

## April 2014

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- [Japan Joins the APEC Cross-Border Privacy Rules System](#)
- [French Data Protection Authority Discloses Its 2014 Inspection Program](#)
- [U.S. Court Rules Microsoft Must Release User Data Stored Overseas](#)
- [Tiao Discusses Utilities' Concerns in Sharing Information with the Government](#)
- [HHS Settles Potential HIPAA Violations with Concentra Health Services and QCA Health Plan Inc.](#)
- [Article 29 Working Party Issues Statement on One-Stop-Shop Within Proposed EU General Data Protection Regulation](#)
- [Brazil President Signs Internet Bill](#)
- [Kentucky Enacts Data Breach Notification Law](#)
- [Article 29 Working Party Issues Guidance on the "Legitimate Interests" Ground in the EU Data Protection Directive](#)
- [Article 29 Working Party Issues Opinion on Surveillance of Electronic Communications for Intelligence and National Security Purposes](#)
- [FTC Announces Settlement with Data Brokers for Alleged FCRA Violations](#)
- [Article 29 Working Party Opines on the European Commission's Review of Safe Harbor](#)
- [FTC Notifies Facebook, WhatsApp of Privacy Obligations in Light of Proposed Acquisition](#)
- [FTC and DOJ Issue Antitrust Policy Statement on Cybersecurity](#)
- [Chinese Postal Bureau Issues Personal Information Protection Rules](#)
- [Federal Judge Rules on FTC's Authority to Regulate Data Security](#)
- [Article 29 Working Party Issues Draft Contractual Clauses for Transfers from EU Data Processors to Non-EU Data Sub-Processors](#)
- [EU Data Retention Directive Invalidated](#)
- [Interoperability: A Way Forward for Global Privacy](#)
- [German DPAs Adopt Resolutions on Employee Privacy, Facial Recognition and EU Draft Regulation](#)
- [OCR Releases HIPAA Security Assessment Tool](#)

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### Japan Joins the APEC Cross-Border Privacy Rules System April 30, 2014

On April 30, 2014, the Asia-Pacific Economic Cooperation ("APEC") released the [Findings Report](#) of the Joint Oversight Panel of the APEC Cross-Border Privacy Rules ("CPBR") system, confirming that Japan has met the conditions for participation in the CBPRs. Accordingly, Japan has now joined the U.S. and Mexico as a participant in the APEC CBPRs. Canada recently expressed its intent to join the system soon, and other APEC economies are in the process determining how and when they may join. [Continue reading...](#)

## **French Data Protection Authority Discloses Its 2014 Inspection Program** **April 29, 2014**

On April 29, 2014, the French Data Protection Authority (“CNIL”) [disclosed](#) its annual inspections program, providing an overview of its inspections in 2013 and a list of the inspections it plans to conduct in 2014. Under French data protection law, the CNIL is authorized to collect any useful information in connection with its investigations and access data controllers’ electronic data and data processing programs. Since March 2014, the CNIL also is permitted to collect such information online through [remote investigations](#). [Continue reading...](#)

## **U.S. Court Rules Microsoft Must Release User Data Stored Overseas** **April 29, 2014**

On April 25, 2014, a judge in the U.S. District Court for the Southern District of New York [ruled](#) that Microsoft must release user data to U.S. law enforcement when issued a search warrant, even if the data is stored outside of the U.S. [Continue reading...](#)

## **Tiao Discusses Utilities’ Concerns in Sharing Information with the Government** **April 28, 2014**

On April 20, 2014, Hunton & Williams partner [Paul M. Tiao](#) was [featured](#) on Platts Energy Week discussing the importance of the homeland security partnership between electric utility companies and the U.S. government. In the feature, “U.S. Utilities Wary of Sharing Grid Risks,” Tiao talked about the recent leak to *The Wall Street Journal* of a sensitive internal memo at the Federal Energy Regulatory Commission that revealed potential vulnerabilities in the electricity grid. Tiao said that many utility companies want to work with federal agencies to protect homeland security, but in order to do that, they need to be able to trust the government to protect sensitive information about threats and vulnerabilities. The leak of the memo has undermined that trust.

[View the Platts Energy Week feature with Paul Tiao.](#)

## **HHS Settles Potential HIPAA Violations with Concentra Health Services and QCA Health Plan Inc.** **April 28, 2014**

On April 23, 2014, the Department of Health and Human Services (“HHS”) [announced](#) settlements with two health care companies stemming from allegations of inadequate information security practices in the wake of investigations involving stolen laptop computers. Concentra Health Services (“Concentra”) and QCA Health Plan Inc. (“QCA”) will collectively pay nearly \$2 million to settle the claims. [Continue reading...](#)

## **Article 29 Working Party Issues Statement on One-Stop-Shop Within Proposed EU General Data Protection Regulation** **April 25, 2014**

On April 16, 2014, the Article 29 Working Party (the “Working Party”) sent a [letter](#) (the “Letter”) to Lilian Mitrou, Chair of the Working Group on Information Exchange and Data Protection (the “DAPIX”) of the Council of the European Union, to support a compromise position on the one-stop-shop mechanism within the proposed [EU General Data Protection Regulation](#) (the “Proposed Regulation”). [Continue reading...](#)

## **Brazil President Signs Internet Bill April 24, 2014**

On April 23, 2014, Brazilian President Dilma Rousseff enacted the Marco Civil da Internet (“Marco Civil”), Brazil’s first set of Internet regulations. The Marco Civil was approved by the Brazilian Senate on April 22, 2014. President Rousseff signed the law at the NETMundial Internet Governance conference in São Paulo, a global multistakeholder event on the future of Internet governance. [Continue reading...](#)

## **Kentucky Enacts Data Breach Notification Law April 17, 2014**

On April 10, 2014, Kentucky Governor Steve Beshear signed into law a [data breach notification statute](#) requiring persons and entities conducting business in Kentucky to notify individuals whose personally identifiable information was compromised in certain circumstances. The law will take effect on July 14, 2014. [Continue reading...](#)

## **Article 29 Working Party Issues Guidance on the “Legitimate Interests” Ground in the EU Data Protection Directive April 17, 2014**

On April 9, 2014, the Article 29 Working Party (the “Working Party”) issued an [Opinion](#) on using the “legitimate interests” ground listed in Article 7 of the EU Data Protection Directive 95/46/EC as the basis for lawful processing of personal data. Citing “legitimate interests” as a ground for data processing requires a balancing test, and it may be relied on only if (1) the data processing is necessary for the legitimate interests of the controller (or third parties), and (2) such interests are not overridden by the interests or fundamental rights and freedoms of the data subject. With the Opinion, the Working Party aims to ensure a common understanding of this concept. [Continue reading...](#)

## **Article 29 Working Party Issues Opinion on Surveillance of Electronic Communications for Intelligence and National Security Purposes April 16, 2014**

On April 10, 2014, the Article 29 Working Party (the “Working Party”) adopted [Opinion 04/2014](#). The Opinion analyzes the implications of electronic surveillance programs on the right to privacy and provides several recommendations for protecting EU personal data in the surveillance context. [Continue reading...](#)

## **FTC Announces Settlement with Data Brokers for Alleged FCRA Violations April 15, 2014**

On April 9, 2014, the Federal Trade Commission [announced](#) settlements with two data brokers, Instant Checkmate, Inc. (“Instant Checkmate”) and InfoTrack Information Services, Inc. (“InfoTrack”), which sell public record information about consumers. The settlements stem from allegations that Instant Checkmate and InfoTrack violated various provisions of the Fair Credit Reporting Act (“FCRA”). According to the press release, the FTC asserts that the companies violated the FCRA by “providing reports about consumers to users such as prospective employers and landlords without taking reasonable steps to make sure that they were accurate, or without making sure their users had a permissible reason to have them.” [Continue reading...](#)

## **Article 29 Working Party Opines on the European Commission’s Review of Safe Harbor April 14, 2014**

On April 10, 2014, the Article 29 Working Party (the “Working Party”) issued a [letter](#) (the “Letter”) to Viviane Reding, Vice-President of the European Commission and Commissioner for Justice, Fundamental Rights and Citizenship, expressing its views on the European Commission’s ongoing revision of the EU-U.S. Safe Harbor Framework. [Continue reading...](#)

### **FTC Notifies Facebook, WhatsApp of Privacy Obligations in Light of Proposed Acquisition April 14, 2014**

On April 10, 2014, the Federal Trade Commission [announced](#) that the Director of the FTC’s Bureau of Consumer Protection had notified Facebook and WhatsApp Inc., reminding both companies of their obligation to honor privacy statements made to consumers in connection with Facebook’s proposed acquisition of WhatsApp. [Continue reading...](#)

### **FTC and DOJ Issue Antitrust Policy Statement on Cybersecurity April 11, 2014**

On April 10, 2014, U.S. Department of Justice Deputy Attorney General James Cole and Federal Trade Commission Chair Edith Ramirez [announced](#) a joint DOJ and FTC [antitrust policy statement](#) on the sharing of cybersecurity information (“Policy Statement”). The Policy Statement, as well as their remarks, emphasize the seriousness of the cybersecurity challenge and the need to improve cybersecurity information sharing. It is another example of the Obama Administration’s efforts to encourage the sharing of information about cybersecurity threats and vulnerabilities. [Continue reading...](#)

### **Chinese Postal Bureau Issues Personal Information Protection Rules April 10, 2014**

In March 2014, the State Postal Bureau of the People’s Republic of China (the “SPBC”) formally issued three rules (the “Rules”) establishing significant requirements regarding the protection of personal information: (1) Provisions on the Management of the Security of Personal Information of Postal and Delivery Service Users (the “Security Provisions”); (2) Provisions on the Reporting and Handling of Security Information in the Postal Sector (the “Reporting and Handling Provisions”); and (3) Provisions on the Management of Undeliverable Express Mail Items (the “Management Provisions”). The Rules, each of which became effective on its date of promulgation, were issued in [draft form in November 2013](#) along with a request for public comment. [Continue reading...](#)

### **Federal Judge Rules on FTC’s Authority to Regulate Data Security April 8, 2014**

On April 7, 2014, the U.S. District Court for the District of New Jersey issued an [opinion](#) in *Federal Trade Commission v. Wyndham Worldwide Corporation*, allowing the FTC to proceed with its case against the company. Wyndham had argued that the FTC lacks the authority to regulate data security under Section 5 of the FTC Act. The judge rejected Wyndham’s challenge, ruling that the FTC can charge Wyndham with unfair data security practices. The case will continue to be litigated on the issue of whether Wyndham’s data security practices constituted a violation of Section 5. [Continue reading...](#)

### **Article 29 Working Party Issues Draft Contractual Clauses for Transfers from EU Data Processors to Non-EU Data Sub-Processors April 8, 2014**

On March 21, 2014, the Article 29 Working Party (the “Working Party”) issued a [Working Document](#) containing draft ad-hoc contractual clauses for transfers of personal data from data processors in the EU to data sub-processors outside the EU (the “Working Document”). [Continue reading...](#)

### **EU Data Retention Directive Invalidated** **April 8, 2014**

On April 8, 2014, the European Court of Justice [ruled](#) that the EU Data Retention Directive is invalid because it disproportionately interferes with the European citizens’ rights to private life and protection of personal data. The Court’s ruling applies retroactively to the day the Directive entered into force. [Continue reading...](#)

### **Interoperability: A Way Forward for Global Privacy** **April 4, 2014**

On April 3, 2014, [Markus Heyder](#) published an opinion piece on global privacy interoperability in the International Association of Privacy Professionals’ Privacy Perspectives blog, entitled [Getting Practical and Thinking Ahead: ‘Interoperability’ is Gaining Momentum](#). Heyder recently left the Federal Trade Commission to join the [Centre for Information Policy Leadership](#) at Hunton & Williams as Vice President and Senior Policy Counselor. During his tenure at the FTC, Heyder spent a significant amount of time working on EU-U.S. Safe Harbor and APEC Cross-Border Privacy Rules (“CBPRs”) issues. [Continue reading...](#)

### **German DPAs Adopt Resolutions on Employee Privacy, Facial Recognition and EU Draft Regulation** **April 3, 2014**

On March 28, 2014, the 87th Conference of the German Data Protection Commissioners concluded in Hamburg. This biannual conference provides a private forum for the 17 German state data protection authorities (“DPAs”) and the Federal Commissioner for Data Protection and Freedom of Information, Andrea Voßhoff, 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...](#)

### **OCR Releases HIPAA Security Assessment Tool** **April 2, 2014**

On March 28, 2014, the Department of Health and Human Services’ (“HHS”) Office for Civil Rights (“OCR”) [released](#) a [tool](#) to assist covered entities in complying with the HIPAA Security Rule requirement to conduct a risk assessment. The HIPAA Security Rule obligates covered entities to accurately and thoroughly assess “the potential risks and vulnerabilities to the confidentiality, integrity and availability of electronic protected health information” (“PHI”) they maintain. The tool, which is aimed at small to medium health care providers, was developed jointly by OCR and the HHS Office of the National Coordinator for Health Information Technology (“ONC”), and follows the National Institute of Standards and Technology’s development of a similar [toolkit](#). [Continue reading...](#)



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