

PRIVACY AND INFORMATION SECURITY LAW BLOG

GLOBAL PRIVACY AND CYBERSECURITY LAW UPDATES AND ANALYSIS

March 2013

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Baltic DPAs Hold Annual Meeting on Data Protection **March 27, 2013**

On March 21-22, 2013, the data protection authorities ("DPAs") of the Baltic states of Estonia, Latvia and Lithuania met in Riga, Latvia, for their second annual meeting to discuss several practical cooperation matters regarding data protection. [Continue reading...](#)

Sotto Named Among National Law Journal's "100 Most Influential Lawyers" **March 27, 2013**

Hunton & Williams LLP is pleased to [announce](#) that [Lisa J. Sotto](#), partner and head of the firm's [Global Privacy and Data Security practice](#), has been named to *The National Law Journal's* "[The 100 Most Influential Lawyers in America](#)" list. Last published in 2006, this is only the eighth time this list of legal luminaries has been compiled since it was first established in 1985 as "Profiles in Power." [Continue reading...](#)

Increased Cooperation Between EU and APEC on Cross-Border Data Transfer Rules March 26, 2013

On March 26, 2013, the Article 29 Working Party issued a [press release](#) on the recent developments concerning cooperation between the EU and the Asia-Pacific Economic Cooperation group ("APEC") on cross-border data transfer rules. A joint EU-APEC committee, which includes the French and German data protection authorities as well as the European Data Protection Supervisor and the European Commission, has been studying similarities and differences between the EU's binding corporate rules ("BCRs") framework and APEC Cross-Border Privacy Rules. The committee's goal is to facilitate data protection compliance in this area for international businesses operating in the EU and the APEC region, including by creating a common frame of reference for both sets of cross-border data transfer rules. [Continue reading...](#)

Peru Issues Data Protection Regulations March 26, 2013

On March 22, 2013, Peru issued the implementing regulations of its new data protection law. The *Reglamento de la Ley No 29733, Ley de Protección de Datos Personales* ("Regulations") provide detailed rules on a variety of topics, including the following:

- Territorial scope;
- notice and consent;
- data transfers;
- processing of personal data relating to children and adolescents;
- data processing in the communications and telecommunications sectors;
- outsourcing;
- information security;
- data subjects' rights;
- registration of databases;
- codes of conduct; and
- enforcement.

[View the Regulations](#) (in Spanish, beginning on page 28).

Irish Presidency Reports on Progress of the Proposed EU Regulation March 26, 2013

On March 1, 2013, the Irish Presidency [published](#) a note to the European Council of Ministers regarding its progress on the European Commission's proposed [General Data Protection](#)

[Regulation](#) (“Proposed Regulation”). The Note details the Irish Presidency’s work to bring a more risk-based approach to the Proposed Regulation. [Continue reading...](#)

U.S. Court Finds National Security Letter Nondisclosure Provisions Unconstitutional March 22, 2013

On March 14, 2013, the United States District Court for the Northern District of California granted a motion to prohibit the government from issuing National Security Letters (“NSLs”) to electronic communication service providers (“ECSPs”) requesting “subscriber information” and enforcing nondisclosure clauses contained in such letters. The nondisclosure clauses are intended to prevent ECSPs from disclosing that they received an NSL. The court also held that the sections of two federal statutes relating to the nondisclosure provisions of NSLs, 18 U.S.C. §2709(c) and 18 U.S.C. §3511(b), (collectively, the “NSL Nondisclosure Statutes”) were unconstitutional because they violated the First Amendment as well as separation of powers principles. In light of the significant constitutional and national security implications, the court stayed enforcement of its judgment pending appeal to the Ninth Circuit, or for 90 days if no appeal is filed. [Continue reading...](#)

French Data Protection Authority Discloses Its 2013 Inspection Program March 22, 2013

On March 19, 2013, the French Data Protection Authority (“CNIL”) [announced](#) (in French) its annual inspection program, providing an overview of its inspections of data controllers in 2012 and a list of inspections that it plans to conduct in 2013. Under French data protection law, the CNIL is authorized to collect any useful information in connection with its investigations and has access to data controllers’ electronic data and data processing programs. [Continue reading...](#)

Supreme Court Limits Plaintiffs Ability to Cap Damages Prior to Class Certification March 22, 2013

As reported in the [Hunton Employment & Labor Perspectives Blog](#):

On March 19, 2013, in [Standard Fire Insurance Co. v. Knowles](#), the United States Supreme Court ruled that stipulations by a named plaintiff on behalf of a proposed class prior to class certification cannot serve as the basis for avoiding federal jurisdiction under the [Class Action Fairness Act of 2005](#) (“CAFA”). [Continue reading...](#)

UK ICO Publishes Further Analysis of Commission’s Revised Data Protection Framework March 22, 2013

On February 12, 2013, the UK Information Commissioner’s Office [published](#) a further analysis of the European Commission’s proposed [General Data Protection Regulation](#) (the “Proposed Regulation”). This latest analysis supplements the [initial analysis paper](#) on the Proposed Regulation published on February 27, 2012. Although the general views expressed in its initial paper stand, the ICO has now provided greater detail regarding its views of the substantive provisions of the Proposed Regulation. [Continue reading...](#)

LIBE Committee Debates Proposed EU General Data Protection Regulation March 21, 2013

On March 20, 2013, the European Parliament's Committee on Civil Liberties, Justice and Home Affairs ("LIBE") held [legislative deliberations](#) regarding the European Commission's proposed [General Data Protection Regulation](#) ("Proposed Regulation"). The LIBE Committee Chair, Juan Fernando López Aguilar, noted that 2,783 amendments to the Proposed Regulation and 504 amendments to the proposed [Police and Criminal Justice Directive](#) ("Proposed Directive") have been tabled. [Continue reading...](#)

European Data Protection Supervisor Issues Additional Comments on EU Data Protection Reform Package March 21, 2013

On March 15, 2013, European Data Protection Supervisor Peter Hustinx sent a letter to Juan Fernando López Aguilar, Chair of the European Parliament's Committee on Civil Liberties, Justice and Home Affairs ("LIBE"), with his [comments](#) regarding certain aspects of the European Commission's [proposed revised data protection framework](#). On March 20, 2013, Peter Hustinx was invited to present his comments during a LIBE Committee meeting, together with the President of the Article 29 Working Party, Jacob Kohnstamm. [Continue reading...](#)

German DPAs Adopt Resolutions on Proposed U.S.–EU Free Trade Zone, Social Networks and EU Data Protection March 20, 2013

On March 14, 2013, the 85th Conference of the German Data Protection Commissioners concluded in Bremerhaven. This biannual conference provides a private forum for the 16 German state data protection authorities ("DPAs") and the Federal Commissioner for Data Protection and Freedom of Information, Peter Schaar, to share their views on current issues, discuss relevant cases and adopt Resolutions aimed at harmonizing how data protection law is applied across Germany. [Continue reading...](#)

Costa Rica Imposes Five-Day Breach Notification Obligation and Other Stringent Data Protection Requirement March 18, 2013

On March 5, 2013, Costa Rica published the *Reglamento a la Ley de Protección de la Persona Frente al Tratamiento de sus Datos Personales* (Regulations of the Law of Protection of the Person in the Processing of His Personal Data) (the "Regulations"). The wide-ranging Regulations, which took effect immediately, expand and clarify many aspects of the underlying law and include the requirements described below. [Continue reading...](#)

Article 29 Working Party Opines on Mobile Apps March 18, 2013

On February 27, 2013, the Article 29 Working Party (the “Working Party”) [adopted an Opinion](#) (the “Opinion”) addressing personal data protection issues related to the development and use of applications on mobile devices. The Opinion identifies the key data protection risks associated with mobile apps and clarifies the legal framework and obligations applicable to the various parties involved in the development and distribution of mobile apps, including app stores, app developers, operating system and device manufacturers and advertisers. [Continue reading...](#)

German Ministry Publishes Draft Law for Cybersecurity Breach Notification March 15, 2013

On March 5, 2013, the German Federal Ministry of the Interior published [proposed amendments](#) (in German) to the [German Federal Office for Information Security Law](#). These proposed amendments are significant because they establish a new duty to notify the German Federal Office for Information Security in the event of a cybersecurity breach. [Continue reading...](#)

FTC Releases Report on the Increased Use of Mobile Payments March 12, 2013

On March 8, 2013, the Federal Trade Commission [issued](#) a staff report entitled [Paper, Plastic... or Mobile? An FTC Workshop on Mobile Payments](#) (the “Report”). The Report is based on a workshop held by the FTC in April 2012 and highlights key consumer and privacy issues resulting from the increasingly widespread use of mobile payments.

Although the FTC recognizes the benefits of mobile payments, such as ease and convenience for consumers and potentially lower transaction costs for merchants, the Report notes three areas of concern with the mobile payments system: (1) dispute resolution, (2) data security and (3) privacy. [Continue reading...](#)

Supreme Court Finds Lack of Standing to Challenge Foreign Intelligence Surveillance Act March 1, 2013

On February 26, 2013, the United States Supreme Court [decided](#) in *Clapper v. Amnesty International* that U.S. persons who engage in communications with individuals who may be potential targets of surveillance under the Foreign Intelligence Surveillance Act (“FISA”) lack standing to challenge the statute’s constitutionality. The Supreme Court determined that the plaintiffs’ alleged injuries were not “certainly impending” and that the measures they claimed to have taken to avoid surveillance were not “fairly traceable” to the challenged statute. Although this 5-4 decision would not be considered a “privacy” or “data breach” case, the Court’s analysis will have a significant impact on such cases going forward, and may thwart the ability of individuals affected by data breaches to assert standing based on possible future harm. [Continue reading...](#)



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