

International Working Group
on Data Protection
in Telecommunications

675.38.14

**Recommendation
On Data Protection and E-Waste**

45th meeting, 12-13 March 2009, Sofia (Bulgaria)

The International Working Group on Data Protection in Telecommunications,

Considering that the increasingly widespread use of electronic devices and equipment for both private and public purposes entails the need for such equipment be adequately disposed of and/or recycled;

Considering that such electronic devices and equipment include electronic communications tools, by also having regard to the increasing technological convergence and the availability of multi-purpose devices;¹

Considering that the European Union has long been pursuing an environmentally-friendly policy including reduced exploitation of natural resources and measures to prevent pollution; considering, in addition, that such policies have long been pursued also in several non-EU countries;

Considering that the policies in question envisage appropriate recycling and disposal measures in respect of electric and electronic waste (e-waste), as set forth in the EU via directive 2002/96/EC²;

Considering that the applicable regulatory instruments at both national and supranational level have failed so far to take due account of the risks inherent in the recycling and/or disposal of electrical and electronic devices to the extent such devices may contain personal data relating to the users of those devices and/or to third parties;

Considering that it is necessary to draw all the stakeholders' attention – whether in the public or in the private sector, including governmental authorities and companies dealing with the recycling and/or disposal of e-waste – to the circumstance that all data controllers – in particular those availing themselves of communications devices and equipment – are required to take appropriate measures to ensure the security of personal data, and that such measures should also be implemented at the time of recycling and/or disposing of equipment and devices used to process personal data;

Taking account of existing guidance as developed more generally by some national Data Protection Authorities in connection with the appropriate destruction and/or erasure of personal data³;

¹ Apart from and beyond devices and equipment that have been conceived originally to serve communication purposes, there is an increasing array of devices that can work as communication terminals when connected with an electronic communications network.

² Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE).

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The Working Group has been initiated
by Data Protection Commissioners
from different countries in order
to improve privacy and data protection
in telecommunications and media

RECOMMENDS

1. that the domestic regulators, in co-operation with national Data Protection Authorities and all the relevant industry stakeholders, set forth the appropriate measures to prevent or limit unauthorised access to the personal data stored in electric and electronic equipment that is intended for recycling and/or disposal, and ensure that the measures in question are implemented by data controllers . Such measures might include making available IT and/or other tools and/or arrangements, where possible via freeware, to prevent or limit storage of personal data in the given device and/or equipment, as it might prove difficult to remove such data without destroying the said device and/or equipment⁴;
2. that the personal data protection measures to be adopted by data controllers in connection with e-waste take account of the different risks related to recycling as opposed to disposal of e-waste;
3. that in adopting data protection measures in connection with recycling of e-waste, account be taken, in particular, of the need to ensure actual erasure of the personal data from magnetic and electronic media in compliance with state-of-the art technical standards such as multiple-pass overwriting or demagnetization (degaussing);
4. that in adopting data protection measures in connection with disposal of e-waste, account be taken of the advisability to implement effective destruction procedures of magnetic and electronic media so as to prevent unauthorised access to personal data;
5. that adequate awareness-raising initiatives be taken by the competent national and supranational authorities to inform data controllers and users at large about the relevant risks and requirements.

³ See, e.g., Arbeitskreis "Technische und organisatorische Datenschutzfragen" der Konferenz der Datenschutzbeauftragten des Bundes und der Länder, Orientierungshilfe "Sicheres Löschen magnetischer Datenträger". Grundlagen, Werkzeuge und Empfehlungen aus Sicht des Datenschutzes Stand: 7.10.2004 (<http://www.datenschutz.mvnet.de/dschutz/informat/magloe/magloe.html>); Orientierungshilfe "Datensicherheit bei USB-Geräten", Stand: November 2003 (http://www.datenschutz.mvnet.de/dschutz/informat/usb/oh_dsusb.html); Hellenic Republic Data Protection Authority, Directive 1/2005, Athens 17-10-2005, Ref. Num. 3845; decision by the Italian data protection authority dated 9 December 2008, available at <http://www.garanteprivacy.it/garante/doc.jsp?ID=1583482> ; see also the Press Releases by then Berlin Commissioner for Data Protection and Freedom of Information of 24 Januar 2007 (<http://www.datenschutz-berlin.de/content/nachrichten/pressemitteilungen/pressemitteilungen-im-jahr-2007>) and by the German Federal Commissioner for Data Protection and Freedom of Information on 23 December 2008 (http://www.bfdi.bund.de/cln_136/DE/Oeffentlichkeitsarbeit/Pressemitteilungen/2008/PM_37_08_KeinePersoenlichenDatenAufAusrangiertenPCsVergessen.html?nn=409394).

⁴ Reference can be made in this regard to removable memory sticks used in cell phones.