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# PRIVACY LAWS & BUSINESS

DATA PROTECTION & PRIVACY INFORMATION WORLDWIDE

## Germany's new DP Act: Big news or business as usual?

The current rule of appointing a DPO in organisations remains. There is no cap on fines and there is the possibility of a criminal sentence of up to three years. By **Katharina A. Weimer**, Senior Associate, Gowling WLG, Munich.

In the midst of the “winds of change” brought by the General Data Protection Regulation (GDPR), Germany’s parliament (the *Bundestag*) and the Federal Assembly (the *Bundesrat*) passed a new bill on data protection (the German

Draft), waiting to be signed by the Federal President as the final step of the law-making process<sup>1</sup>. With the German Draft, the German government aims at implementing the

*Continued on p.3*

## EDPS: New e-Privacy law will mean stronger enforcement

The EDPS welcomes the form of an EU Regulation for e-Privacy but calls for stronger protection for metadata, and envisages some flexibility on consent. **Laura Linkomies** reports from Brussels.

The Regulation on Privacy and Electronic Communications is proposed to take effect from 25 May 2018, and aligns with the GDPR on many aspects. In an exclusive interview with *PL&B*, Giovanni Buttarelli, the European

Data Protection Supervisor, said that the GDPR will “remain incomplete without this additional exercise.” He welcomes the fact that the proposal extends the scope of e-Privacy rules

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**“ comment ”**

## Germany: Milestone reached in GDPR implementation

Germany has issued a new draft law to implement the provisions of the GDPR, and may be the most advanced with its plans within the EU. The draft law, adopted by the Parliament on 27 April is not easy to understand – and is in places stricter than the GDPR. For example, the law introduces the possibility of imprisonment of up to three years (p.1).

The intersection of US litigation and EU Data Privacy Laws means that controllers who may become involved in US litigation should consider potential obligations to retain, review and produce documents when drafting privacy policies and notices (p.15). The extra-territorial reach of the GDPR is a concern for non-EU companies offering goods and services in the region – when does it apply? Our correspondents analyse the situation on p.18.

An example of the global reach of the GDPR is that the US multinational Stanley Black & Decker chooses to follow the GDPR standard across its operations (p.13) in order to simplify its compliance. But companies do not have to worry about just the GDPR – plans to adopt the e-Privacy Regulation are advancing. Read on p.1 what the EDPS, Giovanni Buttarelli thinks of the proposal.

In China, new data export restrictions need companies' attention (p.9), and mean cost implications for companies as well as restrictions on their use of cloud computing. New legislative developments take place in ASEAN countries (p.25). In Taiwan, we see an increase in enforcement action (p.23).

Data protection principles come into question when determining whether a company has a dominant position under competition law, and organisations need to consider the extent to which collusion in relation to privacy policies is an area that competition authorities may investigate (p.20).

To conclude, organisations need a 'social license' to operate – the social acceptability of a business is key in the future privacy landscape, says Canada's former Interim Privacy Commissioner Chantal Bernier (p.28).

**Laura Linkomies, Editor**

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