



# global privacy roundup

## BERMUDA

**NEW LEGISLATION** - The Ministry of Telecommunications and E-commerce has announced its intention to implement new data protection legislation in 2005. A draft bill is currently being reviewed by the Cabinet and is expected to be laid before Parliament next year (see p.6).

## CANADA

**ANNUAL REPORT** - The Federal Privacy Commissioner, Jennifer Stoddart, has published her annual report for 2004. Key work over the last year has involved dealing with the implementation of Canada's new privacy legislation which came fully into force on January 1st. The report notes an increase in public enquiries as well as a 250 per cent rise in complaints from the previous year.

The report outlines the Privacy Commissioner's agenda for 2005, which will include proposals for reforming the Privacy Act, an audit of transborder data flows and an assessment of new surveillance technologies.

See the full report at: [www.privcom.gc.ca](http://www.privcom.gc.ca)

**HEALTHCARE** - A new law governing the collection, use and disclosure of health-related data came into force in the Canadian province of Ontario on November 1st. The Personal Health Information Protection Act (PHIPA) applies to all individuals and organisations in the healthcare sector. Service providers and third parties such as insurance companies or employers will also be governed by the regulations.

The Information and Privacy Commissioner for Ontario will be responsible for enforcing the law which will give individuals choice over the use of their details for marketing, the right to access their records and to correct any inaccuracies. Individuals involved in the processing of health data that breach the law could receive fines of up to CAN\$50,000, while organisations could be hit with penalties of up to CAN\$250,000.

Guidance on the new law can be found at: [www.ipc.on.ca](http://www.ipc.on.ca)

## EUROPEAN UNION

**DATA TRANSFERS** - The European Commission has published a report on the workings of the EU-US Safe Harbor programme. Safe Harbor was established in 2000 to allow the transfer of personal data from countries based in the EU to the US. The report criticises the small number of companies signed up to the scheme and the lack of enforcement carried out by the Federal Trade Commission (see cover story).

**DATA TRANSFERS** - The European Commission is to host a meeting in the Netherlands on November 24th to discuss pan-European approval of Binding Corporate Rules (a scheme that allows companies who adopt legally binding codes of conduct to transfer data outside the EU). While a few company codes have been approved in the Netherlands and Germany, business and data protection authorities are still negotiating a solution for approving these codes across the EU.

**DATA TRANSFERS** - In October, the EU Article 31 Committee (a group representing EU member state governments) approved a new model contract for international data transfers. The contract was drawn up by the International Chamber of Commerce (ICC) and offers a business-friendly alternative to the European Commission's standard contracts. The ICC contract is expected to be given final approval by the European Parliament by the end of the year (see p.7)

**SPAM/MARKETING** - The European Commission is reportedly considering additional anti-spam legislation. According to *ZDNet UK*, Steve Linford, director of global consumer group Spamhaus, will advise the Commission to examine the Australian model of spam enforcement. Australia has implemented tough penalties under its 2003 Anti-Spam Act, with fines of up to AUS \$1.1m for sending unsolicited e-mail.

Although the European Union has already implemented its own spam legislation (the Privacy & Electronic Communications Directive), critics have argued that it has had a negligible effect on the influx of spam and that further controls are needed.

## GERMANY

**RFIDS/TECHNOLOGY** - The Federal Office for Information Security (BSI) has urged industry to build data protection and privacy controls into new RFID systems, according to a report by *Heise Online*. RFIDs (Radio Frequency Identification) are small electronic tags containing unique identifiers that can be used to track products throughout manufacturing and retail supply chains. Privacy groups, however, have voiced concerns that the unique identifiers could be tied in with personal data and used to track individuals or monitor their shopping habits.

In a report published this November, the BSI stressed that anonymisation of personal data, as well as minimising the amount of information collected, were fundamental to the design of new RFID systems.

## ITALY

**INFORMATION SECURITY** - The Italian Data Protection Authority (Garante) has pushed back the deadline for implementing new regulations on the security of personal data until

30th June 2005.

Under the Data Protection Code - which combines Italy's data protection law and sectoral regulations in to one legal document - organisations are required to document their security practices. These security documents must specify what information is being processed, list the staff responsible for managing information security, as well as details on security measures such as access controls, firewalls and anti-virus software.

The Garante had originally scheduled the new regulations to come into force in March 2004, but extended the deadline to December 1st to allow organisations more time to prepare. It is now believed that public sector authorities have run into difficulties in complying with the security requirements, hence the need to extend the deadline for a second time.

See *PL&B International*, Aug/September 2004, p.23 for more information.

## PAKISTAN

**NEW LEGISLATION** - According to the *Pakistan Observer*, the Ministry of Information Technology has drawn up draft data protection legislation. Like India, the legislation is being drafted to boost the country's outsourcing sector. The draft bill, entitled the 'Foreign Data Security and Protection Act' will apply to all overseas data processed within Pakistan. Commenting on the proposed legislation, IT Minister Awais Ahmed Leghari said: "The law, once passed by Parliament, will provide teeth to our commitment to make Pakistan a secure location to carry out such data processing activities."

## UNITED KINGDOM

**ACCESS RIGHTS** - According to *Out-Law.com*, the UK government has signalled its opposition to suggestions that employees should be given greater rights to access to their personnel records. Following a ruling by the Court of Appeal last year (in the *Durant v Financial Service Authority* case), workers' rights to access paper-based personnel files have been heavily restricted. In response to a Parliamentary question about extending the right of access to unstructured manual files, the Secretary of State for Work and Pensions, Alan Johnson, said, "We have no plans to extend the application of the 1998 [Data Protection] Act to unstructured manual personnel records."

## UNITED STATES

**TELEMARKETING** - On October 4th, the Supreme Court upheld a ruling from a lower court stating that the US Do-Not-Call registry (a service allowing consumers to opt-out from unsolicited telemarketing calls) did not violate the business community's constitutional right to free speech.

The Do-Not-Call registry came into force in October last year and is regulated by the Federal Communications Commission (FCC) and the Federal Trade Commission (FTC). The action against the registry was launched by a number of marketing associations, including the American Teleservices Association.

Meanwhile the FTC is seeking comments on a proposal to modify the Telemarketing Sales Rule by allowing call centres to use pre-recorded messages when contacting existing customers. Currently, call centres and telemarketing operations are only permitted to use pre-recorded messages in 3 per cent of their outbound calls.

# 16 events diary

## Freedom Information Act: None of Our Business? December 1st, London, UK

On January 1st 2005, the Freedom of Information Act comes into force, giving citizens the right to access information held by public authorities. This event looks at the impact the new law could have on private sector business that work with public sector organisations.

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## Data Protection for HR February 24, 2005, London, UK

Designed with HR in mind but applicable to a wider audience, this brand new course will cover a comprehensive range of Data Protection problems that often arise within today's corporations.

Contact: IIR Conferences  
Tel: +44 (0)20 7 915 5055  
Website: www.iir-conferences.com

## Privacy Laws & Business Workshops

### The Data Protection Act Explained - Basic Training December 7 - London • February 9, 2005 - London • March 15th, 2005 - Edinburgh

Privacy Laws & Business consultant, Valerie Taylor, presents a series of training workshops aimed at anyone who requires a basic course explaining the fundamentals of the Data Protection Act.

### Data Protection Audit Training December 13-14 - London • February 21-22 - Leeds

Privacy Laws & Business hosts a series of two-day interactive audit workshops based around the Information Commissioner's DP Audit Manual. Workshops are held across the UK or available in-house.

Contact: Glenn Daif-Burns, *Privacy Laws & Business*  
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If you have an event or conference you would like listed, please contact the Editor, Alan Pedersen at: alan@privacylaws.com.