

CIPL Quarterly Report

April - June 2020



Centre for Information Policy Leadership

HUNTON ANDREWS KURTH

Message from the President



Following the invalidation of the Privacy Shield and the upholding of Standard Contractual Clauses as transfer mechanisms by the Court of Justice of the European Union in the Schrems II Decision, I'd like to first assure you that we at CIPL are considering all possible actions that we could undertake to help bridge regulatory and industry perspectives on the practical consequences of the ruling and next steps following the decision. We are committed to supporting you as you contend with the impacts of the decision.

As we continue to work digitally, I would like to highlight some of the key CIPL work streams and deliverables from the past few months. As a reminder, we've recently released our [report](#) on "What Good and Effective Data Privacy Accountability Looks Like: Mapping Organizations' Practices to the CIPL Accountability Framework," with which we are able to provide concrete evidence and success stories from organizations on how they implement, demonstrate and enforce privacy accountability. We've also

presented this paper to global DPAs, regulators and policymakers in several virtual meetings following the release of our report.

As part of our AI work stream, we've recently [responded](#) to the EU Commission's White Paper that seeks to propose an EU Regulatory approach to AI, and held two meetings with the EU Commission on its plans for AI and our response to their paper.

In the US, we held a successful virtual roundtable addressing "How will COVID-19 Change the US Federal Privacy Debate" with CIPL members, CIPL Global Strategy Advisor Terry McAuliffe, US FTC Commissioner Wilson and US Hill staffers. Following the roundtable, we developed a [white paper](#) on this topic together CIPL's Senior Policy Advisor Professor Fred Cate.

In Brazil, we're finalizing a white paper on the top implementation priorities for organizations under the new Brazilian privacy law (Lei Geral de Proteção de Dados Pessoais – LGPD), and preparing the next series of virtual meetings on key aspects of the law. This will come timely as the LGPD [will soon become applicable](#). In addition, we've published a [paper](#) on "The Role of the Brazilian Data Protection Authority" (Autoridade Nacional de Proteção de Dados – ANPD) and organized a webinar on this topic. The webinar gained wide media attention due to the [announcement](#) by the Secretary-General of the Presidency of the Republic, who spoke at the webinar, that the decree to establish the ANPD was ready for publication – the [decree was published](#) on the week following our webinar.

In Asia, we're currently organizing a series of roundtables with Hong Kong University on privacy in the COVID-19 pandemic and key issues such as using data for good and enabling accountable data sharing to take place in the Fall.

In the meantime, I encourage you to read the details of CIPL's ongoing work in the report below, and I wish you are all having all a safe and restful summer.

I.

CIPL Webinar: "Have We Finally Reached the Age of Accountability in Data Protection? CIPL Discusses Important Developments"

On April 6, CIPL held a webinar to learn about and discuss two recent empirical studies illustrating the benefits and workings of the accountability-based paradigm for effective data protection and privacy:

- 1) [CIPL Accountability Framework Mapping Report](#); and
- 2) From Privacy to Profit: Achieving Positive Returns on Privacy Investments, [CISCO Privacy Benchmark Study 2020](#).

The goal of this webinar was to advance a general understanding of how specifically organizational accountability can benefit both businesses and individuals and, ultimately, how an accountability-based paradigm for privacy protection is the way of the future. Policy- and lawmakers, regulators and organizations continue to grapple with what it means for organizations to be "accountable" as required by an increasing number of privacy laws and regulatory guidance. At the same time, an increasing number of these stakeholders are beginning to link organizational accountability to having comprehensive internal privacy programs comprising policies, processes, tools, controls and measures to govern all aspects of data processing.

This webinar explored how organizations today are implementing such accountability programs and how the [CIPL Accountability Framework](#) proves useful in designing such programs. Key insights and practical examples from CIPL’s recent Accountability Framework Mapping Report were presented by participants and further discussed. In addition, the webinar looked at the positive returns that organizations are experiencing from investing in such privacy accountability programs and explored key findings from CISCO’s recent Privacy Benchmark Study. This webinar also touched on other relevant developments in the area of accountability, such as the UK ICO’s Accountability Toolkit and the US FTC’s privacy consent orders requiring comprehensive privacy programs.

For more details on the webinar, please see the full [agenda](#) and [slide deck](#).

II.

CIPL/CEDIS-IDP Webinar on “Applying the LGPD’s Risk-Based Approach: How Can Organizations Prioritize Compliance and Accountability Based on Risk?”



The second in a series of webinars organized as part of CIPL and the Centro de Direito, Internet e Sociedade of Instituto Brasiliense de Direito Público’s (CEDIS-IDP) [joint project](#) on “Effective Implementation and Regulation under the New Brazilian Data Protection Law (LGPD)” took place on April 23.

As the LGPD is a risk-based law, the goal of this webinar was to address how organizations can apply the concept of a risk-based approach to prioritize their compliance and accountability obligations.

During the webinar, speakers provided short presentations on their practical experiences with implementing a risk-based approach, after which the floor was opened to the audience for questions.

For more details on CIPL’s webinar, please see the [agenda](#) and [slide deck](#). For more information on CIPL and CEDIS-IDP’s joint project, information is available in English [here](#) and in Portuguese [here](#).

III.

CIPL Virtual Roundtables on “The EU Commission’s AI White Paper: Leveraging GDPR, Accountability and Industry Best Practices”



Following the release of the EU Commission's White Paper on Artificial Intelligence, CIPL organized two virtual roundtables in May and June with the EU Commission as part of our contribution to its consultation. During these virtual sessions, CIPL members and the EU Commission discussed the Commission’s approach to regulating AI and [CIPL’s response](#) to the consultation. Participants focused in particular on AI risk assessments, accountable practices of organizations and modern regulatory oversight as means to shape an effective, sustainable and innovative approach to regulating AI in the EU. The second session continued the discussions and focused in particular on modern regulatory oversight in the context of AI such as regulatory sandboxes, data review boards and co-regulatory mechanisms.

IV.

CIPL Virtual Roundtable on “The GDPR DPO role 2 years later: is the recent Belgian DPA’s controversial decision a game changer?”

In response to a controversial decision by the Belgium DPA concerning the appointment of a DPO who it found had a conflict of interest that should have precluded him from being the DPO, CIPL held an industry-only virtual discussion with CIPL members on May 29 to discuss the impact of this decision on how the data protection officer role should be interpreted and implemented under the GDPR and how to respond to DPAs varied expectations of the role going forward.

V.

CIPL Virtual Roundtable on How Will COVID-19 Change the US Federal Privacy Debate?

On June 9, CIPL held a virtual roundtable to discuss how the COVID-19 pandemic has impacted progress towards a US federal privacy law. Senior privacy leaders, including FTC Commissioner Christine Wilson and CIPL Advisor and former Governor of Virginia Terry McAuliffe, participated in a moderated discussion on 1) how the COVID-19 pandemic experience can and should inform a federal privacy law; 2) the role of data privacy regulators; and 3) how companies are responding to COVID-19.

Specifically, roundtable participants discussed recent developments in using and sharing data to combat the spread



of COVID-19, the potential privacy impacts of those data uses, and how these developments could impact the passage and content of a comprehensive US privacy law. Participants also discussed whether and how data usage in the fight against COVID-19 can serve as a case study for how organizational accountability can enable the dual goals of innovative data use and privacy, and whether the various legislative proposals at the federal and state levels are suited to the types of important data uses highlighted by the current crisis. For more details on the event, please see the [event agenda](#).

VI.

CIPL Responses, Public Comments, Papers, Articles and Other Events

Over the past three months, CIPL prepared the following public comments, published the following papers/articles and held, or spoke at, the following events:

- 2 April – CIPL Virtual Meeting with Project Participants on the EU Commission’s AI White Paper
- 3 April – CIPL April First Friday Call
- 6 April – CIPL Webinar: “Have We Finally Reached the Age of Accountability in Data Protection? CIPL Discusses Important Developments”
- 7 April – CIPL Virtual Meeting with Project Participants on the EU Commission’s AI White Paper
- 9 April – CIPL/UK ICO Closed Strategic Consultation on COVID-19
- 14 April – CIPL [Blog](#) - COVID-19 Meets Privacy: A Case Study for Accountability
- 16 April – CIPL/CEDIS-IDP White Paper on the Role of the Brazilian Data Protection Authority (ANPD) under Brazil’s New Data Protection Law (LGPD) ([English version](#)) ([Portuguese version](#))
- 16 April – CIPL Virtual Meeting on “GDPR Evaluation: What Keeps You Up at Night?”

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- 21 April – CIPL Advisory Council Call
 - 23 April – CIPL President Bojana Bellamy spoke at TrustArc’s webinar on “The GDPR Two Years Later”
 - 23 April – CIPL/CEDIS-IDP Webinar on “Applying the LGPD’s Risk-Based Approach: How Can Organizations Prioritize Compliance and Accountability Based on Risk?”
 - 28 April – CIPL [Response](#) to the EU Commission's Public Consultation on the Evaluation of the GDPR
 - 6 May – CIPL and Mattos Filho Brazil-focused webinar on “COVID-19: How Technology and Data Protection became the main actors of the pandemic?”
 - 15 May – CIPL’s Global Privacy Policy Analyst Sam Grogan spoke on "Data Protection in Light of COVID-19" as part of Birmingham City University’s Research Seminar Series
 - 26 May – CIPL [Contribution](#) for IAPP Expert Perspectives – “The GDPR at Two: The Positives, The Challenges, The Unfulfilled Promises”
 - 27 May – [CIPL Accountability Mapping Report](#) - What Good and Effective Data Privacy Accountability Looks Like: Mapping Organisations’ Practices to the CIPL Accountability Framework
 - 28 May – CIPL Virtual Roundtable on “The EU Commission’s AI White Paper: Leveraging GDPR, Accountability and Industry Best Practices”
 - 29 May – CIPL Virtual Roundtable on “The GDPR DPO role 2 years later: is the recent Belgian DPA’s controversial decision a game changer?”
 - 29 May – CIPL [Response](#) to the EU Commission's Consultation on a European Strategy for Data
 - 2 June – CIPL [Paper](#) on Looking Beyond COVID-19: Future Impacts on Data Protection and the Role of the Data Protection Authorities
 - 3 June – CIPL [Blog](#) - Getting Practical on Organizational Accountability
 - 3 June – CIPL Member Call on the Uniform Law Commission’s Model State Privacy Law
 - 3 June – Bojana Bellamy spoke at the Americas Society/Council of Americas Virtual Roundtable on Responsible Use of Data
 - 9 June – CIPL Virtual Roundtable on How Will COVID-19 Change the US Federal Privacy Debate?
 - 9 June – CIPL Global Privacy Policy Manager Giovanna Carloni spoke about the Accountability Mapping Report on a closed meeting of the Brazilian association of software companies (Associação Brasileira das Empresas de Software – ABES)
 - 11 June – CIPL [Response](#) to the EU Commission's AI White Paper
 - 11 June – Bojana Bellamy spoke at City & Financial Global’s webinar on Key Data Challenges in Relation to Cybersecurity
 - 12 June – CIPL Virtual Roundtable Part II on “The EU Commission’s AI White Paper: Leveraging GDPR, Accountability and Industry Best Practices”
 - 15 June – CIPL submitted input on the Uniform Law Commission’s (ULC) draft model state privacy law to the Chair of the Collection and Use of Personally Identifiable Data Drafting Committee of the ULC
 - 17-18 June – CIPL Virtual Meetings Introducing CIPL’s New Report: “What Good and Effective Data Privacy Accountability Looks Like – Mapping Organizations’ Practices to the CIPL Accountability Framework”
 - 23 June– Bojana Bellamy spoke at Facebook’s virtual roundtable on the Future of AI Regulation: Risk Assessment
 - 24 June – CIPL presentation to Dubai International Financial Center’s (DIFC) Data Protection / Privacy Information and Networking Group
 - 26 June – Bojana spoke at Internet Commission’s Online International Network for Delivery of Regulation (INDR) [Digital Symposium](#)
 - 26 June – CIPL June First Friday Call

2020 Upcoming Events



4 September 2020

CIPL First Friday Call



10 September 2020

CIPL/University of Hong Kong (HKU) Joint Roundtable on Using Data for Good: Unleashing the Power of Data during the Pandemic and Beyond



23 September 2020

CIPL EU AI Project Call



24 September 2020

CIPL/UK DCMS Roundtable on International Data Transfers

CIPL Member Spotlight

We welcome and thank our newest members:

HCL

zoom

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