

**Global Discussion on the Commonly-accepted
Elements of Privacy Accountability**

Galway, Ireland

April 29, 2009

The Centre for Information Policy Leadership and the Office of the Data Protection Commissioner, Ireland will convene a collaborative process to develop a white paper articulating essential, commonly-accepted elements required of a company to establish and demonstrate accountability for its information processes.

Developing the elements of accountability will involve creation of a test set of elements by a Group of Experts selected from privacy enforcement agencies, industry and civil society. The experts group will hold an initial meeting in Dublin the week of January 12, 2009. The test elements will be discussed and debated by attendees of a conference to be held April 29, 2009 in Galway. A final white paper reflecting the consensus of the conference attendees about the appropriate elements of accountability will be published in June 2009. The paper will inform the development of better business practices and will encourage responsible privacy governance in an age of ubiquitous collection and use of information.

Problem Statement

European Binding Corporate Rules, Asia Pacific Economic Cooperation cross-border privacy rules, the EU-US Safe Harbor, the US Safeguards Rule and Section 5 of the Federal Trade Commission Act, and the Personal Information Protection and Electronic Documents Act (“PIPEDA”) (Canada’s private sector privacy law) all encourage and/or provide an accountability-based framework for the transfer and management of information. Indeed, recognition of the importance of accountability has roots in the 1980 OECD Privacy Guidelines. While policymakers have provided the market with guidance on the structure of binding corporate rules and cross-border privacy rules, and basic principles about how to meet consumer privacy expectations are well established, little guidance exists about how companies might demonstrate their accountable use and management of personal information. International resolution of the elements of privacy accountability issues is especially important as the evolution of modern distributed business processes increasingly enables processing and accessing of data around the globe.

Unfortunately, non-harmonized, national regulatory structures are often at odds with the reality of global data flows. Absent the establishment of basic elements of accountability that can be explained and verified, neither regulators nor individuals will fully trust the flexible transfer and management of personal data by organizations, and harmonization or mutual recognition of national regulatory structures will not be possible. Building and implementing this type of accountability-based system by addressing the above-noted weaknesses will allow for greater transparency and the potential ability for third-party agents to certify an organization to be accountable. Developments of the elements of accountability could advance a model that involves a combination of regulation and self-regulation in a global framework.

Project Description

The project will be conducted in four phases:

1. A Group of Experts will develop a draft document that sets out the essential elements necessary for organizations to establish and demonstrate accountable management of personal information in a compliant and respectful manner, and for enforcement agencies to confidently determine

which organizations should be trusted to manage and move personal data in a flexible manner. The experts will meet in person in Dublin the week of January 12, 2009, with subsequent work conducted via the phone and Internet.

2. Thirty-five to fifty key international privacy leaders will meet in Galway in April 2009 to discuss and improve on the work of the Experts group. The conference attendees will come to a consensus on the proposed elements and will suggest ways in which an accountability program might be implemented in practice.
3. The Group of Experts will produce a white paper based on the conference discussion.
4. The final paper will be shared with the OECD WPISP, the Article 29 Working Party and the APEC Data Privacy Subgroup.

Group of Experts

The Group of Experts will comprise senior officials from privacy protection agencies in Europe, North America and the Asia Pacific region. They will be joined by corporate privacy executives, and representatives from academia, civil society, and international organizations. The experts will work by teleconference and email to develop proposed accountability elements.

Sponsorship and Structure

The project will be organized by the Centre for Information Policy leadership at Hunton & Williams LLP with the Office of the Data Protection Commissioner for Ireland as facilitator. The program will be funded by corporate participants.