

Privacy & Data Protection

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Headlines

- Working Party begins grappling with GDPR implementation, p.17
- Data protection issues source of landmark anti-competition probe in Germany, p.18

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Schrems says Privacy Shield is 'lipstick on a pig'

The European Commission has published its Privacy Shield agreement with the US, 27 days after the deal was first brokered on 2nd February 2016.

The agreement, which takes the form of a Commission 'adequacy' decision, was released along with the texts fleshing out the detail of how the Shield will operate. It will now be scrutinised by the Article 29 Working Party, which is expected to give its view by the end of March.

The text will also be evaluated by the European Data Protection Supervi-

sor. Only then will it be formally adopted by the EU Commissioners.

The Commission has indicated that it wants the scheme rubber stamped by the end of June. If the agreement is changed substantially, it could be sent back to the US for approval. One EU official has said that that is unlikely to happen.

The agreement will replace Safe Harbor, which was invalidated by the European Court of Justice last October on the grounds that US surveillance agencies have too broad access

to EU citizens' data once transferred to the US. Max Schrems, the campaigner who disrupted the status quo by getting his case to the European Court, described the deal as an attempt to "put a lot of lipstick on the same old data-suckling pig".

Whilst he admitted the text contained "a large number of new improvements," he claimed it does not address the "core concerns and fundamental flaws of US surveillance law and the lack of privacy protections under US law", and was therefore vulnerable to future legal challenges.

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Judicial Redress Act becomes reality

President Obama has signed the Judicial Redress Act into law, granting non-US citizens a private right of action for alleged privacy violations for the first time.

"What it does in the simplest terms is makes sure that everybody's data is protected in the strongest possible way with our privacy laws—not only American citizens, but also foreign citizens," President

Obama said at signing. "We take our privacy seriously. And along with our commitment to innovation, that's one of the reasons that global companies and entrepreneurs want to do business here."

The Act was signed after Congress approved an amendment that limits the right to sue to only those citizens of countries which (1) permit

the 'transfer of personal data for commercial purposes' to the US, and (2) do not impose personal data transfer policies that 'materially impede' US national security interests. The amendments represented a significant restriction on the new rights.

EU Commissioner Věra Jourová commented that:

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