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CJEU: THE OPERATOR OF A WEBSITE THAT FEATURES A FACEBOOK 'LIKE' BUTTON CAN BE A CONTROLLER JOINTLY WITH FACEBOOK IN RESPECT OF THE COLLECTION AND TRANSMISSION TO FACEBOOK OF THE PERSONAL DATA OF VISITORS TO ITS WEBSITE



BY CONTRAST, THAT OPERATOR IS NOT, IN PRINCIPLE, A CONTROLLER IN RESPECT OF THE SUBSEQUENT PROCESSING OF THOSE DATA CARRIED OUT BY FACEBOOK ALONE

Fashion ID, a German online clothing retailer, embedded on its website the Facebook 'Like' button. The consequence of embedding that button appears to be that when a visitor consults the website of Fashion ID, that visitor's personal data are transmitted to Facebook Ireland. It seems that that transmission occurs without that visitor being aware of it and regardless of whether or not he or she is a member of the social network Facebook or has clicked on the 'Like' button. Verbraucherzentrale NRW, a German public-service association tasked with safeguarding the interests of consumers, criticises Fashion ID for transmitting to Facebook Ireland personal data of visitors to its website, first, without their consent and, second, in breach of the duties to inform set out in the provisions relating to the protection of personal data. The Oberlandesgericht Düsseldorf (Higher Regional Court, Düsseldorf, Germany), which is hearing the dispute, requests the Court of Justice to interpret several provisions of the former Data Protection Directive of 1995 (which remains applicable to this case, but has now been replaced by the new General Data Protection Regulation of 2016 with effect from 25 May 2018). In its judgment delivered today, the Court finds, first, that the former Data Protection Directive does not preclude consumer-protection associations from being granted the right to bring or defend legal proceedings against a person allegedly responsible for an infringement of the protection of personal data. The Court notes that the new General Data Protection Regulation now expressly provides for this possibility. The Court holds, second, that it appears that Fashion ID cannot be considered to be a controller in respect of the operations involving data processing carried out by Facebook Ireland after those data have been transmitted to the latter. It seems, at the outset, impossible that Fashion ID determines the purposes and means of those operations. By contrast, Fashion ID can be considered to be a controller jointly with Facebook Ireland in respect of the operations involving the collection and disclosure by transmission to Facebook Ireland of the data at issue, since it can be concluded (subject to the investigations that it is for the Oberlandesgericht Düsseldorf to carry out) that Fashion ID and Facebook Ireland determine jointly the means and purposes of those operations.

The Court makes clear that the operator of a website such as Fashion ID, as a (joint) controller in respect of certain operations involving the processing of the data of visitors to its website, such as the collection of those data and their transmission to Facebook Ireland, must provide, at the time of their collection, certain information to those visitors such as, for example, its identity and the purposes of the processing. The Court has also provided further information in respect of two of the six cases provided for in the directive in which the processing of personal data can be considered lawful. Thus, with regard to the case in which the data subject has given his or her consent, the Court holds that the operator of a website such as Fashion ID must obtain that prior consent (solely) in respect of operations for which it is the (joint) controller, namely the collection and transmission of the data. With regard to the cases in which the processing of data is necessary for the purposes of a legitimate interest, the Court finds that each of the (joint) controllers, namely the operator of a website and the provider of a social plugin, must pursue a legitimate interest through the collection and transmission of personal data in order for those operations to be justified in respect of each of them.

Judgment [here](#).

POLICY AND INVESTMENT RECOMMENDATIONS FOR TRUSTWORTHY ARTIFICIAL INTELLIGENCE

ARTIFICIAL INTELLIGENCE WILL BE THE NEXT GDPR

This document was written by the High-Level Expert Group on AI (AI HLEG). It is the second deliverable of the AI HLEG and follows the publication of the group's first deliverable, Ethics Guidelines for Trustworthy AI, published on 8 April 2019. The AI HLEG is an independent expert group that was set up by the European Commission in June 2018.

[AI HLEG Policy and Investment Recommendations \(.pdf\)](#)

EU: MULTISTAKEHOLDER EXPERT GROUP TO SUPPORT THE APPLICATION OF GDPR

The Multistakeholder Expert Group to support the application of Regulation (EU) 2016/679 has been established in 2017 to assist the Commission in identifying the potential challenges in the application of the General Data Protection Regulation (GDPR) from the perspective of different stakeholders, and to advise the Commission on how to address them. It also provides the Commission with advice to achieve an appropriate level of awareness about the new legislation among different stakeholders, including business and citizens.

The latest questionnaire provided a list of questions on 11 main aspects of the GDPR, in particular: the exercise of data subjects' rights; consent; complaints and legal actions; use of representative actions under Article 80 GDPR; experience with Data Protection Authorities (DPAs) and the one-stop-shop mechanism (OSS); experience with accountability and the risk-based approach; Data Protection Officers (DPOs); controller/processor relationship; the adaptation/further development of Standard Contractual Clauses (SCCs) for international transfers; and experience with the national legislation implementing the GDPR.

The full report is available [here](#)



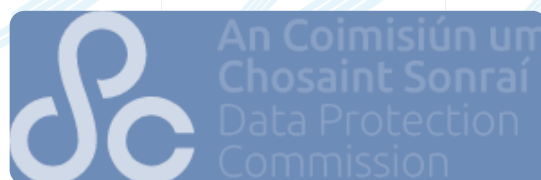


CNIL PUBLISHES REVISED GUIDELINES ON COOKIES AND OTHER TRACKING TECHNOLOGY

THE FRENCH DATA PROTECTION AUTHORITY HAS ADOPTED A REVISED VERSION OF ITS GUIDELINES ON THE USE OF COOKIES AND OTHER FORMS OF ONLINE TRACKING TECHNOLOGY.

To understand exactly how cookie regulation is evolving, FieldFisher has summarized in the table below the key elements of the CNIL's Guidelines in comparison with its previous position of 2013.

The full story by Olivier Proust here: <https://privacylawblog.fieldfisher.com/2019/cnil-publishes-revised-guidelines-on-cookies-and-other-tracking-technology>



IRISH DPC PUBLISHES PRELIMINARY REPORT ON THE CONSULTATION ON THE PROCESSING OF CHILDREN'S PERSONAL DATA AND THE RIGHTS OF CHILDREN AS DATA SUBJECTS UNDER THE GDPR

THIS CONSULTATION WAS LAUNCHED IN AN EFFORT TO ADDRESS A NUMBER OF QUESTIONS ARISING IN THE CONTEXT OF NEW CHILD-RELATED PROVISIONS UNDER THE GDPR.

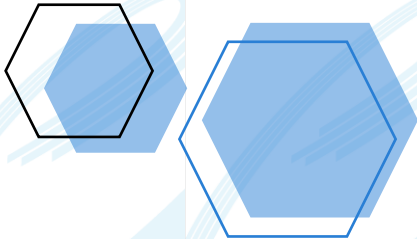
The second step of the consultation sought to involve children and young people directly in the debate by engaging them in the classroom in a specially designed consultation process aimed at students aged 8 and above. The DPC received a total of 50 submissions from different schools and Youthreach centres across the country, equating to the views of approximately 1200 students based on an average class size of 25 pupils.

The DPC has created a preliminary report in order to give an insight into the level of engagement experienced and to provide an overview of the headline trends and themes emerging from the feedback received from children and young people in their submissions. This report is not intended to serve as a primary piece of academic research – the purpose of this consultation was simply to gather the feedback of children and young people in relation to important data protection issues and to use this feedback to inform their approach to the guidance they will ultimately create on this topic.

The press release [here](#) and the Preliminary Report [here](#).



**GARANTE
PER LA PROTEZIONE
DEI DATI PERSONALI**



THE DPO HANDBOOK

GUIDANCE FOR DATA PROTECTION OFFICERS IN THE PUBLIC AND QUASI-PUBLIC SECTORS ON HOW TO ENSURE COMPLIANCE WITH THE GDPR

The Garante per la Protezione dei Dati Personali (Italy) with Agencia de Protección de Datos (Spain) Agencija za zaštitu osobnih podataka (Croatia) Commission for Personal Data Protection (Bulgaria) Urząd Ochrony Danych Osobowych (Poland) have published a handbook for data protection officers.

It is available in English here:

<https://www.garanteprivacy.it/documents/10160/0/T4DATA-The+DPO+Handbook.pdf/a5bfc9ba-8a0c-0f88-9874-71be40be6a6d?version=1.0>

ICO JOINS INTERNATIONAL SIGNATORIES IN RAISING LIBRA DATA PROTECTION CONCERNS

THE INFORMATION COMMISSIONER'S OFFICE (ICO) HAS JOINED DATA PROTECTION AUTHORITIES FROM AROUND THE WORLD IN CALLING FOR MORE OPENNESS ABOUT THE PROPOSED LIBRA DIGITAL CURRENCY AND INFRASTRUCTURE.

A [statement to Facebook and 28 other companies behind the project](#) asks them to provide details of how customers' personal data will be processed in line with data protection laws. It asks for assurances that only the minimum required data will be collected, that the service will be transparent, and requests details of how data will be shared between Libra Network members.

The statement is signed by a cross section of authorities representing millions of people in Europe, the Americas, Africa and Australasia. These include the UK's Information Commissioner Elizabeth Denham and her counterparts in Australia, the USA, Canada, Burkina Faso and Albania, as well as the EU's European Data Protection Supervisor.

You can read the press release [here](#) and the Joint Statement [here](#)

PROTECTING CHILDREN ONLINE: UPDATE ON PROGRESS OF ICO CODE

The Information Commissioner's Office ('ICO') issued, on 7 August 2019, a blog post ('the Blog Post') on [its public consultation on its draft code of practice for protecting children online](#)

