

PRIVACY & INFORMATION SECURITY LAW BLOG

Global Privacy and Cybersecurity Law Updates and Analysis



October 2015

This Client Alert is a monthly update on privacy and cybersecurity 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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GPEN Launches New Global Consumer Privacy Protection Initiative October 30, 2015

On October 26, 2015, the Federal Trade Commission ("FTC") issued a [press release](#) on the [Global Privacy Enforcement Network \("GPEN"\) Alert](#), a new multilateral information sharing system that would allow participating agencies to share information relating to an investigation in order to facilitate better cross-border coordination. The FTC, along with agencies from seven other nations, signed a Memorandum of Understanding at the [37th International Conference of Data Protection and Privacy Commissioners](#) in Amsterdam. FTC Chairwoman Edith Ramirez stated that the "GPEN Alert is an important, practical cooperation tool that will help GPEN authorities protect consumer privacy across the globe." Australia, Canada, Ireland, The Netherlands, New Zealand, Norway and the United Kingdom join the U.S. in their efforts to coordinate global consumer privacy protection. [Continue reading...](#)

UK Deputy Information Commissioner on Safe Harbor: “Don’t Panic” October 30, 2015

On October 27, 2015, David Smith, the UK Deputy Commissioner of the Information Commissioner's Office (“ICO”), published a [blog post](#) commenting on the ongoing Safe Harbor compliance debate in light of the [Schrems v. Facebook](#) decision of the Court of Justice of the European Union. His key message to organizations was, “Don’t panic.” [Continue reading...](#)

NIST Releases Final Report on De-Identification of Personal Information October 29, 2015

The National Institute of Standards and Technology (“NIST”) recently released the final draft of its report entitled [De-Identification of Personal Information](#). The report stems from a review conducted by NIST of various de-identification techniques for removal of personal information from computerized documents. While de-identification techniques are widely used, there is concern that existing techniques are insufficient to protect personal privacy because certain remaining information can make it possible to re-identify individuals. [Continue reading...](#)

Senate Passes Cybersecurity Information Sharing Act October 28, 2015

On October 27, 2015, the U.S. Senate passed [S.754 – Cybersecurity Information Sharing Act of 2015](#) (“CISA”) by a vote of 74 to 21. CISA is intended to facilitate and encourage the sharing of Internet traffic information between and among companies and the federal government to prevent cyber attacks, by giving companies legal immunity from antitrust and privacy lawsuits. CISA comes in the wake of numerous recent, high-profile cyber attacks. [Continue reading...](#)

EU Commissioner Announces Further Guidance on the Impact of the Safe Harbor Ruling and an Agreement “In Principle” on a New Safe Harbor Framework October 28, 2015

On Monday, October 26, 2015, EU Commissioner for Justice, Consumers and Gender Equality, Věra Jourová, gave a [speech](#) before the European Parliament’s Committee on Civil Liberties, Justice and Home Affairs (“LIBE Committee”) on the recent ruling by the Court of Justice of the European Union (the “CJEU”) that invalidated the European Commission’s Safe Harbor Decision. The EU Commissioner welcomed the Article 29 Working Party’s [statement](#) and, in particular, its support for a new Safe Harbor framework by January 31, 2016. However, the EU Commissioner called for more clarity in the meantime. Accordingly, she announced that the European Commission will soon issue an explanatory document on the consequences of the CJEU’s ruling to provide guidance for businesses on international data transfers. [Continue reading...](#)

Federal Court: Attorney-Client Privilege and Work-Product Doctrine Upheld for Materials Associated with Internal Data Breach Investigation October 27, 2015

On October 23, 2015, the United States District Court for the District of Minnesota, in large part, [upheld](#) Target’s assertion of the attorney-client privilege and work-product protections for information associated with a privileged, internal investigation of Target’s 2013 data breach. [Continue reading...](#)

**German DPAs Issue Joint Position Paper on Alternatives to Safe Harbor
October 27, 2015**

On October 26, 2015, the German federal and state data protection authorities (the “German DPAs”) published a joint position paper on Safe Harbor and potential alternatives for transfers of data to the U.S. (the “Position Paper”). [Continue reading...](#)

**Putative Data Breach Class Action Against Uber Dismissed Without Prejudice
October 23, 2015**

The United States District Court for the Northern District of California recently dismissed—without prejudice—a former Uber driver’s class action complaint. The driver, Sasha Antman, was one of roughly 50,000 drivers whose personal information was exposed during a May 2014 data breach. Uber contended the accessed files contained only the affected individuals’ names and drivers’ license numbers. [Continue reading...](#)

**CIPL Supports Theme of “Privacy Bridges” at 37th International Privacy Conference in Amsterdam
October 22, 2015**

On October 27, 2015, Hunton & Williams LLP’s [Centre for Information Policy Leadership](#) (“CIPL”) will conduct a joint workshop with Nymity on [Bridging Disparate Privacy Regimes through Organizational Accountability](#). As a side event to the [37th International Privacy Conference](#) in Amsterdam during the week of October 26, the workshop is specifically designed to support and further explore the theme of global “[Privacy Bridges](#)” that will be discussed at the International Privacy Conference. Organizational accountability is one of the proposed bridges in the [Privacy Bridges Report](#) which the international expert group released earlier this week. [Continue reading...](#)

**Irish Data Protection Authority to Investigate Facebook’s Data Transfers
October 22, 2015**

On October 20, 2015, at a hearing in the Irish High Court, [Irish Data Protection Commissioner](#) Helen Dixon confirmed that she will investigate allegations made by privacy activist Max Schrems concerning Facebook’s transfer of personal data to the U.S. in reliance on Safe Harbor. Dixon welcomed the ruling of the High Court and noted that she would proceed to “investigate the substance of the complaint with all due diligence.” [Continue Reading...](#)

**EU and U.S. Privacy Expert Group Releases “Privacy Bridges” Report
October 21, 2015**

On October 21, 2015, the EU-U.S. Privacy Bridge Initiative, a group of transatlantic privacy experts that was convened in [April of 2014](#), released its report on [Privacy Bridges – EU and US Privacy Experts in Search of Transatlantic Privacy Solutions](#). [Continue Reading...](#)

**California Passes New Digital Privacy Law
October 21, 2015**

On October 8, 2015, California Governor Jerry Brown signed into law the [California Electronic Communications Privacy Act \(“CalECPA”\)](#). The law requires police to obtain a warrant before accessing an individual’s private electronic information, such as text messages, emails, GPS data and online

documents that are stored in the cloud and on smartphones, tablets, computers and other digital devices. The government also must obtain a warrant before requiring a business to produce an individual's electronic information. [Continue Reading...](#)

Hunton Discusses the Safe Harbor Decision and Provides Next Steps **October 20, 2015**

In an article published by [E-Commerce Law Reports](#), Hunton & Williams partners [Bridget Treacy](#) and https://www.hunton.com/lisa_sotto/ Lisa Sotto discuss the Court of Justice of the European Union's (the "CJEU's") [recent ruling](#) invalidating the European Commission's Safe Harbor Decision. [Continue Reading...](#)

Article 29 Working Party Issues Statement on Consequences of Safe Harbor Ruling **October 16, 2015**

On October 16, 2015, the Article 29 Working Party (the "WP29") issued a [statement](#) on the consequences of the [recent ruling](#) of the Court of Justice of the European Union (the "CJEU") invalidating the European Commission's Safe Harbor Decision. [Continue Reading...](#)

German Parliament Adopts Data Retention Law with Localization Requirement **October 16, 2015**

On October 16, 2015, the German Parliament adopted a new [data retention law](#) requiring telecommunications operators and Internet service providers to retain customer Internet and phone usage data, including phone numbers, call times, IP addresses, and the international identifiers of mobile users (if applicable) for 10 weeks. The law requires user location data obtained in connection with mobile phone services to be retained for four weeks. Telecommunications and Internet service providers also are required to ensure that the retained data is stored within Germany. [Continue Reading...](#)

Hunton Ranked in Tier 1 in The Legal 500 United Kingdom Guide **October 16, 2015**

Hunton & Williams proudly [announces](#) that the firm was ranked in Tier 1 in The Legal 500 United Kingdom 2015 guide for data protection. [Bridget Treacy](#), head of the firm's UK [Privacy and Cybersecurity practice](#), and [Rosemary Jay](#), senior consultant attorney, both received recognition as leading individuals for data protection. [Continue Reading...](#)

German DPA Issues Position Paper on Data Transfer Mechanisms in Light of CJEU Safe Harbor Decision **October 14, 2015**

On October 14, 2015, the data protection authority ("DPA") in the German state of Schleswig-Holstein (Unabhängiges Landeszentrum für Datenschutz) issued a [position paper](#) (the "Position Paper") on the [Safe Harbor Decision](#) of the Court of Justice of the European Union (the "CJEU"). [Continue Reading...](#)

California Attorney General's Settlement with Houzz Inc. Requires Company to Hire CPO October 9, 2015

On October 2, 2015, California Attorney General Kamala D. Harris [announced](#) that her office settled a lawsuit against home design website, Houzz Inc. ("Houzz"). Houzz was charged with secretly recording incoming and outgoing telephone calls for training and quality assurance purposes without notifying its customers, employees or call recipients, in violation of California eavesdropping and wiretapping laws. As part of the settlement, the Attorney General required Houzz to destroy the recordings, pay a fine of \$175,000 and hire a Chief Privacy Officer to supervise its compliance with privacy laws and conduct privacy risk evaluations to assess Houzz's privacy practices. This is the first time that the Attorney General has required the hiring of a Chief Privacy Officer as part of a settlement. [Continue Reading...](#)

CJEU Declares the Commission's U.S. Safe Harbor Decision Invalid October 6, 2015

On October 6, 2015, the Court of Justice of the European Union (the "CJEU") issued its judgment in the [Schrems v. Facebook](#) case, following the [Opinion](#) of the Advocate General published on [September 23, 2015](#). In its judgment, the CJEU concluded that:

- The national data protection authorities ("DPAs") have the power to investigate and suspend international data transfers even where the European Commission (the "Commission") has adopted a decision finding that a third country affords an adequate level of data protection, such as Decision 2000/520 on the adequacy of the protection provided by the Safe Harbor Privacy Principles (the "Safe Harbor Decision"); and
- the Safe Harbor Decision is invalid.

[Continue Reading...](#)

CJEU Applies Broad Territorial Scope to EU Data Protection Law October 5, 2015

On October 1, 2015, the Court of Justice of the European Union (the "CJEU") issued its judgment in [Weltimmo v Nemzeti \(Case C-230/14\)](#). Weltimmo, a company registered and headquartered in Slovakia, runs a website that allows property owners in Hungary to advertise their properties. The CJEU stated that, in some cases, Weltimmo had failed to delete the personal data of the advertisers upon request, and also had sent debt collectors to some advertisers despite their earlier attempts to cancel their accounts. The advertisers complained to the Hungarian Data Protection Authority ("DPA"), which investigated the matter and issued a fine of HUF 10 million (approximately 36,500 USD) against Weltimmo. [Continue Reading...](#)



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