

DATA PROTECTION NEWS FROM AROUND THE WORLD

1. International organizations

International Conference of Data Protection Commissioners: The 12th conference, superbly hosted by Jacques Fauvet, CNIL president, was held in Paris on September 17-19. Czechoslovakia, South Korea and the United Nations were represented for the first time; and Israel was represented by its Data Protection Registrar for the first time since 1982. The programme covered:

- * data protection for medical data, medical research and genetic data with papers from:
 - **Canada** by Jacques O'Bready, Président, Commissaire à l'Information et la Protection de la Vie Privée, Québec (see p. 17)
 - **Germany** by Wolfgang Linder (Bremen), Ruth Leuze (Baden-Wurtemberg) and Alfred Einwig (Federal Data Protection Commissioner, Bonn)
 - **the UK** by John Woulds, Senior Assistant Data Protection Registrar
 - **France** by Louise Cadoux, Vice-President, CNIL
 - **Greece** by Kimon Chalazonitis, Vice-President, Council of State
- * for the first time, national reports from:
 - **Australia's** Privacy Commissioner, Kevin O'Connor
 - **Japan's** Nobumitsu Takigami, Director of the Management and Coordination Agency in the Prime Minister's Office
 - Professor Paul Schwartz from the **USA** (see p.11)
- * reports on international transfers of personal data from
 - **Denmark** by Bent Ove Jespersen, Director, Registertilsynet
 - **Finland** by Heikki Partanen, Office of the Data Protection Ombudsman
 - **Norway** by Georg Apenes, Director, Datatilsynet
 - **Sweden** by Stina Walstrom, Director, Datainspektionen
- * a report from CNIL's First Vice-President, Jacques Thyraud, on the Commissioners' working group on the Police; its policy recommendations on the Schengen Agreement for facilitating the free movement of people by removing border controls between several of the EC member states;
- * reports from the Commissioners' working group on Telecommunications and the Media by CNIL's Michel Elbel and Berlin's Data Protection Commissioner, Hansjurgen Gartska, chairman of the group;

- * a report on the European Community data protection draft directive (see p.5) by Ulf Bruhann, Head of the Media and Data Protection Department, of Directorate-General 3, the Commission of the European Communities; a response on behalf of the Data Protection Commissioners by Professor Spiro Simitis, Data Protection Commissioner, Hesse; and a resolution prepared by René Faber, President of the Data Protection Commission, Luxembourg and adopted with amendments by the Conference.

In addition, **Germany** made available a written summary of the new amendments to its Data Protection Act (see p.8). There will be further reports on the conference in our next issue.

2. Countries with data protection laws

Canada: A new Président of the Commission d'Accès à l'Information for Québec was appointed on October 30th by the Québec legislature. He is Paul-André Comeau, formerly the editor of Le Devoir, the most prestigious newspaper in French Canada. He replaces Jacques O'Bready. For the office's new address, see page 30.

A conference on Canadian and international privacy issues is being organized on November 27th in Toronto. There is a session on data protection in Europe by Dr. Malcolm Norris, the Isle of Man's Data Protection Registrar and speakers from: the Canadian Bankers Association, the US House of Representatives subcommittee on Information, Bell Canada, the Federal Department of Justice, and the Canadian Life & Health Insurance Association; and Professor David Flaherty and Evan Hendricks, Publisher of Privacy Times.

Price C\$525. For further information, contact Tom Riley, President, Riley Information Services. Telephone (416) 593 7352. Fax: (416) 593 0249.

Isle of Man: From October 17th, data subjects have been able to exercise their right of access under the Isle of Man's Data Protection Act. The right of access may be exercised not only by residents of the Isle of Man but also by those in the UK or any other country who may have data held by computer users in the Isle of Man, or controlled by them but located elsewhere.

The rules on data subject access are similar to those in the UK, with a maximum fee of £10 and a requirement to respond within 40 days of a computer user receiving a request for access.

At the same date, the Data Protection Registrar, Dr. Malcolm Norris, gained his remaining powers under the Data Protection Act, such as the ability to issue an Enforcement Notice. It is now up to the UK to extend its ratification of the Council of Europe Convention to include the Isle of Man.

United Kingdom: The Data Protection Tribunal, in its first case, dismissed the Appeals of the Community Charge Registration Officers (CCRO) of three local government councils against an Enforcement Notice and a refusal of registration by the Data Protection Registrar. The written 12 page

decision, signed by the Tribunal's Chairman, John Spokes QC, was dated October 27th and followed a combined appeal hearing held on September 17th-19th. The councils involved were Runnymede Borough, South Northamptonshire District, and Harrow Borough. The core of the case is described clearly in the written decision:

The issues Each appeal raised common issues as to whether the holding of "property type" information on the computer database of a CCRO in the particular circumstances of each appellant was "personal information" and if it was whether it was held in breach of the 4th Data Protection Principle which provides that personal data held for any purpose or purposes shall be adequate, relevant and not excessive in relation to that purpose or these purposes.

The decision We were satisfied by the evidence before us that each appellant had been and was likely to continue to be contravening the 4th Data Protection Principle. This was established by the evidence as to property type information which we find to be personal information. We find no error of law affecting the validity of the notices appealed against. For the reasons given we were satisfied both that grounds were established for the issue of the notices and that the Registrar exercised his discretion correctly in issuing the notices. Accordingly, we dismiss all the appeals.

Follow-up It is a matter, not for us, but for the Registrar to decide how long to grant for the deletion of the contravening property type information.

United States: A Pennsylvania Court earlier this year barred the introduction of caller identification by Pennsylvania's Bell Telephone Company, writes Joel R. Reidenberg of Fordham University, New York. The reference is Barasch v. Penn. Public Utilities Comm., No. 2270, slip op. (Pa. Commw. Ct).

The Conference Board has published a 24 page booklet, Employee Privacy, written by Ronald E. Berenbeim, a participant at the Privacy Laws & Business 1989 annual conference at Windsor. It reports on a survey of 393 United States, Canadian and European based companies' attitudes, policies and recommendations on:

- * solicitation and maintenance of personal data;
- * dissemination of data to third parties
- * searches and physical or electronic surveillance
- * written and unwritten policies regarding off-duty conduct

Employee Privacy - Report no. 945 - (ISBN no: 0-8237-0391-6) is available from our office or The Conference Board, 845, Third Avenue, New York, NY, 10022, USA or at Avenue Louise, 207-Bte 5, B-1050, Brussels, Belgium.