

PRIVACY AND INFORMATION SECURITY LAW BLOG

GLOBAL PRIVACY AND CYBERSECURITY LAW UPDATES AND ANALYSIS

June 2013

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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Hunton and Williams Hosts Cornell University's Privacy and Data Security Symposium June 26, 2013

On June 18, 2013, the New York office of Hunton & Williams LLP office hosted Cornell University's Privacy and Data Security Symposium, [Privacy, Security & Your Data – Concerns in a Changing World](#). The program focused on global privacy and cybersecurity issues, including protecting the personal information of Internet users, balancing user privacy with law enforcement concerns, and implementing responsible data stewardship and governance. Moderated by Cornell University's Tracy Mitrano, Director of IT Policy and Institute for Computer Policy and Law, the panel included:

- Keith Enright, Senior Privacy Counsel of Google Inc.

- Mark Fasciano, Managing Director & Internet Entrepreneur of Canrock Ventures
- [Lisa Sotto](#), Partner and Head of the Global Privacy and Cybersecurity Practice at Hunton & Williams LLP
- JoAnn Stonier, Global Privacy & Data Usage Officer of MasterCard Worldwide

Cornell University presented the program via livestream during the event, which also has been made available online. [View the recorded panel discussion now.](#)

Belgian Privacy Commission's New Guidance on Information Security June 25, 2013

In recent months, the Belgian media has reported on a significant increase in data breaches. In December 2012, the [National Belgian Railway Company](#) inadvertently published 1.46 million sets of customer data online. The rise in data security incidents has caught the attention of the Belgian Privacy Commission, which has the authority to make recommendations on any matter relating to the application of the fundamental data protection principles in the Belgian Data Protection Act of December 8, 1992. In a May 2013 article published in *Bloomberg BNA's World Data Protection Report*, Hunton & Williams partner [Wim Nauwelaerts](#) discusses the Commission's previous guidance and outlines recommendations and related legal considerations.

[Read the full article.](#)

Bojana Bellamy to Assume Presidency of the Centre for Information Policy Leadership at Hunton and Williams LLP June 25, 2013

The [Centre for Information Policy Leadership](#) at Hunton & Williams LLP is pleased to [announce](#) that Bojana Bellamy, global director of data privacy for Accenture, will be joining the firm as president of the Centre, effective September 2, 2013. Current Centre President, [Marty Abrams](#), who is retiring on September 1, will stay on as an advisor to the Centre. [Continue reading...](#)

German DPA Assesses Data Protection Compliance of Adobe Analytics June 25, 2013

The Bavarian data protection authority recently updated its [compliance initiative](#) regarding online tracking tools to include Adobe's online tracking product ([Adobe Analytics \(Omniture\)](#)). As with [previous initiatives of this nature](#), the underlying analyses were carried out in an automated manner, using a [program](#) specifically developed by the Bavarian data protection authority to verify compliance. [Continue reading...](#)

European Commission Issues Technical Implementing Measures for Data Breach Notification by Telecom Operators and ISPs June 24, 2013

On June 24, 2013, the European Commission [announced](#) new technical implementing measures that address the EU data breach notification requirement for telecom operators and internet service providers ("ISPs"). Based on a [Commission Regulation](#), these companies must:

- notify the competent national authority of the incident (or at least provide an initial description thereof) within 24 hours after detection of the breach;
- outline which data are affected and what measures have been or will be taken by the company;

- pay attention to the type of data compromised when assessing whether to notify subscribers (i.e. evaluating whether the breach is likely to have an adverse effect on personal data or privacy); and
- use a standardized format for notifying the competent national authority (e.g. an online form which is the same for all EU Member States).

[Continue reading...](#)

UK ICO Launches 2012/13 Annual Report June 20, 2013

On June 20, 2013, the UK Information Commissioner's Office ("ICO") launched its [Annual Report and Financial Statements for 2012/13](#) (the "Report"). [Introducing the Report](#), Information Commissioner Christopher Graham strongly emphasized that, as consumers become increasingly aware of their information rights, good privacy practices will become a commercial benefit and a business differentiator. He outlined the seven key "e"s of the ICO's role: enforce, educate, empower, enable, engage, and to be effective and efficient. [Continue reading...](#)

Texas Enacts Law Requiring Warrants to Search Emails June 19 2013

On June 14, 2013, [Texas Governor Rick Perry signed a bill](#) requiring law enforcement agencies to obtain warrants before accessing customer electronic data held by email service providers. Introduced on March 4, 2013, the bill passed unanimously in both the Texas House and Senate on May 7 and May 22, respectively. The law takes effect immediately. [Continue reading...](#)

European Data Protection Supervisor Issues Opinion on EU Cybersecurity Strategy June 19, 2013

On June 14, 2013, the European Data Protection Supervisor (the "EDPS") [issued](#) an [Opinion](#) regarding a joint communication by the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy, *Cyber Security Strategy of the European Union: an Open, Safe and Secure Cyberspace* (the "Strategy"), as well as the European Commission's [proposed draft directive](#) to ensure uniformly high security measures for network and information security across the EU (the "NIS Directive"). The EDPS welcomes recognizing privacy and data protection as core values of a robust cybersecurity policy, as opposed to separating out security and privacy, but draws attention to several deficiencies, stating that "the ambitions of the strategy are not reflected in how it will be implemented." [Continue reading...](#)

HHS Settles with Shasta Regional Medical Center June 18, 2013

On June 13, 2013, the Department of Health and Human Services ("HHS") [announced a resolution agreement](#) and \$275,000 settlement with Shasta Regional Medical Center ("Shasta") that pertained to impermissible disclosures of protected health information ("PHI") by Shasta officials to the media, as well as to Shasta's entire workforce. [Continue reading...](#)

French Data Protection Authority Creates Working Group on Access of Personal Data by Foreign Public Authorities June 14, 2013

On June 14, 2013, the French Data Protection Authority (“CNIL”) [announced](#) that last March it had created an internal working group to study the privacy issues arising from the access of the personal data of French citizens by foreign public authorities. The CNIL further announced that the working group has decided to organize meetings with the various concerned stakeholders (attorneys, telecommunications operators, public institutions and non-governmental organizations) and that it has already had discussions with some of them. A summary of the CNIL’s findings is expected to be published in September 2013. [Continue reading...](#)

FDA Issues Safety Communication and Guidance on Cybersecurity for Medical Devices June 14, 2013

On June 13, 2013, the Food and Drug Administration (“FDA”) published a [safety communication](#) and [guidance](#) regarding the vulnerability of medical devices to cyberattacks. The safety communication, *Cybersecurity for Medical Devices and Hospital Networks*, is intended for “[m]edical device manufacturers, hospitals, medical device user facilities, health care IT and procurements staff; and biomedical engineers.” The safety communication notes that because medical devices can be connected to other devices and the Internet, such devices are exposed to cyber attacks that might result from malware infections, the exploitation of weak password protections, a lack of updated security patches and security vulnerabilities in software installed on medical devices. [Continue reading...](#)

UK ICO Publishes Social Networking and Online Forums Guidance June 14, 2013

The UK Information Commissioner’s Office (“ICO”) has published [guidance](#) on the application of the Data Protection Act 1998 (“DPA”) to social networking sites and online forums. The guidance emphasizes that organizations and individuals that process data for non-personal purposes must comply with DPA requirements in their use of social networking sites and online forums just as they would in any other context. [Continue reading...](#)

Japan Applies to Participate in APEC Cross-Border Privacy Rules Framework June 12, 2013

On June 7, 2013, the Japanese Government [applied](#) to participate in the APEC Cross-Border Privacy Rules program. Japan’s application will be reviewed to verify that Japan has the necessary legal mechanisms to ensure that certified companies can be held accountable. If approved, Japan will join the [United States](#) and Mexico, which also are APEC-certified economies, and it is likely a number of Japanese seal programs will apply for certification as accountability agents. Once the requisite elements are in place, Japanese companies will be able to apply for approval of their cross-border privacy rules. [Continue reading...](#)

FTC Issues a Guide for Businesses and Organizations on the Red Flags Rule June 11, 2013

In May 2013, the Federal Trade Commission [released](#) a new guide entitled [Fighting Identity Theft with the Red Flags Rule: A How-To Guide for Business](#) (the “Guide”) to help businesses and organizations determine whether they are subject to the FTC’s Red Flags Rule (“Red Flags Rule”) and how to meet the Rule’s requirements. The FTC’s Guide includes information regarding what types of entities must comply with the Red Flags Rule, a set of FAQs, and a four-step process to achieve compliance. [Continue reading...](#)

Hunton Publishes Analysis Paper on the Irish Presidency's Draft Compromise Text on the Proposed EU Data Protection Regulation
June 10, 2013

As we previously [reported](#), on May 31, 2013, the Irish Presidency of the Council of the European Union's Justice and Home Affairs released a [draft compromise text](#) in response to the European Commission's proposed [General Data Protection Regulation](#) (the "Proposed Regulation"). This compromise text narrows the scope of the Proposed Regulation and seeks to move from a detailed, prescriptive approach toward a risk-based framework. [Continue reading...](#)

Council of the European Union Discusses Progress on the Proposed EU Data Protection Regulation
June 7, 2013

On June 6, 2013, the European Union's Justice and Home Affairs Council held [legislative deliberations](#) regarding key issues concerning the European Commission's proposed [General Data Protection Regulation](#) (the "Proposed Regulation"). The discussions were based on the Irish Presidency's [draft compromise text](#) on Chapters I to IV of the Proposed Regulation, containing the fundamentals of the proposal and reflecting the Presidency's view of the state of play of negotiations. At the Council meeting, the Presidency was seeking general support for the conclusions drawn in their draft [compromise text](#) on the key issues in Chapters I to IV. [Continue reading...](#)

Sweden Fined for Delaying Implementation of the Data Retention Directive
June 5, 2013

On May 30, 2013, the Court of Justice of the European Union [held](#) that Sweden failed to fulfill its obligations under EU law when it delayed complying with the Court's 2010 ruling regarding the country's implementation of the [EU Data Retention Directive 2006/24/EC](#) (the "Data Retention Directive"). The Court ordered Sweden to pay a lump sum of €3,000,000. [Continue reading...](#)

Hunton Webinar on the Proposed EU Regulation: Developing a More Creative Approach
June 4, 2013

On May 29, 2013, Hunton & Williams hosted a webinar, [A Discussion on the Proposed EU Regulation: Developing a More Creative Approach](#). Hunton & Williams partner [Bridget Treacy](#) moderated the session with former UK Information Commissioner [Richard Thomas](#), Global Strategy Advisor of the [Centre for Information Policy Leadership](#) at Hunton & Williams. Richard Thomas discussed the need for a more creative and flexible approach to the proposed EU [General Data Protection Regulation](#), with better-defined outcomes and targeting businesses that present the greatest risks. He also discussed using a risk-based framework, the Accountability Principle, and binding corporate codes as the building-blocks for this proposed approach.

[View a recording of the webinar now.](#)

Sotto Speaks on Cybersecurity in Privacy Piracy Radio Interview
June 3, 2013

On June 3, 2013, [Privacy Piracy](#) host Mari Frank [interviewed Lisa J. Sotto](#), partner and head of the Global [Privacy and Data Security practice](#) at Hunton & Williams LLP, on KUCI 88.9 FM radio in Irvine,

California. Listen to the latest developments in cybersecurity, including legal issues businesses should consider when dealing with cybersecurity threats and the types of information being targeted.

[Access the radio interview.](#)



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