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*"Very in-depth, not superficial, lively
discussion, interesting participants."*

KATHARINA WEIMER, REED SMITH

*"The presence of the regulators
is excellent and a great opportunity
to hear the news on our issues.
They explained the legislation in
less legal and more practical terms,
with real life examples."*

JENNIFER DUNNE, BARCLAYS

Privacy Officers Network Spain's developing Data Protection Law: Impact on business

Lawyers' Briefing and Roundtable with
the Data Protection Authority (AEPD)

12th/13th November 2012, Madrid

Day 1 presented in English

Day 2 presented in Spanish/English
with simultaneous interpretation

13.5 CPD HOURS

Register for this event and get more information at
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Previous Privacy Officers Network Events

- ▶ Madrid, Spain
- ▶ Rome, Italy
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- ▶ Paris, France
- ▶ Argentina's Commissioner in Montreux, Switzerland
- ▶ Australia's Commissioner in Montreux, Switzerland
- ▶ Brussels, Belgium
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- ▶ Asia Pacific Conference, London
- ▶ Asia-Pacific Conference, Strasbourg
- ▶ in Montreux, Switzerland
- ▶ Berlin and Frankfurt, Germany
- ▶ Dublin, Ireland
- ▶ Greece in London
- ▶ Russia's new law, London
- ▶ Stockholm, Sweden
- ▶ Helsinki, Finland

Day 1 presented in English

09.00 Registration and Coffee

09.30 Welcome & Introduction

Diego Ramos, Partner, DLA Piper, Spain
Stewart Dresner, Chief Executive, *Privacy Laws & Business*

09.45 Introduction to the Agencia Española de Protección de Datos (AEPD – National Data Protection Authority)

Dr. José Luis Rodríguez Álvarez, Director, Agencia Española de Protección de Datos, AEPD, Spain

10.15 Questions and Answers

10.30 What companies need to know about how data protection law in Spain fits together with administrative, civil, criminal and labour law: Problems and solutions

Diego Ramos, Partner, DLA Piper, Spain

11.00 Questions and Answers

11.15 Coffee

11.35 Whistle blowing

Norman Heckh, Director, Abogado, Deloitte, Madrid

- ▶ AEPD's resolution of 2007 and its good practice guide
- ▶ Legal position when controller is in the US or other country outside the European Economic Area
- ▶ AEPD's interpretation of Spanish law when a database is located outside Spain
- ▶ Application of the US Sarbanes-Oxley law's regulations to whistle blowing in Spain

12.05 Questions and Answers

12.20 Online marketing

Natalia Martos Díaz, Chief Privacy Officer, PRISA, General Counsel, PRISA Digital, Madrid
Rafael García del Poyo, Socio/Partner, Osborne Clarke, Madrid

- ▶ Consent – a way forward for permission-based marketing after the February 2012 FEMD (Spain's Direct Marketing Federation) case in the Supreme Court
This case sets the limits on collecting and processing data not in public files and without the consent of the data subjects. This resulted in the court's nullification of parts of Spain's Data Protection Regulation.
- ▶ Cookies – the March 2012 Regulations and their implementation

12.50 Questions and Answers

13.15 Lunch

14.15 Applying data protection law to the self-employed

Diego Ramos, Partner, DLA Piper, Spain

- ▶ This issue is particularly relevant to pharmaceutical, medical equipment companies, and all companies which outsource functions
- ▶ Self-employed people who are traders, in shipping and manufacturing are exempt from the data protection law
- ▶ Need for a discussion with the AEPD on the inconsistency between application of the data protection law to some self-employed people but not to others
- ▶ The AEPD and the courts have supported this distinction but many companies are considering challenging the current legal doctrine
- ▶ Discussion on lines of argument to pursue with the AEPD at the Day 2 Roundtable

14.35 Questions and Answers

14.45 Parallel 1: Use of personal data and social media

Diego Ramos, Partner, DLA Piper, Spain

- ▶ Collection and use of personal data via social media for marketing
- ▶ Company blogs. Who is the controller?
- ▶ Independent blogs about your company. How the law regulates the collection of personal data of people who write blogs and enter discussions in independent blogs.
- ▶ Profiling job applicants
- ▶ Comments about your company by employees on independent blogs and websites

15.15 Questions and Answers

14.45 Parallel 2: The application of data protection law to online gambling

Albert Agustinoy, Partner, DLA Piper, Spain

- ▶ Online gambling licences awarded on 1st June 2012
- ▶ Requirement to comply with gambling law, tax law and data protection law
- ▶ International transfers of personal data outside the European Economic Area

15.15 Questions and Answers

15.40 Coffee

The EU Data Protection Draft Regulation and its impact on data protection law in Spain

16.00 Part 1: The right to be forgotten

Cecilia Alvarez Rigaudias, Abogado/Lawyer, Uria Menéndez, Madrid

16.10 Questions and Answers

16.20 Part 2: Legitimate interests as a legal basis for processing in the absence of consent

Javier Fernández-Samaniego, Advocate and Partner, Bird & Bird, Spain

- ▶ Examples: Debtors/Anti-fraud/Anti-money laundering
- ▶ First consequences and effects of the ECJ Ruling in Spain (Rulings from the 'Audiencia Nacional')
- ▶ Legitimate interests in the future EU Regulations

16.30 Questions and Answers

16.40 Part 3: Discussion on the EU Data Protection Draft Regulation issues the participants wish to discuss with the Agencia at the Day 2 Roundtable

All participants

17.00 Getting organised for compliance with Spain's data protection law for an international business

Paloma Aparicio, Privacy Counsel, Kraft Foods, Spain

17.30 Questions and Answers

17.45 Close

21.00 Dinner with the Agencia's director/team (invited)

For all participants – for cost, see registration form on page 4

Day 2 presented in Spanish and English with simultaneous interpretation

08.45 Registration

09:00 Opening session

Introduction to Privacy Officers Network (PON) meeting
Stewart Dresner, Chief Executive, PON/Privacy Laws & Business
Diego Ramos, Partner, DLA Piper, Spain

Changes ahead for Spain's data protection law
Dr. José Luis Rodríguez Álvarez, Director, Agencia Española de Protección de Datos (AEPD), Spain

09.30 Cloud computing

Jesús Rubí Navarrete, Deputy Director, AEPD, Spain

- ▶ Agencia's public consultation in December 2011 and January 2012
- ▶ Impact in Spain of the publication of the Opinion on Cloud Computing by the EU Art. 29 Data Protection Working Party's Technology sub-group
- ▶ Agencia's interpretation with National Council of Lawyers, a national body representing the clients of cloud computing companies
- ▶ Agencia's advice: the role of contracts; clarity; applicable law; the distinction between controller and processor; adequate safeguards; dealing with sub-contractors

09.55 Questions and Answers

10.15 Cookies and e-Privacy Directive

Xavier Lareo López de Vergara, Inspector, AEPD, Spain

- ▶ Transposition of the EU e-privacy Directive into Spain's national law by a Regulation (with the force of national law) in March 2012
- ▶ Next steps: research into interpretation of this Regulation for specific circumstances.

10.40 Questions and Answers

11.00 Coffee

11.30 Experience with data breach notification in the telecommunications sector and its implications for a future data breach notification duty in all sectors

Manuel García Sánchez, Inspector, International Department, AEPD, Spain

- ▶ What should be reported?
- ▶ When should a data breach be reported?
- ▶ To whom should a data breach be reported?
- ▶ In what circumstances will a notification to the Agencia lead to an inspection?

11.55 Questions and Answers

12.10 Questions and discussion with the Agencia on issues resulting from the Day 1 programme

13.00 Lunch

14.00 The Agencia's new sanctions policy

José López Calvo, Deputy Director for Inspection, AEPD, Spain

- ▶ The Agencia's discretion on imposition of fines and other sanctions since March 2011
- ▶ The Agencia's use of warnings since March 2011

- ▶ The criteria for serious/very serious infractions
- ▶ Trends in permission by court for use of private closed circuit television (CCTV) in public spaces

14.30 Questions and Answers

14.45 Parallel 1: Child protection online

Julián Prieto Hergueta, Deputy Director, National Registry of Data Protection, AEPD, Spain

- ▶ Communicating with children about goods and services, for example, toys, games, appropriate publications, food and drink
- ▶ Which methods of collecting personal data, communication, and parental consent are acceptable according to the Agencia?
- ▶ How are these rules working from the company perspective?

15.00 Questions and Answers

15.15 Application of the data protection law to online gambling

Paz Recuero Sáez, State Attorney, Legal Department, AEPD, Spain

15.30 Questions and Answers

14.45 Parallel 2: The pharmaceutical industry's Code on Clinical Research and Postmarketing Surveillance agreed with the Agencia

Lourdes Fraguas, Secretary General, Farmindustria, Spain

- ▶ Clinical trials
- ▶ Identifying target doctors
- ▶ Collection of data on prescription trends
- ▶ Collection and use of sensitive personal data about the effects of drugs on patients
- ▶ Pseudonymous data

15.15 Questions and Answers

15.45 Coffee

16.00 Right to be forgotten – the Agencia's case for sanctions due to a refusal to delete personal data

Agustín Puente Escobar, State Attorney, Head of the Legal Department, AEPD, Spain

- ▶ Update on the appeal to the Agencia Nacional
- ▶ Appeal to the European Court of Justice in the Google case – preliminary decision in February 2012
- ▶ Point of principle remains – are Google and other companies subject to national law in the EU on the basis that it has 'establishment' and 'means' in the EU?

16.15 Questions and Answers

16.30 The EU Data Protection Draft Regulation and its impact on data protection law in Spain

Rafael García Gozalo, Head of the International Department, AEPD, Spain

- ▶ The Agencia's priorities
- ▶ The EU Regulation's likely impact in Spain
- ▶ Discussion with the participants

17.30 Close

Briefing Host:



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Spain Briefing & Roundtable

All options include documents and lunch

12th/13th November 2012, Madrid, Spain

Fee **£600 (No VAT)**

I am a Privacy Officers Network member (fee paid)

Dinner 12th November (the restaurant address will be sent to all who have reserved a place) **£50 (No VAT)**

Documents/Slides (for non-participants) **£125 + VAT**

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