

# Centre for Information Policy Leadership

Quarterly Report: January - March 2014

## Message from the President:



Dear Centre Member,

With Spring well over our doorsteps, the work at the Centre is also blossoming. We have successfully launched a new flagship project on a Privacy Risk Framework with an Initial Issues Paper and a stimulating, superbly attended workshop in Paris. We continue to raise the Centre's visibility and relevance with DP regulators and industry. On top of that good news, I am truly delighted to announce that former FTC Counsel [Markus Heyder joined the Centre as vice president and senior policy counselor](#). Markus will work closely with me to help the Centre increase our activities in the US and APEC. Markus has a distinguished reputation as a privacy lawyer and brings an impressive background in global data privacy law and policy. He previously served for more than 10 years as counsel for the International Consumer Protection in the Office of International Affairs at the FTC and for nearly two years in the FTC's Division of Marketing Practices.

—Bojana Bellamy

## I. Highlights from January – March 2014

### Privacy Risk Framework and Risk-Based Approach to Privacy Project

Launched a new flagship project — “[Privacy Risk Framework and Risk-Based Approach to Privacy](#)” — at a workshop in Paris on 20 March. [More than 50 industry leaders, key data privacy regulators and policymakers participated](#), including:

- Carman Baggaley, Office of the Privacy Commissioner of Canada
- Lara Ballard, US Department of State
- Julie Brill, US Federal Trade Commission
- Willem Debeuckelaere, Privacy Commission – Belgium DPA (CPP)
- Michael Donohue, Organisation for Economic Co-operation and Development (OECD)
- Piotr Drobek, Poland DPA (GIODO)
- John Dwyer, Office of the Data Protection Commissioner – Ireland DPA (ODPC)
- Rafael García Gozalo, Spain DPA (AEPD)
- Hielke Hijmans, European Data Protection Supervisor (EDPS)
- William Hoffman, World Economic Forum
- Peter Hustinx, European Data Protection Supervisor (EDPS)
- Jacob Kohnstamm, Netherlands DPA
- Florence Raynal, France DPA (CNIL)
- Manuela Siano, Italy DPA (Garante)
- David Smith, UK DPA (ICO)

Circulated the following documents at the workshop:

- [“A Risk-Based Approach to Privacy?” An Initial Issues Paper for Privacy Risk](#)
- [Privacy Risk Framework and Risk-Based Approach to Privacy Workshop I Agenda](#)
- [Privacy Risk Framework and Risk-Based Approach to Privacy Workshop I PowerPoint](#)

Revising the Initial Issues Paper and discussing next steps with the Centre Advisory Board and Project Steering Committee, including future papers and a workshop for Fall 2014.

### **Cybersecurity Project**

Hosted two cybersecurity briefings with external speakers:

- [Threats, Vulnerabilities and Network Security Strategies in 2014, 16 January](#)
- [The Impact of US Policy and Regulation on Global Companies, 20 February](#)

### **Europe and Asia Policy Discussion Groups**

- Held a Europe Policy Discussion Group, hosted by Telefónica, in Brussels on “The Role of Data Privacy Seals and Certifications in the Global Economy,” 23 January and [published summary and recommendation document](#).
- Participants discussed the efforts of the UK Information Commissioner’s Office (ICO) efforts in creating a new privacy seal scheme for the UK, as well as the EU-funded project headed by Trilateral Research to assess current privacy seals schemes in Europe and provide policy recommendations for the successful operation of a Europe-wide privacy seal. Participants also analyzed the certification requirements of the proposed EU Data Protection Regulation and how they compare with current national practices and privacy seal schemes.

Organised an Asia Policy Discussion Group teleconference on 26 March to discuss the latest developments in the region, including updates on:

- APEC – Summary of Outcomes and Discussion of Recent APEC Data Privacy Subgroup Meetings
  - Status of Implementation of CBPRs for Controllers
  - Status of Development of CBPRs for Processors
  - Stock-take Exercise
  - Common Referential between APEC and EU
- Key Takeaways from the Centre Visits to Hong Kong and Singapore
- Country Developments
  - Japanese Privacy Law Reform
  - China

## **II. Centre Delegation Visit**

### **Hong Kong and Singapore**

In February, at the invitation of the Hong Kong Privacy Commissioner, a delegation of Centre members presented at the Privacy Corporate Governance conference that was attended by more than 200 industry and government representatives. Hong Kong Commissioner Allan Chiang promoted accountability as a best practices requirement in Hong Kong, and asserted his leadership by launching the newly published [Privacy Management Programme: A Best Practice Guide](#). The guide is a detailed compilation of best practices for Hong Kong businesses on how to organise and implement a comprehensive privacy management program within their organisations, and what the building blocks of that program should be. The guide is heavily based on the Centre’s accountability work. It draws, notably, on the excellent document prepared by the Canadian Federal Privacy Commissioner and the British Columbia Privacy Commissioner on Privacy Management Frameworks, titled “[Getting Accountability Right with a Privacy Management Program](#).”

At the conference, Bojana Bellamy delivered a presentation “[Moving from Defensive Privacy Compliance to Proactive Privacy Management](#).” During the Centre’s afternoon panel, MasterCard, HP and Nokia shared their experiences in building and implementing corporate privacy programs and assessed increasing business drivers for addressing privacy strategically and comprehensively within their organisations.

Lastly, the Centre delegation held private meetings with the Hong Kong and Singapore Commissioners and their key staff to introduce the Centre; describe our activities and projects; and discuss hot topics of mutual interest, including Big Data, accountability and corporate privacy programs, a risk-based approach to privacy, global data transfers and interoperability; and to exchange ideas and learn about the key priorities of privacy regulators in their countries.

### III. Upcoming Events and Reminders

2 May	First Friday Teleconference
6 May	Webinar – APEC Cross-Border Privacy Rules
14 May	Roundtable – discussion to provide feedback and to contribute to EU consultation on draft sub-processor clauses, London
June - TBA	Roundtable – discussion to provide feedback and to contribute to EU consultation on draft sub-processor clauses, Brussels
June - TBA	Teleconference – EU consultation on draft sub-processor clauses
5-6 June	Centre panel on “Defining and measuring risks to individuals” at the 2nd Annual International Data Protection Conference in Colombia
25-26 June	Centre’s Annual Executive Retreat, Washington, DC

### IV. Membership Benefits

We work with members around the globe to develop and advance the next generation of information and privacy laws in order to help organisations create best information practices and help members anticipate privacy risks.

#### **We help policy executives, corporate lawyers and business leaders:**

- anticipate and resolve complex privacy and security problems by building stronger data privacy practices and creating interactive relationships with stakeholders;
- develop tools and solutions through peer relationships with other senior policy leaders and outside experts; and
- influence future standards and laws.

We achieve these goals through focused industry discussion groups on various information policy topics, white papers, updates, published articles, roundtables, retreats, and other briefings and discussions.

#### **Key features of membership include:**

- shaping of and participation in all Centre projects and related workshops;
- one-day annual executive retreat on strategic privacy and policy issues;
- monthly teleconferences on global policy and legal developments;
- Asia, Europe and Latin America discussion groups and workshops to evaluate new issues and challenges;
- capacity-building workshops and policymaker education dialogues;
- opportunities to participate in Centre-coordinated discussions and visits with regulators around the globe; and
- advisory support and access to the expertise of a Centre leader for strategic guidance on the development and implementation of global information management programmes.

#### **Member Spotlight**

We welcome and thank our newest member:

- Google

### Message from the President



Bojana Bellamy

Dear Centre Member,

It is hard to believe that summer is here, and we are more than halfway through the year. The last quarter certainly was an active one. We published the white paper, [A Risk-based Approach to Privacy: Improving Effectiveness in Practice](#), the first paper in the Centre's new multiyear Privacy Risk Framework Project. It follows the Centre's March 2014 Risk Workshop, held in Paris with Centre members, privacy experts, regulators and other stakeholders. We also delivered a first-rate Annual Executive Retreat, bringing more than 65 attendees together to address policy developments, challenges and solutions in the era of Big Data and the Internet of Things. We take pride in accomplishments such as these because we know that any success we enjoy reflects our members' success in ensuring effective privacy protection in the modern information age.

—Bojana Bellamy

### I. Highlights from April – June 2014

#### Privacy Risk Framework and Risk-based Approach to Privacy Project

Published [A Risk-based Approach to Privacy: Improving Effectiveness in Practice](#). [The Privacy Risk Framework Project](#) is the next phase of the Centre's earlier work on organisational accountability, focusing specifically on one important aspect of accountability — conducting risk assessments that identify, evaluate and mitigate the privacy risks to individuals posed by an organisation's proposed data processing.

The white paper explores the fundamental question of how the ultimate purpose of privacy laws — to protect individuals from tangible and intangible harm — can be achieved more effectively in the modern information age. Given the increasing challenges of Big Data, ubiquitous computing and information flows, the Internet of Things and non-consumer facing data processing, organisations require tools that help them implement and comply with applicable legal requirements more effectively, and to ensure appropriate prioritisation within their privacy programmes. The Project seeks to explore the potential of the risk-based approach as one such tool. In addition to a comprehensive study of the various possible applications and uses of the risk-based approach, the Project seeks to develop a practical methodology for identifying and evaluating specific privacy harms to consumers to facilitate appropriate mitigations and processing decisions by organisations.

The issues addressed in this first paper include an overview of the possible benefits and applications of the risk-based approach, as well as the potential challenges and open questions associated with the approach. The paper addresses the potential uses of the risk-based approach not only by organisations, but also by regulators and policymakers. It also lays out the possible structure of a "risk matrix" for mapping specific processing "threats" (e.g., unexpected data use, improper access to data or loss of data) to specific tangible, intangible and societal harms (e.g., bodily harm, financial harm, reputational harm, embarrassment, discrimination and loss of social trust) in order to evaluate the likelihood and seriousness of any harm and to devise appropriate mitigations based on the actual risks and countervailing benefits to individuals and society.

The Centre's Privacy Risk Framework Project is highly relevant and timely. On 30 May, in response to increasing interest in a risk-based approach among privacy experts—including policymakers working on the proposed EU General Data Protection Regulation—the Article 29 Working Party published a [statement](#) on the role of a risk-based approach in data protection legal frameworks. The Statement confirms the Article 29 Working Party's general support for including a risk-based approach in the EU data protection framework. However, it notes that while the risk-based approach can be used to calibrate compliance obligations, it must not be used to diminish privacy principles and individual rights.

As part of the second phase of the Centre's Privacy Risk Framework Project, we are holding Workshop II for members, regulators and key experts and stakeholders to continue working on this important topic. The session is scheduled for Tuesday, 18 November in Brussels during the 2014 IAPP Europe Data Protection Congress. [Click here to register.](#)

## II. APEC Cross-Border Privacy Rules (CBPRs) Webinar

Hosted a webinar on APEC Cross-Border Privacy Rules (CBPRs) on 6 May to provide information and discuss the APEC CBPR system. Our expert speakers — Anick Fortin-Cousens, Program Director, Corporate Privacy Office, Canada, Latin America, Middle East & Africa, IBM Corporation; Markus Heyder, Vice President and Senior Policy Counselor, Centre for Information Policy Leadership; Saira Nayak, Director of Policy, TRUSTe; and Hilary Wandall, Vice President, Compliance and Chief Privacy Officer, Merck & Co., Inc. — covered a variety of topics, including:

- How the APEC CBPRs work.
- What their benefits are from a business perspective.
- How to become certified.
- How CBPR certification fits into a global privacy compliance strategy.
- How CBPRs relate to EU Binding Corporate Rules.

Click [here](#) to listen to the webinar's recording and view the presentation.

## III. Privacy Bridge Project

Centre President Bojana Bellamy was recently elected to participate in a new transatlantic initiative, [the "Privacy Bridge Project,"](#) that seeks to develop practical solutions to bridge the gap between the European and US privacy regimes. She joins a distinguished group of approximately 20 privacy experts from the European Union and United States, convened by Jacob Kohnstamm, chairman of the Dutch Data Protection Authority (DPA) and former chairman of the EU Article 29 Working Party. Centre Senior Policy Advisor Fred Cate, Distinguished Professor, and C. Ben Dutton, Professor of Law at the Indiana University Maurer School of Law and director of the Indiana University Center for Applied Cybersecurity Research and Center for Law, Ethics and Applied Research in Health Information, will also participate in the Project in an academic capacity.

Although the regions share a common goal of effective privacy protection, misunderstandings and differences between transatlantic legal systems pose challenges to the free flow of information and privacy protection. The Privacy Bridge Project will address these challenges. It is organised jointly by Daniel J. Weitzner, of the Massachusetts Institute of Technology CSAIL [Information Policy Project](#), and Nico van Eijk, of the [Institute for Information Law](#) of the University of Amsterdam.

The first meeting of the Privacy Bridge Project was held at the end of April in Amsterdam. The group will convene during four additional meetings to prepare an initial report outlining policy and practical recommendations for enabling cross-border data flows, and promoting privacy on both sides of the Atlantic. The report will be presented at the 2015 International Conference of Privacy and Data Protection Commissioners, to be hosted by Kohnstamm in the Netherlands. Over the next 15 months, the group will prepare a consensus white paper proposing a *modus vivendi* between the two regions.

Over the course of this initiative, Bojana and Fred will share information (subject to the *Chatham House Rule*) with members through teleconferences and updates. On Tuesday, 15 July we held our first call to solicit members feedback on the topics we identified at the Centre Annual Executive Retreat and to provide input for the Project's next formal meeting to be held on 22-23 September in Washington, DC.

#### IV. Centre Annual Executive Retreat

The Centre successfully held its Annual Executive Retreat “**Getting Practical in Privacy – Solutions in the Era of Big Data and the Internet of Things**” in Washington, DC on 26 June and via video link from the Hunton & Williams office in London. More than 65 industry leaders and key US data privacy regulators and policymakers [participated](#), including:

- Representatives from the US Federal Trade Commission
- US Department of State
- US Chamber of Commerce
- Information Technology Industry Council
- Centre for Urban Science + Progress, NYU

We distributed the following discussion papers and documents at the retreat:

- Getting Practical in Privacy – Solutions in the Era of Big Data and the Internet of Things [agenda](#)
- [Retreat PowerPoint](#)
- [Video report](#) by Hunton & Williams Partner Bing Maisog on legal developments and updates from Asia
- Centre's Privacy Risk Framework Project paper, [A Risk-based Approach to Privacy: Improving Effectiveness in Practice](#)
- Article 29 Data Protection Working Party [Statement on the role of a risk-based approach in data protection legal frameworks](#)

We also held a members-only closed session to discuss and receive feedback from Centre members on current and ongoing Centre projects and the direction on future activities. Attached are three, one-page descriptions that we reviewed during this session:

- [Brazil Special Initiative](#)
- [Interoperability Working Group](#)
- [Transparency Project](#)

Should you have any questions or if you would like to learn more about these possible initiatives, please contact Bojana Bellamy or Markus Heyder.



## V. Dates for Your Calendar and Upcoming Events

4-10 August	Markus Heyder, Centre vice president and senior policy counselor, participates in the APEC Data Privacy Subgroup Private Sector US Delegation – Beijing, China
5 September	First Friday Call
3 October	First Friday Call
13-16 October	Bojana Bellamy, Centre president, moderates a panel on The Privacy Risk Framework and a Risk – Based Approach to Privacy at the 36th International Conference of Data Protection and Privacy Commissioners in Mauritius, with panellists: UK Information Commissioner, CNIL Commissioner, President of Belgium DPA, MasterCard and Apple.
7 November	First Friday Call
18 November	Privacy Risk Framework Project Workshop II – Brussels

## VI. Membership Benefits

We work with members around the globe to develop and advance the next generation of information and privacy laws in order to help organisations create best information practices and help members anticipate privacy risks.

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- anticipate and resolve complex privacy and security problems by building stronger data privacy practices and creating interactive relationships with stakeholders;
- develop tools and solutions through peer relationships with other senior policy leaders and outside experts; and
- influence future standards and laws.

#### Member Spotlight

We welcome and thank  
our newest member:

**Qualcomm**

We achieve these goals through focused industry discussion groups on various information policy topics, white papers, updates, published articles, roundtables, retreats, and other briefings and discussions.

### Key features of membership include:

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- one-day annual executive retreat on strategic privacy and policy issues;
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- Asia, Europe and Latin America discussion groups and workshops to evaluate new issues and challenges;
- capacity-building workshops and policymaker education dialogues;
- opportunities to participate in Centre-coordinated discussions and visits with regulators around the globe; and
- advisory support and access to the expertise of a Centre leader for strategic guidance on the development and implementation of global information management programmes.

*Bojana Bellamy*

## Message from the President

Dear Centre Members,

The fact that this newsletter comes with some weeks of delay, and only after the US Thanksgiving holiday, is perhaps the best indicator of the flurry of global privacy activity and of how busy the Centre and our members have been in the past few months. I invite you to explore this report, which includes updates on our efforts to socialise our work on the Privacy Risk Framework and the risk-based approach to privacy, as well as our interoperability and international outreach efforts, including a number of Centre responses to consultations on key privacy and policy issues on both sides of the Atlantic.

## I. Highlights from July – October 2014

### Privacy Risk Framework and Risk-based Approach Socialisation Efforts

#### Workshop with Representatives of EU Council of Ministers

As part of our ongoing efforts to socialise our work on the risk-based approach, the Centre collaborated with Centre member MasterCard to host a half-day workshop in Brussels on 10 September to explore the scope for steering the proposed EU Regulation towards a more risk-based approach. Of the more than 20 participants, the main participants were governmental representatives from the Member States which come together as the EU Council of Ministers. Most of these officials are policy experts who sit together on the Working Party on Information Exchange and Data Protection (DAPIX). They examined the proposed Regulation in great detail in an attempt to establish common ground before the Council, as a whole, negotiates (probably in 2015) with the European Parliament and the European Commission. The workshop was also attended by data protection specialists from Telefónica and Nokia, two European members of the Centre.

The Centre was encouraged that a more risk-based approach was already on the agenda of the DAPIX group and being actively pushed by the Italian delegation, which currently holds the Presidency of the Council of Ministers. Indeed, the Italian representative co-chaired the event with Bojana Bellamy. The officials were congratulated for the progress on this issue so far and it was gratifying that much of the thinking from the Centre's [Privacy Risk Framework and Risk-based Approach to Privacy March workshop in Paris](#) was finding its way into discussions and documentation. In particular, there was acceptance of the need to link privacy mitigations to risk of harm — tangible and intangible — and to prioritise and calibrate such mitigations based on the likelihood and severity of such harm. Centre members pointed out, however, that it would be unduly prescriptive and ensure premature obsolescence of the law to specify certain types of data processing that are assumed to be inherently risky and thus in need of special authorisation or procedures for processing. Centre members also made the point that it is vital to balance the benefits of processing against the risks.

The official DAPIX meeting was held on the day following this workshop and, while certain issues remained, the emerging documentation showed the constructive influence of our discussion. Some of our further suggested amendments were accepted over the next two weeks and an agreement on [Chapter IV](#) and its inclusion of the [risk-based approach](#) was reached in the Council in October. (See also [Hunton Privacy Blog](#)) But the devil will remain in the details, and how far the Parliament and Commission are willing to move towards a more risk-based approach is an open question that will be determined in the so-called triologue between the three institutions in 2015, as the work on Regulation nears the end.

### Panel on the Risk-based Approach at the 36th International Conference of Data Protection and Privacy Commissioners in Mauritius

The Centre also held a successful and well received panel on the Risk-based Approach and Privacy Risk Framework at the 36th International Conference of Data Protection and Privacy Commissioners in Mauritius. The panel, moderated by Bojana Bellamy, included:



- David Smith – Deputy Commissioner and Director of Data Protection (UK)
- Willem De Beuckelaere – President, Privacy Commission, Belgium
- Jane Horvath – Senior Director of Global Privacy, Apple
- Erik Neuenschwander – Head of Privacy Engineering, Apple
- JoAnn Stonier – Executive Vice President, Information Governance and Chief Privacy Officer, MasterCard
- Isabelle Falque-Pierrotin – President, Commission Nationale de l'informatique et des Libertés (CNIL) & Article 29 Working Party

## II. Global Interoperability and International Outreach

### APEC

The Centre has been actively engaged in the work relating to the implementation and further development of the APEC CBPR system.

On 6 – 10 August 2014, the APEC Data Privacy Subgroup (DPS) and its parent committee, the Electronic Commerce Steering Group (ECSG), met in Beijing, China, for another round of negotiations, meetings and workshops. Centre Vice President and Senior Policy Counselor Markus Heyder participated as part of the US delegation. The principal focus of the meetings was again on further implementation of the APEC Cross-Border Privacy Rules (CBPR) system and work relevant to cross-border interoperability. Click [here](#) to view a summary of highlights and outcomes from the meetings. Markus also had an opportunity to discuss the Centre work on the risk-based approach to privacy and the Privacy Risk Framework project at a workshop preceding the formal meeting of the ECSG

- Published an IAPP perspectives piece [“The APEC Cross-Border Privacy Rules – Now That We’ve Built It, Will They Come?”](#) The article provides an update on the implementation of the APEC CBPR, describes their benefits to companies and other stakeholders, and suggests necessary steps to implement the system more effectively.
- Hosted the APEC Processor Rules Working Group for an all-day meeting to continue drafting the APEC Cross-Border Privacy Rules for Processors or CBPR-P. The Department of Commerce, Federal Trade Commission and several Centre members attended in person and via telephone link. The Working Group circulated a new draft for the CBPR-P and for a new explanatory document to the entire international working group, which was followed up by an international conference call at the end of October.
- Hosted a strategy meeting for the private sector members of the US APEC Data Privacy Subgroup delegation. Participants discussed possible strategy recommendations for government to implement the CBPR more rapidly and broadly. The group resolved to further refine them and seek opportunities to convey them to relevant US and other government stakeholders.
- Collaborated with the US Chamber of Commerce on a brown bag programme on APEC CBPR, BCR and global interoperability through codes of conduct as part of the Centre and US Chamber of Commerce Lunch and Learn Privacy Series. Our expert speakers, included Adam Schlosser, Director, Center for Global Regulatory Cooperation, US Chamber of Commerce; Markus Heyder, Vice President and Senior Policy Counselor, Centre for Information Policy Leadership; Chris Hoff, Policy Advisor, Data Flows and Privacy Team, US Department of Commerce; Josh Harris, Director of Policy, TRUSTe; Anick Fortin-Cousens, Program Director, Corporate Privacy Office, Canada, Latin America, Middle East & Africa, IBM Corporation; and Hilary Wandall, Vice President, Compliance and Chief Privacy Officer, Merck & Co., Inc. Covered topics included:
  - How the APEC CBPRs work.
  - Benefits of CBPRs from a business perspective.
  - How to become certified.
  - How CBPR certification fits into a global privacy compliance strategy.
  - How CBPRs relate to EU Binding Corporate Rules.

### Brazil Initiative

In light of recent Brazilian privacy developments, the Centre plans to initiate a global dialogue on cross-border privacy, accountability and interoperability with Brazilian privacy stakeholders, including regulators, law makers, and industry and privacy experts. Based on member input at the Centre’s annual executive retreat and subsequent consultations with members, we have adjusted our proposed Brazil initiative, including changing it from a one-off event to an ongoing, long-term dialogue and pushing the first workshop to late spring 2015. With the elections in Brazil now behind us, we can turn to making specific plans. However, the provisional plan of action is as follows:

1. The envisioned first workshop next spring will be a multilateral dialogue between Centre members, Brazilian stakeholders from government and industry, and outside privacy experts, including a few select current and former regulators. We will discuss a range of privacy issues of global significance and interest to Brazilian and non-Brazilian participants, including effective application of privacy principles in the age of big data and the IoT; the role of risk-based privacy protection, organisational accountability; cross-border data flows and interoperability; and, the impact of Brazil’s new privacy laws and regulations on these issues.

2. Following the workshop, the Centre intends to organise private meetings for Centre members with senior Brazilian government officials to brief them on the outcome of the workshop and exchange views. The first workshop and side-meetings in Brasília in late spring 2015 will be followed by future events.
3. We are researching Brazilian contacts and resources that we might use in conjunction with this initiative and are considering an exploratory trip earlier in the spring to develop our Brazilian relationships. We will also coordinate with other US-based organisations that are reaching out to Brazil in connection with the recent privacy developments in Brazil.

### III. Privacy Bridge Project

#### Survey Results

Following our consultations with members during the annual membership retreat and a subsequent telephone conference to discuss possible Privacy Bridge projects, we compiled a list of recommendations and created a private sector survey on possible topics. Bojana Bellamy shared the broad survey results at the second Privacy Bridge meeting, which took place on 22 – 23 September in Washington, DC. The useful input of Centre members will continue to inform the Privacy Bridge project as the expert group meets in Brussels on 9 – 10 December.

#### Top 5 Suggestions

- Identify common goals, common elements and best practices for accountability models, such as BCR, APEC CBPR, privacy seals and other corporate codes of conduct and explore the potential for binding global codes (corporate or sectoral). (88.2% support)
- Create a mechanism for industry and other expert input into a permanent Privacy Bridge Project. (88.2% support)
- Incorporate private sector input in bilateral governmental or regulatory working groups and increase industry consultation. (82.4% support)
- Support next steps following BCR/CBPR Referential to develop practical tools and processes for dual certification under both systems. (70.6% support)
- Create a process for consultation between the EU and US DPA and government agencies prior to finalising official reports, guidance and legislative proposals that have international implications. Create bilateral working groups and establish formal work plan for common areas of action. (67.4% support)

To review the full results from the survey, please click [here](#).

### IV. Centre Responses, Public Comments, Articles and Other Events

Over the summer and fall, the Centre filed the following public comments, published the following articles and held the following events:

- [Response to the Article 29 Working Party's Consultation Regarding Opinion on 06/2014 on the Notion of Legitimate Interests of the Data Controller Under Article 7 of Directive 95/46/EC.](#)
- [Centre and Hunton & Williams joint response](#) to the Article 29 Working Party [working document](#) proposing a new set of model contractual clauses to be used to legitimise data transfers from EU data processors to non-EU data processors.
- [Response to the US National Telecommunications and Information Administration's Request for Public Comment on "Big Data and Consumer Privacy in the Internet Economy".](#)
- Published an IAPP perspectives piece ["The APEC Cross-Border Privacy Rules – Now That We've Built It, Will They Come?"](#)
- [Response to the UK Information Commissioner's Office Big Data and Data Protection Paper.](#)
- Published an article in IAPP Privacy Perspectives on ["Tackling the Risks of Big Data"](#).
- [Public Comment on the US Federal Trade Commission's workshop on "Big Data: A Tool for Inclusion or Exclusion?"](#)
- On 23 October, the Centre co-hosted a Lunch and Learn on Privacy and Credit Reporting Developments in China with the US Chamber of Commerce. Manuel Maisog, Partner, Hunton & Williams provided an [overview of privacy developments in China](#) and Michael Panzera, Counsel for International Consumer Protection provided an [overview of the credit reporting system in China](#).
- On 27 October, the Centre and the prestigious UK based Whitehall & Industry Group held a joint event on Big Data to provide input to UK Information Commissioner Christopher Graham on the ICO Report on Big Data. Speakers included Christopher Graham, UK Information Commissioner, William Malcolm, Senior Privacy Counsel, Google and Jonny Shipp, Head of Digital Confidence, Telefónica.

## V. November/December Events

5 November	Bojana Bellamy speaks at the World Economic Forum Web Summit — Dublin
7 November	First Friday Call
18 November	Privacy Risk Framework and the Risk-based Approach to Privacy Workshop II — Brussels
19 November	Bojana Bellamy moderates a panel on “Privacy Risk Framework and Risk-based Approach: Delivering Effective Data Protection in Practice” at the IAPP Europe Data Protection Congress — Brussels.
19 November	Markus Heyder moderates a panel on “EU BCRs and APEC CBPRs: Cornerstones for Future Interoperability?” at the IAPP Europe Data Protection Congress — Brussels.
25 November	Bojana Bellamy participates on a panel on “Understanding how EU regulation works: The right to privacy” at Cloud Law European Summit — London
1 December	Bojana Bellamy speaks at NIST ITL Privacy Lecture Series — Washington, DC
2 – 4 December	Bojana Bellamy and Markus Heyder attend the Asia Pacific Privacy Authorities (APPA) Forum and moderate a panel and speak on the Risk-based Approach — Vancouver, Canada
10 December	The Centre for Information Policy Leadership and US Chamber of Commerce Lunch and Learn Privacy Series – Event No. 3 on the “Right to be Forgotten” — Washington, DC
12 December	Centre First Friday Call

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### Member Spotlight

We welcome and thank  
our newest members:

**Pfizer and TRUSTe**



Bojana Bellamy

## Message from the President

Dear Centre Members,

Happy New Year, and I hope you celebrated the start of 2015 in good spirit with family and friends. The Centre has been especially busy during the last two months of 2014. We held our second Privacy Risk Framework workshop in Brussels and published our second white paper, [The Role of Risk Management in Data Protection](#). We also participated at numerous global events, including the IAPP Europe Data Protection Congress, the Asia Pacific Privacy Authorities (“APPA”) Forum, and the OECD Working Party on Security and Privacy in the Digital Economy. We are looking forward to a busy and exciting year including our upcoming third Privacy Risk Framework workshop in Washington, DC.

## Highlights from November – December 2014

### I. Privacy Risk Framework Project

#### Privacy Risk Framework and Risk Management Workshop II – Brussels

The Centre successfully held its second workshop as part of its Privacy Risk Framework and Risk-based Approach to Privacy project on 18 November in Brussels. After the workshop, we published our latest white paper, [The Role of Risk Management in Data Protection](#).

Approximately 70 industry leaders, key data privacy regulators and policymakers participated, including:

- Julie Brill, US Federal Trade Commission
- Giovanni Buttarelli, European Data Protection Supervisor (EDPS)
- Isabelle Chatelier, European Data Protection Supervisor (EDPS)
- Ted Dean, International Trade Administration, US Department of Commerce
- Dirk De Bot, Commission for the Protection of Privacy (Belgium)
- Luca De Matteis, Permanent Representation of Italy to the EU
- Michael Donohue, Organisation for Economic Co-operation and Development (OECD)
- Nicolas Dubois, European Commission
- Rafael García Gozalo, Agencia Española de Protección de Datos (Spain)
- Dominique Hagenauw, Dutch Data Protection Authority
- Frances Henderson, Council for Better Business Bureaus
- Hielke Hijmans, Free University Brussels/University of Amsterdam
- Peter Hustinx, European Data Protection Supervisor (EDPS)
- Jacob Kohnstamm, Dutch Data Protection Authority
- Naomi Lefkowitz, National Institute of Standards and Technology (NIST)
- Sophie Louveaux, European Data Protection Supervisor (EDPS)
- Florence Raynal, Commission nationale de l’informatique et des libertés (CNIL)
- David Ritchie, International Trade Administration, US Department of Commerce
- Manuela Siano, Garante per la Protezione dei Dati Personali (Italy)
- David Smith, Information Commissioner’s Office (UK)
- Daniel Weitzner, MIT Computer Science and Artificial Intelligence Laboratory
- Wojciech Wiewiorowski, Generalny Inspektor Ochrony Danych Osobowych (Poland)

We distributed the following discussion papers and documents at the workshop:

- [Workshop II Agenda](#)
- [Attendee List](#)
- [Paper One – A Risk-based Approach to Privacy: Improving Effectiveness in Practice](#)

### Member Spotlight

We welcome and thank our newest members:

**NIELSEN  
&  
GARMIN**

- [The Role of a Privacy Risk Framework and Risk-based Approach in Delivering Effective Privacy Compliance \(ppt\)](#)
- [The Risk-based Approach in the EU General Data Protection Regulation](#)
- [Chapter IV of the forthcoming EU General Data Protection Regulation](#)

The workshop was kicked off by Bojana Bellamy, the Centre's president, and Fred Cate, Senior Policy Advisor for the Centre, who had prepared a discussion draft of the Centre's second white paper on the risk-based approach to privacy.

Fred Cate also moderated the first panel on the benefits and challenges of the risk-based approach, during which he, Commissioner Julie Brill of the Federal Trade Commission, Peter Hustinx of the European Data Protection Supervisor, Florence Raynal of the French Data Protection Authority (the "CNIL"), JoAnn Stonier of MasterCard, and Danny Weitzner of the Massachusetts Institute of Technology discussed questions such as (1) what is driving the recently intensified focus on risk assessments as a privacy compliance tool in the modern information age, and (2) what is the risk-based approach's potential for more effectively calibrating compliance and implementing existing privacy principles and legal obligations. The panelists also discussed examples of instances where risk assessments are currently required or used under existing legal regimes, including the EU Data Protection Directive and the FTC Act, as well as the types of harms to individuals and society that should be considered in the context of privacy risk assessments and whether government (legislatures or regulators) should provide more guidance on risk assessments.

During lunch, Luca De Matteis, Italian Presidency of the Council of the European Union, Justice Counselor (Cooperation in Criminal Matters and Data Protection), Permanent Representation of Italy to the EU, discussed the progress of the Council's expert working group on the proposed [EU General Data Protection Regulation](#) ("Proposed Regulation") and how the Council incorporated the risk-based approach in the Proposed Regulation.

The second panel on operationalising risk assessments within organisations considered different approaches businesses currently take in assessing potential privacy risks and the privacy-related impact of their products and services. The panel comprised of representatives of Acxiom, Apple, Google, Nokia and Accenture. It also included Naomi Lefkowitz, Senior Privacy Policy Advisor of the National Institute of Standards and Technology ("NIST") at the US Department of Commerce, who discussed NIST's privacy engineering initiative and Privacy Risk Model. A key message from this panel was that the ongoing work on the risk-based approach to privacy is not about substituting risk assessments for compliance with legal requirements but about developing a methodology for complying with the law more effectively.

During the third panel, Richard Thomas, Global Strategy Advisor for the Centre and former UK Information Commissioner, Jacob Kohnstamm of the Dutch Data Protection Authority, Manuela Siano of the Italian Data Protection Authority (the Garante), David Smith of the UK Information Commissioner's Office, and Wojciech Wiewiórowski of the Polish Data Protection Authority, discussed the use of risk assessments in privacy enforcement. Particular points of focus included:

- the value of risk assessments in facilitating effective enforcement prioritisation,
- whether enforcement authorities should consider societal harms in addition to harms to individuals when making enforcement decisions, and
- the role of enforcement authorities in providing guidance on the relevant factors to consider in organisational risk assessments.

Privacy Risk Framework Project

**WORKSHOP III**

Members, regulators, key experts and stakeholders will continue work on this important topic.

# SAVE THE DATE

**WEDNESDAY, 4 MARCH 2015**

**12 NOON - 5:30 PM**

**WASHINGTON, DC**

On the margins of the 2015 IAPP Global Privacy Summit

## **Centre Discusses Privacy Risk Management at the OECD Working Party on Security and Privacy in the Digital Economy**

Former UK Information Commissioner and Centre Global Strategy Advisor Richard Thomas was invited to make a presentation at a round-table on "Privacy Risk Management and Next Steps" at the OECD's 37th meeting of the [Working Party on Security and Privacy in the Digital Economy](#). The meeting was attended by governmental and regulatory officials from most OECD member countries, with various other participants and observers.

The principal focus of the event was to follow up on several new references to "risk" in the 2013 revised [OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data](#) in time for the main 2016 Ministerial meeting.

Richard Thomas outlined the Centre's Privacy Risk Framework project, including references to the Paris and Brussels workshops and the second white paper of the project, and explained the link between risk and accountability. Discussing the paper's main themes point



by point, he emphasised in particular the need for consensus around risk management models, technical standards, best practices and risk assessment tools. Richard Thomas also stressed the key role the OECD could play in developing and building a multinational consensus around a taxonomy of data protection harms and benefits, and a framework for assessing them.

Another speaker provided an SME perspective on “risk.” He stressed that IT start-ups are mainly run by innovating, risk-taking entrepreneurs and engineers who focus on product development, sales and investment and often are unaware of privacy issues until it is too late. He thought that a privacy risk framework template would be extremely useful for SMEs to raise their awareness of data privacy and to enable them to address basic privacy issues and manage privacy risks proactively and early on.

During the discussion that followed, the participants made the following key points:

- Privacy risk management is a wider (and more challenging) concept than security risk management, but could learn a lot from that field;
- The insurance and venture capital industries know a lot about risk and potentially have a great deal to offer on this topic;
- Both organisations and regulators must set priorities and a risk-based approach is the most promising way to do that;
- Risk assessment is one part of risk management – which is an umbrella for risk assessment, risk mitigation and management of remaining risks;
- It is vital to see risk management as a balancing test, factoring in benefits and competing fundamental rights.

In response to fears expressed by civil society that a risk-based approach could weaken fundamental rights, Richard Thomas reminded delegates that risk management does not alter rights or obligations, nor does it take away organisational accountability. Instead, looking at the likelihood and severity of harms from the individual’s perspective should strengthen privacy protection in the real world.

At the end of the discussion, the Working Party agreed that more work on privacy risk should be done by the OECD Secretariat within its 2015-16 Work Programme.

## **II. Global Interoperability and International Outreach**

### **Centre Participates in Asia Pacific Privacy Authorities (“APPA”) Forum – Vancouver**

On 2-4 December 2014, [Asia Pacific Privacy Authority](#) (“APPA”) members and invited observers and guest speakers from governments, the private sector, academia and civil society met in Vancouver, Canada, to discuss privacy laws and policy issues. At the end of the open session (or “broader session”) on day two, APPA issued its customary [communiqué](#) (“Communiqué”) containing the highlights of the discussions during both the closed session on day one and the broader session on day two. A side event on Big Data was held on the morning of day three (4 December).

During the broader session, APPA members were joined by invited speakers and observers, including the Centre, to discuss issues such as the relationship between regulators and civil society, the risk-based approach to privacy compliance and accountability, wearable technology, the APEC Cross-Border Privacy Rules system, the right to be forgotten and organisational accountability.

The discussion on the risk-based approach to privacy compliance and accountability was led by the Centre and three of its member companies. The Centre introduced the APPA group to its ongoing Privacy Risk Framework project and discussed the role of risk assessments in enabling organisations to devise more effective privacy protections. The speakers clarified that a risk-based approach to privacy does not replace or change legal obligations, but facilitates better practical implementation of those obligations. It also improves an organisation’s ability to create and maintain accountability beyond compliance requirements.

APPA is the principal forum for privacy authorities in the Asia-Pacific region. APPA members meet twice a year to discuss recent developments, issues of common interest and cooperation. The Vancouver meeting was hosted by the Office of the Information and Privacy Commissioner of British Columbia and by the Office of the Privacy Commissioner of Canada.

## **III. Privacy Bridge Project Update**

### **EU and US Privacy Experts Meet to Develop Transatlantic Privacy “Bridges”**

On 14 December 2014, the University of Amsterdam and the Massachusetts Institute of Technology issued a [press release](#) about two recent meetings of the [EU-US Privacy Bridges Project](#) in Washington, DC (22-23 September) and Brussels (9-10 December). The Privacy Bridges Project is a group of approximately 20 privacy experts from the EU and US convened by Jacob Kohnstamm, chairman of the Dutch Data Protection Authority and former chairman of the Article 29 Working Party, to develop practical solutions for bridging the gap between the European and US privacy regimes. Centre president Bojana Bellamy, and Fred Cate, Senior Policy Advisor for the Centre, are members of this group.

During the latest two meetings, government officials, private sector and civil society representatives and academics gave their input to the group’s work on developing a practical framework for bridging the European and United States approaches to data privacy.



Over the next nine months, the group will outline a menu of privacy “bridges” in a consensus report that will be presented at the [2015 International Data Protection and Privacy Commissioners Conference](#) on 28-29 October in Amsterdam. This conference will be dedicated solely to the Privacy Bridges topic.

The Privacy Bridges meetings are jointly organised by Daniel J. Weitzner of the Massachusetts Institute of Technology Information Policy Project and Nico van Eijk of the Institute for Information Law at the University of Amsterdam. Updates on the group's work can be found on their [website](#).

#### IV. Centre Responses, Public Comments, Articles and Other Events

Over the past two months, the Centre filed the following public comments, published the following articles and held the following events:

- Submitted a paper titled [The “One Stop Shop” – Working in Practice](#) to the Council DAPIX Working Group in light of its deliberations on the application of the One Stop Shop (“OSS”) under the proposed General Data Protection Regulation.
- Published its second white paper on the Privacy Risk Framework and Risk-based Approach to Privacy project titled [The Role of Risk Management in Data Protection](#).
- Published an IAPP perspective piece titled [The Rise of Accountability from Policy to Practice and Into the Cloud](#).
- 5 November – Bojana Bellamy spoke at the World Economic Forum panel at the Web Summit in Dublin.
- 19 November – Bojana Bellamy moderated a panel on “Privacy Risk Framework and the Risk-based Approach: Delivering Effective Data Protection in Practice” at the IAPP Europe Data Protection Congress in Brussels.
- 19 November – Markus Heyder moderated a panel on “EU BCRs and APEC CBPRs: Cornerstones for Future Interoperability?” at the IAPP Europe Data Protection Congress in Brussels.
- 25 November – Bojana Bellamy participated on a panel on “Understanding how EU regulation works: The right to privacy” at the Cloud Law European Summit in London. Watch her interview [here](#).
- 1 December – Bojana Bellamy, along with Jessica Rich, Director, Bureau of Consumer Protection, Federal Trade Commission and Ann Cavoukian, Executive Director of the Privacy & Big Data Institute, spoke on current global privacy trends and issues at National Institute of Standards and Technology (NIST) as part of their ongoing Usable Privacy Lecture Series.
- 10 December – The Centre and the US Chamber of Commerce co-hosted a Lunch and Learn on The Right to be Forgotten. Allen Brandt, Global Policy Fellow at the Centre, moderated a discussion with panelists Julie Brill, Commissioner, US Federal Trade Commission; Rob Mahini, Policy Counsel, Google; and Laura Juanes Micas, Senior Legal Director, International Privacy, Yahoo!.



#### V. Upcoming Events

21-23 January	Bojana Bellamy chairs a session on “Users' Control Over Their Data: Is Prior Consent the Best Way to Monitor?” and is an official respondent during the Big Data breakfast meeting at the Computers, Privacy & Data Protection (CPDP) 8th International Conference: Data Protection on the Move – Brussels
30 January-3 February	Markus Heyder attends the APEC Data Privacy Meeting – Philippines
5 February	Joint Hunton & Williams and Centre roundtable discussion on the Privacy Risk Framework project and the proposed EU Data Protection Regulation – London
6 February	First Friday Call
12 February	Bojana Bellamy moderates an IAPP webinar panel on the Privacy Risk Management
4 March	Privacy Risk Framework and the Risk-based Approach to Privacy Workshop III – Washington, DC, 12 noon – 5:30 pm
13 March	First Friday Call

## VI. Membership Benefits

We work with members around the globe to deliver effective data protection in the modern information age, to help shape the next generation of information and privacy laws and practices, to assist organisations create best information practices and anticipate privacy risks.

### **We help policy executives, corporate lawyers and business leaders:**

- Anticipate and resolve complex privacy and security problems by building stronger data privacy practices and creating interactive relationships with stakeholders;
- develop tools and solutions through peer relationships with other senior policy leaders and outside experts; and
- influence future standards and laws.

We achieve these goals through discussion groups on various information policy topics, white papers, published articles, roundtables, retreats, and meetings with regulators.

### **Key features of membership include:**

- shaping of and participation in all Centre projects and related workshops;
- one-day annual executive retreat on strategic privacy and policy issues;
- monthly teleconferences on global policy and legal developments;
- Asia, Europe and Latin America discussion groups and workshops to evaluate new issues and challenges;
- capacity-building workshops and policymaker education dialogues;
- opportunities to participate in Centre-coordinated discussions and visits with regulators around the globe; and
- advisory support and access to the expertise of a Centre leader for strategic guidance on the development and implementation of global information management programmes.



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