

## November 2011

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### **EU Commissioner Reding Promotes Use of BCRs at IAPP Congress in Paris November 29, 2011**

On November 29, 2011, at the International Association of Privacy Professionals (“IAPP”) Europe Data Protection Congress in Paris, France, Viviane Reding, Vice President of the European Commission and Commissioner for Justice, Fundamental Rights and Citizenship, provided insight into details of the proposals for the revised EU data protection framework. She focused explicitly on solutions for international data transfers, promoting Binding Corporate Rules (“BCRs”) as a solution that can offer a simplified, yet comprehensive, structure for safeguarding international flows of data. Commissioner Reding referred to BCRs as offering the possibility of consistent enforcement and legal certainty, without stifling innovation. [Continue reading...](#)

### **German Data Protection Association Issues Report on “Uniform Data Protection Law in Europe through Regulation” November 23, 2011**

On November 17, 2011, the [German Association for Data Protection and Data Security](#) (“GDD”) held its 35th Privacy Conference (“DAFTA”) in Cologne, Germany. At the opening plenary session, Paul Nemitz, Director for Fundamental Rights and Citizenship of the European Commission, announced that the European Commission plans to implement a Regulation that is directly applicable to all EU Member States, to harmonize data protection laws in Europe.

The GDD [reports](#) that, according to Nemitz, an EU Regulation is needed to regulate data protection. In his opinion, such a legal instrument would reduce the complexity of data protection law and may facilitate EU-wide standardization of the rules on data protection. In addition, according to Nemitz, the Commission would follow requests by businesses to implement uniform and comprehensible rules. In particular, small and medium-sized enterprises need clear rules that apply across Europe. [Continue reading...](#)

### **French Data Protection Authority Unveils 2010 Annual Activity Report November 22, 2011**

On November 16, 2011, the French Data Protection Authority (the “CNIL”) published its [Annual Activity Report for 2010](#) (the “Report”) highlighting its main 2010 accomplishments and outlining some of its priorities for the upcoming year. This year’s Report covers events that occurred since last year’s publication of the [Annual Activity Report for 2009](#).

The Report discusses the upcoming revision of the EU data protection framework (Directive 95/46/EC) and presents the CNIL’s recommendations on key topics, such as introducing a right to be forgotten, increasing developer liability for data protection failures in new technologies, creating a binding international data protection regulation, and maintaining specific formalities to govern “risky” data processing (e.g., those including sensitive data or public security files). [Continue reading...](#)

### **French Court of Cassation Sanctions Company for Misuse of a Geolocation Device November 21, 2011**

On November 3, 2011, the Labor Chamber of the French Court of Cassation (the “Court”) upheld a decision against a company that unlawfully used a geolocation device to track the company car of one of its salesmen. Although the company notified the salesman that a geolocation device would be used to optimize productivity by analyzing the time he spent on business trips, the device was in fact used to monitor his working hours, which ultimately led to a pay cut. [Continue reading...](#)

### **Rockefeller to Hold Hearing on “Alarming” Online Tracking Practices November 18, 2011**

On November 17, 2011, Senator Jay Rockefeller (D-WV), Chair of the [Senate Committee on Commerce, Science and Transportation](#), issued a [statement](#) emphasizing the need for increased consumer protection on the Internet. Rockefeller cited “disturbing” reports about Facebook’s ability to track non-members and members who have logged out of the site, stating that companies should not be tracking users without their consent. [Continue reading...](#)

### **APEC Leaders Endorse Cross-Border Privacy Rules November 14, 2011**

On November 13, 2011, Asia-Pacific Economic Cooperation (“APEC”) [leaders endorsed](#) the APEC Cross-Border Privacy Rules (“CBPRs”) system at an APEC meeting in Honolulu, Hawaii. The Leaders’ Statement also endorsed interoperability between national and regional privacy and data protection regimes to facilitate moving data around the globe while protecting privacy. [Continue reading...](#)

### **German Ministry Announces Development of a Self-Regulatory Code for Social Networks November 14, 2011**

On November 2, 2011, Germany's Federal Minister of the Interior met with stakeholders from the social networking industry and announced the development of a self-regulatory code for social networks. According to the Ministry's [press release](#), the code is aimed at enhancing data protection, consumer protection and the protection of minors on the Internet.

In endorsing the initiative, the Interior Minister stated, "self-regulation can also prove efficient in the social networking context, allowing for quick and flexible arrangements that enhance transparency and user trust. These rules should apply regardless of where a company is based." The Minister also stressed that the current, ongoing review of the EU data protection framework will figure prominently in the development of the Code.

A first draft of the Code is expected in March 2012.

### **New Self-Regulatory Principles for Multi-Site Data November 10, 2011**

This week, the Digital Advertising Alliance (the "DAA") unveiled new "[Self-Regulatory Principles for Multi-Site Data](#)" (the "Principles"), aimed at expanding the scope of industry self-regulation with respect to online data collection. The Principles are designed to supplement the [Self-Regulatory Principles for Online Behavioral Advertising](#) which [were issued in July 2009](#). The DAA is composed of several constituent industry groups such as the American Association of Advertising Agencies, Council of Better Business Bureaus, the Direct Marketing Association and the Interactive Advertising Bureau. [Continue reading...](#)

### **FTC Settles COPPA Violation Charges Against Children's Social Networking Website November 9, 2011**

On November 8, 2011, the Federal Trade Commission [announced](#) that the operator of [skidekids.com](#), a social networking website that advertises itself as the "Facebook and Myspace for Kids," has agreed to settle charges that he collected personal information from approximately 5,600 children without parental consent, in violation of the Children's Online Privacy Protection Act ("COPPA") Rule. The proposed settlement will bar future violations of COPPA and misrepresentations about the collection, use and disclosure of children's information. [Continue reading...](#)

### **Law360 Q&A with Lisa Sotto November 9, 2011**

On November 4, 2011, [Law360](#) interviewed [Lisa J. Sotto](#), partner and head of the Global Privacy and Data Security practice at Hunton & Williams LLP. In a question and answer session, Sotto discussed the challenges of working with multinational companies on compliance with privacy laws, and addressed questions related to her practice and career. [Read the full interview.](#)

### **New Chinese Legislation Includes Provisions Protecting Personal Information November 8, 2011**

In the past two months, Chinese national authorities amended a law, and provincial authorities in Jiangsu Province issued a new regulation, both of which include provisions concerning the protection of personal information.

### **Law of the People's Republic of China on Resident Identity Cards**

Any Chinese citizen who resides in China is required to obtain a resident identity card when he or she turns 16 years old. The cards carry information which generally would be considered personal information under Chinese law, such as name, gender, date of birth, home address and identity card number. The Law of the People's Republic of China on Resident Identity Cards, a national law originally enacted in 2003, was amended on October 29, 2011, to include the following new provisions on the protection of personal information: [Continue reading...](#)

### **Supreme Court Hears Oral Arguments in Landmark GPS Tracking Case November 8, 2011**

On November 8, 2011, the U.S. Supreme Court is set to hear oral arguments in [United States v. Jones](#), a case examining the Fourth Amendment implications of warrantless GPS tracking of suspects' vehicles. The Court directed the parties to brief and argue "whether the government violated respondent's Fourth Amendment rights by installing the GPS tracking device on his vehicle without a valid warrant and without his consent." [Continue reading...](#)

### **Congressmen Markey and Barton Address Verizon's Targeted Advertising Campaign November 7, 2011**

On November 4, 2011, Congressmen [Edward Markey](#) (D-MA) and [Joe Barton](#) (R-TX) [reiterated their privacy concerns](#) over the handling of customer preferences in connection with Verizon's new advertising initiative. After learning that Verizon had notified its customers of the implications of a targeted advertising campaign, on October 6, 2011, Reps. Markey and Barton, Co-Chairmen of the bipartisan Congressional Privacy Caucus, wrote a [letter](#) containing several inquiries to both Verizon and Verizon Wireless. In particular, Reps. Markey and Barton requested clarification regarding the companies' potential disclosure of aggregated customer location information and website viewing history to third parties. [Continue reading...](#)

### **Court Dismisses Facebook "Friend Finder" Lawsuit November 3, 2011**

On October 27, 2011, the United States District Court for the Northern District of California [dismissed](#) claims that Facebook misappropriated users' names and likenesses in promoting its "Friend Finder" feature. Friend Finder identifies potential "friends" for a Facebook user by matching his or her email contacts with users already registered with Facebook, then presenting the user with friend suggestions. Facebook promoted the feature by displaying the names and profile photos of current friends as examples of users who had found friends with Friend Finder. [Continue reading...](#)

### **Live from Mexico City: Opening Session Highlights the Potential and Challenges of Big Data November 2, 2011**

On November 2, 2011, following welcome comments by Federal Institute for Access to Information and Data Protection ("IFAI") Commissioner Jacqueline Peschard, the [33rd International Conference of Data Protection and Privacy Commissioners](#) opened in Mexico City with an examination of the phenomenon of "big data" as a definer of a new economic era. In a wide-ranging presentation, Kenneth Neil Cukier of the *Economist* drew into clear relief the possibilities and problems associated with combining vast stores of data and powerful analytics. He highlighted the growing ability to correlate seemingly unrelated data sets to predict behavior, reveal trends, enhance product performance and safety and derive meaning. In his remarks Cukier noted that, in an era of big data, much of the decision-making about data collection and use goes beyond traditional notions of privacy, touching on ethics and free will. Noting that the printing

press led to the development of free speech laws, he left open the question of how big data may change the legal landscape. [Continue reading...](#)



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