

January 2013

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Article 29 Working Party Opines on Need for Implementing Acts in Proposed Regulation January 30, 2013

On January 22, 2013, the Article 29 Working Party released [Opinion 01/2013](#) (the "Opinion") on the implementing acts contained in the European Commission's proposed [General Data Protection Regulation](#) (the "Proposed Regulation"). [Continue reading...](#)

UK ICO Publishes Further Views on the European Commission's Revised Data Protection Framework January 30, 2013

Following up on the UK Information Commissioner's Office's ("ICO's") [positive reaction](#) to the European Commission's proposed [General Data Protection Regulation](#) (the "Proposed

Regulation”), the ICO has now published [additional thoughts](#) on the European Commission’s [proposed revised data protection framework](#), reacting to the recent [draft report](#) prepared by the rapporteur to the EU Parliament’s Committee on Civil Liberties, Justice and Home Affairs, Jan Philipp Albrecht. In [February 2012](#), the ICO released an [initial analysis](#) of the Commission’s package of proposals, which included the proposed [Police and Criminal Justice Data Protection Directive](#) (“Proposed Directive”). [Continue reading...](#)

UK Government Concerned About European Data Protection Reform Proposals January 29, 2013

On January 11, 2013, the UK Government [published](#) its response (the “Response”) to the UK Justice Select Committee’s [opinion](#) on the European Commission’s [proposed revised data protection framework](#). The Response highlights a number of concerns expressed by the UK Government regarding the Commission’s legislative proposals. [Continue reading...](#)

Hunton & Williams Hosts Data Protection Law and Practice Book Launch January 28, 2013

On January 28, 2013, [European Data Privacy Day](#), the London office of Hunton & Williams hosted the launch of Senior Attorney Rosemary Jay’s fourth edition book, *Data Protection Law & Practice*, by publisher Sweet & Maxwell. [Continue reading...](#)

FTC Settles Alleged Breach of Consumers’ Personal Information January 28, 2013

On January 28, 2013, the Federal Trade Commission [announced](#) a proposed settlement agreement with CBR Systems, Inc. (“CBR”), an operator of a cord blood bank, which collects personal information about consumers and physicians through its websites and in connection with the provision of its services, including names, addresses, dates of birth, Social Security numbers, credit card numbers and health information. [Continue reading...](#)

New HIPAA Omnibus Rule: A Compliance Guide January 25, 2013

The wait is over. On January 17, 2013, the Department of Health and Human Services’ (“HHS”) Office for Civil Rights (“OCR”) released its long-anticipated megarule (“Omnibus Rule”) amending the HIPAA Privacy, Security, Breach Notification and Enforcement Rules. These amendments implement and expand on the requirements of the Health Information Technology for Economic and Clinical Health (“HITECH”) Act and the Genetic Information Nondiscrimination Act of 2008. The Omnibus Rule is effective March 26, 2013, and compliance is required with respect to most provisions no later than September 23, 2013. Coming into compliance will require significant effort and attention by covered entities and business associates alike. Below we highlight some of the more significant aspects of the Omnibus Rule and provide critical compliance tips. [Continue reading...](#)

FFIEC Issues Draft Guidance on Social Media January 25, 2013

On January 23, 2012, the [Federal Financial Institutions Examination Council](#) (“FFIEC”) released proposed guidance, [Social Media: Consumer Compliance Risk Management Guidance](#) (the “Guidance”) to address how federal consumer protection laws may apply to the social media activities of financial institutions that are supervised by the Consumer Financial Protection Bureau. Comments on the guidance must be submitted within 60 days (before March 25, 2013). After consideration of the public comments, and once the guidance is finalized, financial institutions will be expected to “use the guidance in their efforts to ensure that their risk management practices adequately address the consumer compliance and legal risks, as well as related risks, such as reputation and operational risks, raised by activities conducted via social media.” Rather than imposing additional obligations on financial institutions, the Guidance is intended to help financial institutions comply with existing federal requirements as they apply to the use of social media platforms. [Continue reading](#)...

Sotto Discusses Top Privacy Trends for 2013 January 23, 2013

In an [interview](#) with Tom Field of *BankInfoSecurity*, [Lisa J. Sotto](#), partner and head of the Global Privacy and Data Security practice at Hunton & Williams LLP, discussed the top privacy trends and threats for 2013. Lisa predicts that security vulnerabilities will remain the biggest threat to privacy, particularly with the move toward mobile computing. She also talked about key issues to watch in 2013, such as online behavioral advertising, big data and evolving privacy legislation and regulation, especially in the EU and other countries around the globe.

[Listen to Lisa's interview.](#)

HHS Issues Final Omnibus Rule Modifying HIPAA Privacy, Security, Enforcement and Breach Notification Rules January 17, 2013

On January 17, 2013, the Department of Health and Human Services (“HHS”) issued a [Final Omnibus Rule](#) modifying the Privacy, Security and Enforcement Rules promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) as well as the Breach Notification Rule promulgated pursuant to the Health Information Technology for Economic and Clinical Health Act (the “HITECH” Act) enacted in 2009. The Final Rule comes two and a half years after the [proposed rule was published in July 2010](#). [Continue reading](#)...

CNIL Issues Opinion on Response to Albrecht’s Report to the LIBE Committee January 17, 2013

On January 16, 2013, the French Data Protection Authority (“CNIL”) released its [opinion](#) on the [draft report](#) issued by Jan Philipp Albrecht, the rapporteur to the EU Parliament’s Committee on Civil Liberties, Justice and Home Affairs (the “Report”). The Report included detailed amendments to the European Commission’s proposed [General Data Protection Regulation](#) (the “Proposed Regulation”) submitted by various stakeholders which Rapporteur Albrecht

consolidated and distilled into a single text. The CNIL's Report welcomes these amendments and in particular, the following:

[Continue reading...](#)

FTC Settlement Targets Mobile App Background Checks January 16, 2013

In a January 13, 2013 [blog post](#), the Federal Trade Commission's Bureau of Consumer Protection's [Business Center Blog](#) highlighted the FTC's recent groundbreaking settlement for violations of the Fair Credit Reporting Act ("FCRA") in the mobile app context. The [settlement](#) with Filiquarian Publishing, LLC, Choice Level, LLC, and Joshua Linsk (the owner of Filiquarian and Choice Level, collectively, the "Companies"), is the first FCRA enforcement action against a mobile app developer. Filiquarian offered mobile apps to consumers for purposes of conducting criminal background checks in numerous states, and Choice Level provided the criminal background checks used by the apps to Filiquarian. [Continue reading...](#)

California Ruling Permits Collection of ZIP Codes After Receipt Is Provided to Customer January 11, 2013

As reported in [BNA's Privacy & Security Law Report](#), on December 14, 2012, a federal district court in California [ruled](#) that a retail store's policy of collecting personal information only after providing customers with receipts does not violate the [Song-Beverly Credit Card Act](#) ("Song-Beverly"). Under Section 1747.08(a)(2) of Song-Beverly, a retailer that accepts credit cards for the transaction of business may not "[r]equest, or require as a condition to accepting the credit card as payment ... the cardholder to provide personal identification information," which the entity accepting the credit card then "writes, causes to be written, or otherwise records upon the credit card transaction form or otherwise." [Continue reading...](#)

EU Parliament Committee Rapporteur Issues Draft Report on Proposed Amendments to the EU Commission's Draft General Data Protection Regulation January 10, 2013

On January 10, 2013, the rapporteur to the EU Parliament's Committee on Civil Liberties, Justice and Home Affairs ("LIBE"), Jan Philipp Albrecht, [presented](#) his [draft report](#) (the "Report") on the proposed amendments to the European Commission's [proposed General Data Protection Regulation](#) (the "Proposed Regulation") to the LIBE Committee. [Continue reading...](#)

HHS Settles First Enforcement Action Relating to a Breach Affecting Fewer than 500 Individuals January 4, 2013

On January 2, 2013, the Department of Health and Human Services ("HHS") [announced](#) a [resolution agreement](#) and \$50,000 settlement with Hospice of North Idaho ("HONI") for a breach that affected 441 individuals. This action is notable because prior HHS enforcement actions relating to breaches have involved a greater number of affected individuals (for example, the

[first breach-related enforcement action](#) in March 2012 affected more than 1 million). The Health Information Technology for Economic and Clinical Health (“HITECH”) Breach Notification Rule sets 500 as a threshold number of affected individuals triggering certain notification requirements such as the obligation to notify HHS within 60 days of discovery of the breach. [Continue reading...](#)

Irish Data Protection Commissioner Commences Enforcement of New Cookie Law January 3, 2013

On December 19, 2012, the Irish Data Protection Commissioner (“DPC”) wrote to [80 website operators](#) requesting details regarding how they are complying with recent changes to Irish law governing the use of cookies and other similar technologies ([SI 336/ 2011](#), the “Regulations”). The [letter](#) expects website operators, which include government departments as well as companies, to comply fully with the Regulations, which took effect 18 months ago and require user consent before deploying or accessing cookies or other information stored on users’ computer equipment. If the relevant organizations have not yet achieved compliance, they are expected to provide an explanation to the DPC explaining “why it has not been possible to comply by now, a clear timescale for when compliance will be achieved, and details of specifically what work is being done to make that happen.” [Continue reading...](#)

Chinese Legislature Passes Data Privacy Resolution January 2, 2013

On December 28, 2012, the Standing Committee of the National People’s Congress (“NPC”) of the People’s Republic of China passed the Resolution of the Standing Committee of the NPC Relating to Strengthening the Protection of Information on the Internet (the “Regulations”). The Regulations contain significant and far-reaching requirements applicable to the collection and processing of electronic personal information via the Internet. [Continue reading...](#)



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