

PRIVACY AND INFORMATION SECURITY LAW BLOG

GLOBAL PRIVACY AND INFORMATION SECURITY LAW UPDATES AND ANALYSIS

December 2012

This Client Alert is a monthly update on privacy and information management developments as posted on Hunton & Williams' [Privacy and Information Security Law Blog](#). If you would like to receive email alerts when new posts are published, please visit our [blog](#) and enter your email address in the subscribe field.

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Spotlight: Hunton & Williams Launches EU Data Protection Regulation Tracker

In December, Hunton & Williams launched the [EU Data Protection Regulation Tracker](#), a website that provides timely status updates and links to relevant documents on the progress of the European Commission's proposed [General Data Protection Regulation](#) (the "Proposed Regulation"). The Regulation Tracker offers businesses access to all relevant materials including draft legislation, opinions and submissions. Visit the Regulation Tracker at www.huntonregulationtracker.com. [Read the full press release](#).

Congress Approves VPPA Consent Requirement Changes December 21, 2012

On December 18, 2012, the U.S. House of Representatives passed [H.R. 6671](#), a bill that would amend the Video Privacy Protection Act ("VPPA") consent requirements for disclosing consumers' viewing information. The Senate approved the bill without changes on December 20, 2012. The bill would make it easier for companies to develop innovative technologies for the sharing of consumers' video viewing habits. The current version of the VPPA requires certain video providers to obtain a consumer's consent each time they wish to share the consumer's viewing information, with few exceptions. The amendment

would allow video providers to obtain consumers' consent by electronic means "in advance for a set period of time, not to exceed 2 years" to share their viewing information. The video providers also must allow consumers to withdraw their consent on a case-by-case basis. President Obama is expected to sign the bill into law. [Continue reading...](#)

Article 29 Working Party Announces Launch of Binding Corporate Rules for Processors December 21, 2012

On December 21, 2012, the Article 29 Working Party issued a [press release](#) announcing the launch of Binding Corporate Rules ("BCRs") for processors effective January 1, 2013. This announcement follows the Article 29 Working Party's [adoption](#) of a Working Document ([WP 195](#)) on June 6, 2012, which set forth requirements for BCRs for processors, and an application [form](#) for submitting BCRs for processors issued on September 17, 2012. [Continue reading...](#)

Vladeck's Legacy at the FTC December 20, 2012

U.S. Federal Trade Commission Chairman Jon Leibowitz [announced](#) on Monday that David C. Vladeck, director of the FTC's Bureau of Consumer Protection, is leaving the Commission on December 31, 2012 to return to the Georgetown University Law Center. [Continue reading...](#)

European Commission Finds New Zealand's Data Protection Law Provides Adequate Safeguards December 20, 2012

On December 19, 2012, the European Commission [announced](#) its formal recognition of personal data protection in New Zealand. The European Commission approved New Zealand's status as a country that provides "adequate protection" of personal data under the European Data Protection Directive 95/46/EC. This determination means that personal information from Europe may flow freely to New Zealand. Although the law in New Zealand has been modernized over the years, it is not new. New Zealand will be celebrating the 25th anniversary of its data protection law in 2013. Furthermore, New Zealand has been very active in the development of international standards at the OECD and APEC, and has participated in initiatives such as the Global Accountability Project. New Zealand's request to be deemed adequate has been pending for several years. This determination follows the [positive Opinion](#) of the Article 29 Working Party issued on April 4, 2011, concerning the level of protection under New Zealand's law. [Continue reading...](#)

FTC Requests Information About Data Brokerage Companies' Collection and Use of Personal Data December 19, 2012

On December 18, 2012, the Federal Trade Commission [issued](#) Orders to File Special Report (the "[Orders](#)") to nine data brokerage companies, seeking information about how these companies collect and use personal data about consumers. In the Orders, the FTC requests detailed information about the data brokers' privacy practices, including: [Continue reading...](#)

FTC Announces Updated COPPA Rule December 19, 2012

On December 19, 2012, the Federal Trade Commission [announced](#) the adoption of its long-awaited [amendments to the Children's Online Privacy Protection Rule](#) (the "Rule"). The FTC implemented the Rule, which became effective on April 21, 2000, pursuant to provisions in the Children's Online Privacy Protection Act of 1998 ("COPPA"). [Continue reading...](#)

UK ICO Opens Public Consultation on Draft Subject Access Code of Practice December 18, 2012

On December 13, 2012, the UK Information Commissioner's Office ("ICO") [announced](#) a consultation on a [draft subject access code of practice](#) (the "Code"). The Code is open for public comment until February 21, 2013. [Continue reading...](#)

Sotto Discusses Cybersecurity as Top Legal Issue in 2012 December 18, 2012

On December 10, 2012, Tom Field of HealthcareInfoSecurity [interviewed Lisa J. Sotto](#), partner and head of the Global Privacy and Data Security practice at Hunton & Williams LLP. Discussing the top legal issues in 2012, Lisa said that data breaches remain at the top of the list, with an increase in malicious cyberattacks. She also addressed the need to combat cybercrime. [Listen to Lisa's interview.](#)

Centre Releases Accountability Self-Assessment Tool to Help Organizations Evaluate Their Privacy Programs December 13, 2012

On December 12, 2012, the [Centre for Information Policy Leadership](#) at Hunton & Williams LLP (the "Centre") [released](#) an [accountability self-assessment tool](#) designed to help organizations evaluate their internal privacy programs and practices. The tool is the product of the [Global Accountability Project](#) for which the Centre serves as Secretariat. [Continue reading...](#)

FTC Releases Follow-up "Mobile Apps for Kids" Report December 10, 2012

On December 10, 2012, the Federal Trade Commission [issued](#) a new report, [Mobile Apps for Kids: Disclosures Still Not Making the Grade](#), which follows up on the FTC's [February 2012 report](#), [Mobile Apps for Kids: Current Privacy Disclosures are Disappointing](#). The FTC conducted a follow-up survey regarding pre-download mobile app privacy disclosures, and whether those disclosures accurately describe what occurs during use of the apps. [Continue reading...](#)

German DPAs Publish Guidelines on the Use of Personal Data for Advertising December 10, 2012

On November 23, 2012, a German data protection working group on advertising and address trading published [guidelines](#) (in German) on the collection, processing and use of personal data for advertising purposes (the "Guidelines"). The working group was established by the committee of German data protection authorities ("DPAs") and is chaired by the Bavarian DPA. [Continue reading...](#)

California AG Sues Delta for Failure to Post a Privacy Policy on Its Mobile App December 7, 2012

On December 6, 2012, California Attorney General Kamala D. Harris [announced](#) a lawsuit against Delta Air Lines, Inc. (“Delta”) for violations of the [California Online Privacy Protection Act](#) (“CalOPPA”). The suit, which the Attorney General filed in the San Francisco Superior Court, alleges that Delta failed to conspicuously post a privacy policy within Delta’s “Fly Delta” mobile application to inform users of what personally identifiable information is collected and how it is being used by the company. CalOPPA requires “an operator of a commercial Web site or online service that collects personally identifiable information through the Internet about individual consumers residing in California who use or visit its commercial Web site or online service,” such as a mobile application, to post a privacy policy that contains the elements set out in CalOPPA. According to Attorney General Harris’ [complaint](#), Delta has operated the “Fly Delta” application for smartphones and other electronic devices since at least 2010. The complaint alleges that “[d]espite collecting substantial personally identifiable information (“PII”) such as user’s full name, telephone number, email address, frequent flyer account number and PIN code, photographs, and geo-location, the Fly Delta application does not have a privacy policy. It does not have a privacy policy in the application itself, in the platform stores from which the application may be downloaded, or on Delta’s website.” [Continue reading...](#)

German Federal Council Requests Revisions to the European Commission’s Cloud Computing Strategy December 7, 2012

On November 23, 2012, the German Federal Council (*Bundesrat* or the “Council”) [published](#) (in German) its comments on the European Commission’s [strategy on cloud computing](#) and also submitted them to the Commission. [Continue reading...](#)

FTC Settles Charges of “History Sniffing” December 6, 2012

On December 5, 2012, the Federal Trade Commission [announced](#) that the online advertising company Epic Marketplace, Inc. (“Epic”) agreed to settle charges that it engaged in “history sniffing” to secretly and illegally collect information about consumers’ interest in sensitive medical and financial issues. History sniffing is the practice of determining whether a consumer has previously visited a webpage by checking how a browser displays a hyperlink. The consent order requires Epic to destroy all data collected from history sniffing and bars Epic from engaging in history sniffing in the future. [Continue reading...](#)

ENISA Publishes Report on the Right to Be Forgotten December 4, 2012

On November 20, 2012, the European Network and Information Security Agency (“ENISA”) published a new report entitled “[The Right to Be Forgotten – Between Expectations and Practice](#).” The report complements two earlier papers which focused on [data collection and storage](#) and [online behavioral advertising](#), and focuses on the technical implications of the proposed [General Data Protection Regulation’s](#) new right to be forgotten. [Continue reading...](#)



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