

CIPL Quarterly Report

July - September 2020



Centre for Information Policy Leadership
— HUNTON ANDREWS KURTH —

Message from the President



I hope that you are all well and keeping your head above water amidst an ever-expanding sea of developments and challenges in data privacy. As we continue to work digitally, I would like to highlight some of the key areas of work and priorities for CIPL.

We've recently drafted a [concept paper](#) proposing the novel idea of a multistate interoperable certification in the US. This certification would not only help organizations comply with an ever-increasing number of state privacy requirements, but also improve consumer trust, increase organizational accountability, and bolster states' limited resources to enforce their privacy requirements. We've formed a CIPL-member working group to advance this concept, and will be seeking to engage with relevant state and federal government authorities and state Attorneys General on this concept.

In Asia, we've issued a [joint report](#) with the Data Security Council of India (DSCI) on enabling accountable data transfers from India to the US under India's proposed personal data protection bill. We also held a very successful roundtable with DSCI and Indian government representatives in September to discuss our paper and next steps.

Additionally, we've launched a series of roundtables with The University of Hong Kong aimed at the Asia-Pacific privacy community, and the first took place on September 10th on "Unleashing the power of data during the pandemic and beyond - How industry can use its data for good". The idea of this series is to discuss how the world has changed due to COVID-19 and explore what the changes mean for data protection going forward.

In Europe, we've been involved deeply in the aftermath of the Schrems II decision, and we've issued a [paper](#) on "A Path Forward for International Data Transfers under the GDPR after the CJEU Schrems II Decision". We shared this paper with members of the EU Commission, EDPB, EDPS as well as all of our global DPA contacts in advance of the roundtable we held on the topic on October 22. Separately, the EDPB issued guidance on the concepts of controller and processor under the GDPR, and we've submitted our [response](#) to that as well. We're also continuing our EU AI project, and spoke with members to align on our next steps. While we continue to work with the EU Commission, we've also begun focusing more on engagement with the EU Council and EU Parliament to identify new issues and draw attention to CIPL's work before the new parliamentary committee shares their upcoming report on proposed AI regulation in the EU. We're also continuing to follow and be involved with the EU Commission's data sharing efforts, and have already [responded](#) to their consultation on a European Data Strategy. Because the EU AI regulation and data sharing are two of the EU Commission's highest priorities, we will continue to prioritize these work streams in 2021. In the UK, CIPL has engaged with the UK Department for Digital, Culture, Media & Sport (DCMS) through a pair of roundtables on international data flows and data protection after Brexit.

In Brazil, we've issued a very practical, compliance-oriented [paper](#) on top priorities for organizations to effectively implement Brazil's new data protection law. This paper includes a roadmap for compliance, which also applies to other nascent data protection laws. Following the publication of our paper, we organized a webinar and roundtable with both OneTrust and our Brazil project partner CEDIS-IDP to help organizations explore the issues surrounding implementing Brazil's data protection law in more detail.

I encourage you to read the details of CIPL's ongoing work in the report below, and I wish you and your loved ones all the best.

I.

CIPL Virtual Roundtable on Privacy Accountability, Transparency and Responsible Data Sharing in Latin America during and post COVID-19

On July 1, CIPL held a virtual roundtable to address questions surrounding the use of data in the fight against COVID-19. While some data protection authorities have issued guidance on this issue (e.g. Argentina, Chile, Mexico, Peru and Uruguay), there is still widespread lack of clarity and direction on how to properly leverage data in this new world while also protecting privacy. Latin American governments also are taking different and inconsistent approaches to using personal data to fight the virus and this lack of coordination may impact regional economic cooperation and growth. This roundtable convened regulators, policymakers and private companies to discuss what is being done in this space and what the COVID-19 experience can teach us about how to enable both privacy and the effective use of data for the social good.

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

II.**CIPL Virtual Roundtable on “The GDPR Two Years In – How has the Regulation worked to date and what can we expect for the future?”**

Ahead of the EU Commission’s two-year GDPR evaluation report, CIPL held a virtual roundtable on July 9 to provide an opportunity for privacy experts to learn the latest on the GDPR evaluation, how well the GDPR has worked from regulators’ perspective and what organizations should expect going forward.

CIPL provided input to the EU Commission’s consultation on this topic to highlight the GDPR’s important role in building effective protection and trust for individuals while enabling the EU digital economy, particularly at a time of crisis. CIPL also detailed some of the implementation challenges and unfulfilled promises of the GDPR, both from a procedural and

substantive perspective. Read CIPL’s response to the EU Commission’s Public Consultation on the Evaluation of the GDPR [here](#).

III.**CIPL Industry Roundtable: Determining the Legal Bases for Processing Personal Data under Brazil’s Data Protection Law (LGPD)**

On July 17, CIPL organized a private sector roundtable to discuss the legal bases for processing personal data under Brazil’s data protection law. The new Brazilian data protection law (Lei Geral de Proteção de Dados – LGPD) provides that data processing can only occur if based on consent, legal obligation, contractual necessity, legitimate interests, legal obligation, among others. It also allows for further processing of personal data in special circumstances and has specific requirements concerning sensitive personal data.

The roundtable began with representatives from the project steering committee outlining the LGPD’s provisions on legal bases for processing, after which the floor was opened for CIPL member companies to share experiences in selecting and implementing legal bases for processing personal data.

For more details on the roundtable, please see the [full agenda](#).

IV.**CIPL/OneTrust Webinar: Ensuring Effective Data Subject Rights under the GDPR in a Global and Connected World**

On July 29, CIPL held a joint webinar with OneTrust on Ensuring Effective Data Subject Rights under the GDPR. Data subject rights are one of the core building blocks for effective protection of personal data in our data driven and connected world. The GDPR has triggered a surge in data subject rights requests. Organizations have invested significantly to respond to this increase and have generally been able to answer them satisfactorily. However, these rights

are not limitless and some uncertainties remain with respect to their scope and the extent of the obligations of organizations to properly address requests. It is therefore no surprise that most One-Stop-Shop cases deal with data subject rights. To address this, the European Data Protection Board (EDPB) held a multi-stakeholder event in 2019 to inform its future guidelines on data subject rights under the GDPR. CIPL has also recently published a [white paper](#) as input to the discussion. Our webinar was organized in light of these issues.

During the webinar, representatives from CIPL, OneTrust, the EDPB and Mastercard lead a discussion on 1) what effective data subject rights management looks like; 2) how organizations can provide reasonable and proportionate responses to requests; 3) what are the challenges faced by organizations in responding to requests; 4) what are the limits to these rights and how they have to be balanced against other considerations; and 5) what are the latest updates from the EDPB on the guidelines.

V. CIPL/Global Privacy Assembly (GPA) COVID-19 Task Force Joint Webinar on Data Protection Reimagined: Digital Acceleration, New Emerging Issues and the Role of Privacy

On August 6, CIPL and the Global Privacy Assembly's COVID-19 Taskforce held a joint webinar to discuss the impact of the pandemic on organizations and privacy regulators, new emerging issues and the evolving role of global privacy regulators in today's digitally accelerated environment. During the webinar, senior privacy leaders and global DPA representatives participated in a moderated discussion on how COVID-19 is causing a shift in the data privacy world.



Specifically, webinar participants discussed 1) Changing attitudes to using data for new and innovative purposes; 2) Organizations' ambitions to use data for good; 3) Key data privacy opportunities and challenges highlighted by the pandemic; 4) The role of organizational accountability to tackle the challenges and realize the opportunities; 5) the role of DPAs; 6) Efforts for global regulatory coordination and convergence; and 7) the Impact of the COVID-19 experience and learnings for data protection and data use in the post-COVID world.

A truncated version of the webinar is available to view [here](#).

VI. CIPL/Facebook/Hong Kong University Roundtable: Unleashing the power of data during the pandemic and beyond - How industry can use its data for good

COVID-19 has highlighted the importance of data use in solving the most pressing humanitarian issues that the world has faced for generations. From providing insights into regions most affected by the virus to testing new medications and researching a vaccine to enabling society to reopen, many organizations are now engaging in data for good initiatives to promote human welfare.

In light of these efforts, CIPL, the Centre for Civil Society and Governance at The University of Hong Kong and Facebook organized the first in a series of three virtual roundtables gathering data privacy regulators, industry leaders, academics and members of civil society to discuss how we can unleash the power of data both in addressing the immediate crisis and, in the future, responsibly tackle real world issues in line with data protection policy and legal requirements. During the roundtable, participants discussed 1) Regulatory perspectives on industry and government use and sharing of data to combat COVID-19; 2) Industry initiatives and best practices for establishing data for good programs and initiatives to fight the pandemic; 3) Insights from academics and researchers on how data collaboration and sharing with industry and government has augmented their COVID-19 response work and medical research initiatives; and 4) The future of using data for good post-COVID.

For more details on the roundtable, please see the [full agenda](#).

VII.

CIPL/ UK Department for Digital, Culture, Media and Sport (DCMS) Senior Privacy leaders Roundtable 1: International Data Transfers



In June 2018, the Secretary of State for the UK DCMS announced the UK Government's intention to develop a National Data Strategy (NDS) that would unlock the power of data across government and the wider economy while also building citizen trust in its use. The aim of the NDS is to drive the collective vision that will support the UK in building a world-leading data economy and ensure that people, businesses and organizations trust the data ecosystem, are sufficiently skilled to operate effectively within it, and can get access to high-quality data when they need it.

CIPL has partnered with the DCMS to organize two roundtables for CIPL members to provide direct input into the development of the NDS. This first roundtable was held on September 24 and focused on international data transfers. In particular, the roundtable centered on how the UK can unlock the potential of alternative data transfer mechanisms under the GDPR, including in the context of Brexit and the Schrems II decision of the Court of Justice of the European Union (CJEU).

VIII.

CIPL/CEDIS-IDP/OneTrust Joint Webinar on “Practical Steps to Implement the LGPD Effectively”

On September 29, CIPL, the Centro de Direito, Internet e Sociedade of Instituto Brasiliense de Direito Público's (CEDIS-IDP) and OneTrust held a webinar to help organizations subject to the LGPD with their compliance journey. This webinar follows the release of CIPL and CEDIS-IDP's [paper](#) entitled “Top Priorities for Public and Private Organizations to Effectively Implement the LGPD”, and was the fourth webinar in our [joint project](#) on “Effective Implementation and Regulation under the New Brazilian Data Protection Law (LGPD)”.

Since the LGPD will apply to both public and private sector organizations the webinar outlined practical priorities and specific related steps that public and private organizations need to take to implement the LGPD effectively as well as OneTrust's new LGPD compliance tool.

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

IX.

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:

- 1 July – CIPL Virtual Roundtable on “Privacy Accountability, Transparency and Responsible Data Sharing in Latin America during and post COVID-19”
- 7 July – Bojana Bellamy participated in the OECD's Expert Consultation on Unlimited Government Access to Personal Data held by the Private Sector
- 8 July – Bojana Bellamy spoke at AvePoint's Insight Security Webinar
- 8 July - CIPL [White Paper](#) on Data Subject Rights under the GDPR in a Global Data Driven and Connected World
- 9 July – CIPL Virtual Roundtable on “The GDPR Two Years In – How has the Regulation worked to date and what can we expect for the future?”
- 15 July – Nathalie Laneret participated in TTC Labs' Virtual Roundtable: How to design with trust, transparency and control for young people

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- 17 July – CIPL Industry Roundtable: Determining the Legal Bases for Processing Personal Data under Brazil’s Data Protection Law (LGPD)
 - 23 July – Hunton Andrews Kurth Webinar on “Schrems II: The Practical Implications for Businesses”
 - 29 July - CIPL/OneTrust Webinar: Ensuring Effective Data Subject Rights under the GDPR in a Global and Connected World
 - 30 July – CIPL EU AI Project Call
 - 31 July – CIPL Member Call on Post Schrems II Actions
 - 6 August – CIPL/Global Privacy Assembly (GPA) COVID-19 Task Force [Joint Webinar](#): Data Protection Reimagined: Digital Acceleration, New Emerging Issues and the Role of Privacy
 - 20 August – CIPL/CEDIS-IDP Webinar 3 on “The Role of the Brazilian Data Protection Authority (ANPD) under Brazil’s New Data Protection Law (LGPD)
 - 24 August - CIPL [White Paper](#) on Data Protection in the New Decade: Lessons from COVID-19 for a US Privacy Framework
 - 1 September - CIPL [White Paper](#) on Top Priorities for Public and Private Organizations to Effectively Implement the New Brazilian General Data Protection Law (LGPD)
 - 4 September – CIPL September First Friday Call
 - 8 September – CIPL/Data Security Council of India (DSCI) Joint Roundtable on Enabling Accountable Data Transfers from India to the United States under the Personal Data Protection Bill
 - 8 September – Nathalie Laneret spoke in Facebook’s Virtual Roundtable on the Future of AI Regulation: Accountability in Practice”
 - 8 September - CIPL/DSCI [Joint Report](#) on Enabling Accountable Data Transfers from India to the United States under India's Proposed PDPB
 - 10 September – CIPL/Facebook/Hong Kong University Roundtable: Unleashing the power of data during the pandemic and beyond - How industry can use its data for good
 - 10 September – Bojana Bellamy spoke at Data Privacy Brasil's event ""International Transfers in times of institutional uncertainty in Brazil"
 - 11 September - CIPL [Response](#) to the Indian Ministry of Electronics and Information Technology’s Report by the Committee of Experts on a Non-Personal Data Framework
 - 17 September – Bojana Bellamy spoke at the US Department of Commerce’s Digital Trade Officer Virtual Training on the evolution of global privacy regimes and their influence on broader data governance debates
 - 21 September – Bojana Bellamy spoke at the EU Commission’s Online Meeting with Commissioner Reynders on international data flows
 - 22 September – CIPL Strategic Advisory Terry McAuliffe published a [column](#) on “A Federal Privacy Law Is Essential to Economic Recovery”
 - 22 September – Bojana Bellamy spoke on “Use of Data as a Critical Factor” at the European Justice Forum’s Virtual Meeting
 - 22 September – Giovanna Carloni spoke on the role of the Brazilian Data Protection Authority at Data Privacy Brazil’s Online Debate
 - 23 September – Bojana Bellamy participated in the OECD’s Virtual Roundtable on “Regulatory Sandboxes and Privacy”
 - 23 September – Bojana Bellamy spoke at CMS Spain’s Webinar on “International data flows after Schrems II”
 - 24 September – CIPL [White Paper](#) on A Path Forward for International Data Transfers under the GDPR after the CJEU Schrems II Decision
 - 24 September – CIPL/ UK Department for Digital, Culture, Media and Sport (DCMS) Senior Privacy leaders Roundtable 1: International Data Transfers
 - 25 September – Bojana Bellamy participated in the Internet Commission’s Advisory Board Meeting
 - 25 September - CIPL [Concept Paper](#) on Why We Need Interstate Privacy Rules for the US
 - 29 September – Bojana Bellamy spoke on Global Data Flows at Bitkom’s 2020 Privacy Conference

- 29 September – CIPL/CEDIS-IDP/OneTrust Joint Webinar on “Practical Steps to Implement the LGPD Effectively”
- 29 September – CIPL EU AI Project Call
- 30 September – Bojana Bellamy spoke on AI updates in the EU during the EU Commission’s Online Meeting
- 30 September – CIPL/CEDIS-IDP Virtual Roundtable on “Effective LGPD Implementation: understanding the impact of LGPD, mapping the personal data cycle and establishing compliance and accountability programs” (in Portuguese)

2020 Upcoming Events



23 November 2020

CIPL/CEDIS-IDP Webinar on Managing Data Subject Rights under Brazil’s Data Protection Law (LGPD)



24 November 2020

CIPL/CEDIS-IDP Roundtable (in Portuguese) on Managing Data Subject Rights under the LGPD



3 December 2020

CIPL/Hong Kong University Joint Roundtable on AI & AI Ethics in the context of COVID-19 and Beyond



4 December 2020

December First Friday Call

CIPL Member Spotlight

We welcome and thank our newest members:

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