

The legislation

The public consultation launched back in July 2009 by the Director of DG JLS has finished and we now await a review of the EU Data Protection Directive. We expect a Communication setting the outline for a revised directive towards the end of the year. In the light of the speed of technological change, further legislative or non-legislative initiatives may be necessary meanwhile to protect citizens' data within the EU and in its relations with other countries.

Background

The Data Protection Directive (officially Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data) is a European Union directive which regulates the processing of personal data within the European Union. It is an important component of EU privacy and human rights law. The directive was implemented in 1995 by the European Commission.

Commissioner Viviane Reding is now in charge of this policy area and has vowed to protect the fundamental rights of citizens. She has announced that the Commission will be modernizing EU privacy rules, building on the general rules (Data Protection Directive) in place since 1995, and specific telecoms and internet rules (e-Privacy rules). The "improved rules" would be "vigorously applied across all policy areas and international agreements, be it new technologies, consumer rights or public security".

The assessment report is available here:

http://ec.europa.eu/information_society/activities/social_net/working/eu_action/implementation_princip/index_en.htm#final_report

How is the media affected?

Media companies must comply with data protection in their day to day operations, including commercial services where the processing of personal data for advertising and direct marketing must comply with the law. Uniquely though media companies are also affected when it comes to the way in which journalists collect information about individuals which may later be published. Any review of the directive would be unlikely to improve things for the media which has experienced difficulties in practice with the current legislation. The directive does include derogations "for journalistic purposes" but this has to be balanced with the rights to privacy making legal interpretation difficult. The EPC is asking the Commission that any review includes collation of evidence from journalists and publishers in order to safeguard the freedom of expression.

Data Privacy in electronic communications

In addition to the main Directive, as part of the Telecoms Package there is a law which tackles data privacy in electronic networks. This is pending final review and adoption and includes rules about the use of "cookies" on websites. EPC has lobbied MEPs, Member States and the Commission to ensure cookies do not become the subject of prior consent by online users. We argue they do not contain personally identifiable data but more importantly

actively enhance our readers' experiences when on our websites as they receive more relevant content and advertising as a result.

Data Privacy and Online Behavioural Targeting

DG SANCO, under the last Commission, was looking at data privacy from a consumer protection angle. They launched a useful debate on the way in which advertising can be targeted online according to interests of online users. EPC contributed to a pan-European industry submission which can be found here. [Joint response to DG SANCO on the Non-Paper on Data Collection, Targeting and Profiling of Consumers For Commercial Purposes in Online Environments](#) (13 July 2009). This activity has now been passed over to DG Freedom Security and Justice under Mrs Reding's leadership.

EPC's Executive Director is now chairing a **cross-industry Steering Group to develop a package of self-regulation for Online Behavioural Advertising**. This group is working with IAB Europe in order that their Framework Code on OBA can integrate with the advertising self-regulatory system.

Article 29 Group

All the national data privacy commissioners/regulators meet together as a group, known as the article 29 working party. They investigate practical issues arising from the data privacy rules and form an important role in shaping regulation. Their guidance on OBA is expected in June.

Useful documents

http://ec.europa.eu/justice_home/fsj/privacy/

http://ec.europa.eu/justice_home/news/consulting_public/news_consulting_0003_en.htm

http://www.epceurope.org/issues/data_protection.shtm

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

talk to use

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