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ARTICLE 29 DATA PROTECTION WORKING PARTY

OPINION OF THE ARTICLE 29 WORKING PARTY ON ONLINE SOCIAL NETWORKING

The opinion of the Article 29 Working Party on online social networking has been adopted on 12 June 2009.

The impressive development of online social networks directly but also indirectly impacts the private life of Internet users, due to the quantity of data generated by users concerning both their private and professional lives.

In order to analyse the applicability of the EEA rules, the Art. 29 Working Party just adopted an opinion on online social networks. This opinion asserts the applicability of European law on data protection to social network services, even if their headquarters are located outside Europe. The major US based online social network operators do not always share this legal opinion although they endeavour generally to respect most of the European data protection principles.

The opinion of the Art. 29 Working Party also states that the providers of online social network services and, in many cases, third party application providers, are data controllers. Many users operate within a purely personal sphere, contacting people as part of the management of their personal, family or household affairs and therefore, the household exemption would apply. The opinion also specifies circumstances whereby the activities of a user of an online social network are not covered by the 'household exemption'.

The Art. 29 Working Party specifies in its opinion that online social network services fall outside the scope of the definition of electronic communication services, therefore, the Data retention directive does not apply. However, if they provide additional services (such as for instance a publicly accessible email service) which would be considered as electronic communication service, the Data retention directive would apply to such services.

Robust security and privacy-friendly default settings are advocated throughout the opinion as the ideal starting point with regard to all services on offer. Access to profile information emerges as a key area of concern. Topics such as the processing of sensitive data and images, advertising and direct marketing on online social networks are also addressed. Particular care should be taken by social network providers with regard to the processing of the personal data of children and minors. In addition, the Article 29 Working Party recommends that accounts which remained inactive for a long period of time should be deleted. Finally, a tool for lodging complaints regarding privacy and protection of personal data should be made available to members and non-members on the homepage of online social network services.

The Art. 29 Working Party invites operators of the social network services to follow the recommendations of the Art. 29 Working Party.

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