

INTERNATIONAL CONFERENCE OF DATA PROTECTION AND PRIVACY COMMISSIONERS

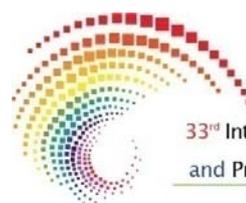
2011/GA/RES/001

Agenda Item III: (b)

Resolution on **Privacy Enforcement Co-ordination at the International Level**

General Assembly

**33rd International Conference of Data Protection
and Privacy Commissioners
November 1, 2011
Mexico City**



**33rd International Conference
Of Data Protection
and Privacy Commissioners**

Privacy: The Global Age
2-3 November 2011 Mexico City

RESOLUTION
PRIVACY ENFORCEMENT CO-ORDINATION AT THE
INTERNATIONAL LEVEL

Ciudad de México

Proposers: Information Commissioner, UK and Privacy Commissioner, Canada
Co-proposers: Privacy Commissioner, New Zealand
Federal Data Protection Commissioner, Germany
Data Protection Commission, Netherlands
Data Protection Commissioner, Poland
Data Protection Commissioner, Spain
European Data Protection Supervisor
Privacy Commissioner for Personal Data, Hong Kong
Office of the Australian Information Commissioner
Data Protection Commissioner, Ireland

Recalling the Resolution of the 29th Conference that:

- encouraged commissioners to further develop their efforts to support international co-operation and to work with international organisations to strengthen data protection worldwide, and
- welcomed the adoption of the Organisation for Economic Co-operation and development (OECD) Recommendation on Cross-border Co-operation in the Enforcement of Laws Protecting Privacy;

Recognising that significant progress has been made in recent years in multi-lateral forums to enhance arrangements for cross-border cooperation in the enforcement of laws protecting privacy, including efforts by the OECD and the Asia-Pacific Economic Cooperation (APEC) forum;

Noting in particular the establishment of the Global Privacy Enforcement Network (GPEN) in 2010 which has grown to include members from Europe, Asia, North American and the Pacific;

Mindful that several recent cases have dramatically demonstrated how the practices of global corporations, or security breaches affecting their information systems, can quickly and adversely affect the personal information of vast numbers of individuals across the world;

Reflecting on the fact that a number of privacy enforcement authorities have in the last 18 months concurrently investigated several of the same practices or breaches;

Concluding that greater coordination would increase the effectiveness of privacy enforcement authorities in cases involving personal information about individuals in multiple jurisdictions:

The **33rd International Conference of Data Protection and Privacy Commissioners therefore resolves** to encourage efforts to enable more effective coordination of cross-border investigation and enforcement in appropriate cases and, in particular:

- 1 **To urge** privacy enforcement authorities to join, use and improve the cooperative arrangements already in place and, in particular:
 - to share enforcement experience through existing methods and mechanisms;
 - to participate in the cross-border enforcement cooperation networks operating at regional level;
 - to use the cross-border enforcement cooperation tools already developed, and to enhance and supplement these tools as experience grows.
- 2 **To encourage** privacy enforcement authorities to assess their legal authority to share information and cooperate with their counterparts in relation to appropriate standards of best practice, such as the OECD Recommendation on Cross-border Co-operation in the Enforcement of Laws Protecting Privacy and, if necessary, discuss with their governments proposals to amend existing legislation to facilitate greater cooperation.
- 3 **To establish** a temporary conference working group to develop a framework and processes to share information about potential or existing investigations or enforcement actions and to facilitate possible coordination. The working group is encouraged to work in cooperation with other networks of privacy enforcement authorities active in cross-border enforcement cooperation and is directed to report back to the 34th Conference on what concrete actions have taken place over the year as well as what elements need further work and discussion.
- 4 **To seek to ensure** that there is at least one opportunity each year for those interested in issues of privacy enforcement and coordination to meet. This objective may be met

by Conference organised meetings or through the activities of member authorities or other networks.

Explanatory note

The aim of this resolution is to build on previous resolutions encouraging cooperation in cross-border privacy enforcement. However, this resolution takes a new step by seeking to develop concrete proposals and mechanisms to facilitate enforcement coordination.

It is increasingly important that privacy enforcement efforts recognise the global dimension. A global matter needs a global response and it is in the interests of authorities, individuals, governments and businesses that effective strategies are developed to avoid duplication and enhance effectiveness in cases where the privacy effects transcend national boundaries.

The resolution focuses upon four areas:

- building upon existing cooperation measures;
- reviewing laws to remove barriers to cooperation;
- setting up a temporary working group to develop new processes for coordination; and
- occasional meetings on enforcement coordination between privacy enforcement authorities.

There are existing cooperation and coordination mechanisms, both at regional and global level. Some international organisations have also developed practical tools, such as the APEC and OECD contact directories and requests for assistance forms. These existing tools should be used and improved upon.

Many existing data protection laws contain restrictions on sharing information on ongoing investigations. Where this hampers effective cooperative efforts, authorities may need to discuss legal changes with their governments. The OECD Recommendation on Cross-border Co-operation in the Enforcement of Laws Protecting Privacy contains a policy blueprint for updating national laws. Alternatively, they may need to look to other mechanisms for facilitating information sharing with each other, such as developing bilateral or multilateral MoUs.

Greater coordination in enforcement is also an area that now warrants greater attention. The resolution asks the conference to create a working group to discuss and develop a framework and processes to share information and to facilitate greater co-ordination in cases where that may be warranted so that we can all deal with global and regional privacy matters effectively and efficiently.

There is no 'one size fits all' approach to coordination and cooperation and different factual circumstances and legal regimes may entail different levels of ability to cooperate among authorities in any given matter.

As a first step and to demonstrate commitment to this resolution, the Privacy Commissioner of Canada has offered to host a meeting on privacy enforcement coordination open to all authorities, to take place in April or May 2012.