited responsibilities. On the basis of the actions undertaken by Swift, Belgium informed the Working Party that it had decided to close its procedure against Swift. The Working Party agreed that it will carefully study the recent developments and the decision of the Belgian authority.

Background information

The Article 29 Working Party on the Protection of Individuals with regard to the Processing of Personal Data is an independent advisory body on data protection and privacy, set up under Article 29 of the Data Protection Directive 95/46/EC. It is composed of representatives from the national data protection authorities of the EU Member States, the European Data Protection Supervisor and the European Commission. Its tasks are described in Article 30 of Directive 95/46/EC and Article 15 of Directive 2002/58/EC. The WP is competent to examine questions covering the application of the national measures adopted under the data protection directives in order to contribute to the uniform application of the directives. It carries out this task by issuing recommendations, opinions and working documents.

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