



global privacy roundup

ARGENTINA

On July 2nd, the European Commission formally announced that Argentina provides adequate protection for personal data that is in line with the EU Data Protection Directive. The decision means that organisations in the EU will not have to seek additional safeguards before transferring customer or employee data to Argentina.

Argentina, the first Latin American country to be given adequacy status, regulates data protection through a number of legal instruments including a constitutional right to privacy and the Personal Data Protection Act which was passed in October 2000.

AUSTRALIA

On August 27th, the Privacy Commissioner announced that he had approved a code of practice on market research activities. The code was developed by the Market Research Society of Australia (MRSA) and the Association of Market Research Organisations (AMRO), and took effect on September 1st.

CHINA

The *New York Times* reported on August 19th that the identity card carried by Chinese citizens will receive a massive makeover next year - "something new and breathtaking in scale." According to the newspaper, the new electronic card will store vital information for all 960 million eligible citizens on chips that the authorities can access anywhere.

EUROPE

In early September, the European Commission voiced concerns over US demands for the transfer of EU airline passenger data to government authorities in the United States. The Commission said the US could not

ensure that provisions in the EU Data Protection Directive would be met. The US also failed to reassure the Commission that personal details of airline passengers would be used for anti-terrorism purposes only. See p.12.

The Article 29 Data Protection Working Party has adopted an opinion on the privacy implications of biometric identification technologies. The paper calls for dialogue with the biometrics vendor community and recommends that of a code of practice governing the use of such technologies be created. See p.8.

FINLAND

In September, airline carrier Finnair raised controversy by confirming that it had started transferring the personal details of passengers travelling to America over to US officials. Information including credit card details and choice of flight meals are being handed over as part of US anti-terrorism measures. The company has denied privacy laws will be broken as customers will be required to consent to the exchange of information. Those who refuse, however, will be denied flight tickets. See p.12

The National Bureau of Investigation (NBI) suspects that telecoms operator, Sonera, may have conducted illegal surveillance on around 7,000 people in efforts to curb leaks of confidential information to journalists. See p.6.

FRANCE

In late June, France's data protection authority (CNIL) published a 'recommendation' on the collection and storage of credit card details by companies involved in 'distance selling' (eg. e-tailers or mail order companies). Businesses have been advised to erase credit card details after transactions unless customers consent to prolonged

storage. Other recommendations include allowing consumers to shop anonymously, restricting staff access to financial information, and implementing appropriate security standards.

On August 1st, a new public telecoms directory was created, compiling subscriber details of fixed and mobile telecoms customers. However, telecoms companies will be required to inform customers about the new directory and give them control over what information will be listed. See p.6.

GUERNSEY

On June 13th, the EU Article 29 Data Protection Working Party delivered a favourable opinion on the level of protection provided by Guernsey's 2001 data protection law. The Working Party's opinion is likely to lead to an 'adequacy finding' from the EU, which will ease restrictions on data exports to the island. The adequacy finding will now be passed to the Article 31 Committee before being referred to the European Parliament. A final decision should be reached by the end of this year.

HUNGARY

Hungary has amended its 1992 Data Protection Act. New provisions include clarification on data transfers, strengthened rights for individuals, and tougher sanctions for the Data Protection Commissioner. Although some of the amendments came into force in June this year, the majority will be effective from January 1st 2004. See p.15.

IRELAND

The Data Protection Commissioner has published guidance on the new Data Protection (Amendment) Act 2003. An additional guide explaining individuals' rights has also been published. See www.dataprivacy.ie.

ITALY

In June, the Data Protection Authority (IDPA) published a new 'Privacy Code' aimed at simplifying data protection legislation and easing the administrative burden on the business community. The code comes into effect on January 1st 2004. In the next issue of *PL&B International*, we will be taking a detailed look at the new code.

Italy has introduced tough new regulations governing unsolicited e-mail, according to *Reuters*. Businesses that spam consumers without their consent could face fines of up to €90,000 and, in more serious cases, a maximum three-year prison sentence.

KOREA (SOUTH)

According to the *Korean Times*, the Ministry of Government Administration and Home Affairs has announced plans to draft a bill for increased protection of individuals' privacy. The bill is likely to propose that government and public sector agencies implement a number of basic privacy principles. They include giving individuals access to their information, destroying obsolete data, and providing individuals with information on how their details will be used. Agencies could also be required to consult with a regulatory body before setting up databases containing personal data. The bill could be passed as early as summer 2005.

NEW ZEALAND

Bruce Slane, New Zealand's Privacy Commissioner, is retiring from his post this September. As the country's first commissioner, Slane developed his role and that of the Office of the Privacy Commissioner.

Associate Justice Minister Lianne Dalziel praised Slane's enthusiasm for his work: "He successfully established the Office of the Privacy Commissioner as a respected institution supporting the privacy rights and protections available to New Zealanders. He has a high level of dedication and professionalism, and his contribution is very much appreciated...He has been utterly devoted in his service to the legal profession and the law."

Slane's successor will be Marie Shroff, who brings with her 15 years' experience as Cabinet Secretary and Clerk of the Executive Council. She served six Prime Ministers from both Labour and National parties, and four Governors-General.

NORWAY

According to law firm Baker & McKenzie, the Norwegian Data Inspectorate has informed transport company, SVIPP Transport, that it can no longer require job applicants to provide sensitive details on their medical and criminal backgrounds. The inspectorate ruled that SVIPP did not have a justifiable reason for requesting the information.

SOUTH AFRICA

The Law Reform Commission has published a consultation paper as part of an investigation into the need for data protection legislation. Businesses and individuals have been invited to comment by December 1st. See wwwserver.law.wits.ac.za/salc/salc.html.

SWITZERLAND

According to *Swiss Info*, a leading data protection expert has identified serious security breaches in the healthcare sector. Michael Böni was able to access hundreds of patients' medical records at the Zurich University Hospital by remotely accessing its IT systems via a laptop computer. Böni claimed that poor security in the healthcare sector is endemic and suggested that up to 80 per cent of Swiss hospital databases could be easily cracked with no specialist knowledge needed.

TAIWAN

According to a report by *Taiwan Headlines*, the Ministry of Justice is preparing amendments to the Protection of Computer-Managed Personal Information Law. One main addition to the law will be the inclusion of manual or paper-based records (the current law applies only to automated data). Individuals could also be given greater flexibility to bring privacy lawsuits against organisations that misuse their data, as well as placing additional restrictions on the collection of personal data by businesses.

UNITED KINGDOM

On September 12th, the Home Office laid out an Order regulating access to communications data under the Regulation of Investigatory Powers Act (RIPA) 2000. The Order proposes extending the scope of existing rules to allow additional government agencies and public sector authorities to obtain access to individuals' communications records (eg. telephone, e-mail and Internet use).

In response to criticism from civil liberties groups last year, the government has built in tighter safeguards to protect individuals' privacy, including restricting access to information, training and certification for public authorities, and regular checks by an independent Commissioner.

UNITED STATES

The Bush administration is proposing changes to the Fair Credit Reporting Act in an effort to allay consumer concerns over identity theft. According to the *Associated Press*, the Treasury Department is recommending that consumers be allowed free annual access to their credit files in order to check their details for accuracy and completeness. In addition, it is proposed that consumers should be provided with more information on how credit scores are worked out and how to improve their ratings.

Further measures include a national alert system allowing consumers to more easily report incidents of identity theft to credit reference agencies.

A survey published by the Federal Trade Commission has revealed that 27.3 million Americans have been victims of identity theft over the last five years. Around ten million people were victims in the last year alone. The survey's findings also estimate that ID theft has cost US industry \$48 billion. See www.ftc.gov

On August 27th, California passed a new privacy law. The 'California Financial Information Privacy Act' will require financial organisations to obtain customer consent before passing their details on to non-affiliated companies. Customers will also be given the right to opt-out from having their details shared with group subsidiary companies.