

Privacy & Data Protection

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- Microsoft to match ads with user’s moods, p.18
- Poor data destruction gives rise to highest ever fine by UK regulator, p.19

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No consent for cookies needed here, say EU DPAs

The Article 29 Working Party has adopted an Opinion analysing the exemptions to the requirement in the revised e-Privacy Directive (2009/136) to gather informed consent of users before using web ‘cookies’.

The Opinion concludes that some cookies can be exempted from informed consent under certain conditions, if they are not used for additional purposes.

These cookies include session-ID cookies (used to keep track of the user’s input when filling online forms or as a shopping

cart), multimedia player session cookies (used to store technical data needed to play back video or audio content), authentication cookies (used to identify the user once he/she has logged in), and user interface customisation cookies (used to signify, for example, language preferences).

Social plug-in tracking cookies, third-party cookies used for behavioural advertising and first party analytics cookies are not exempt from the consent requirement. However, the Working Party states that “first party analytics cookies are not likely to create a privacy risk when

they are strictly limited to first party aggregated statistical purposes, and when they are used by websites that already provide clear information about these cookies in their privacy policy as well as adequate privacy safeguards.”

Such safeguards are expected to include a user friendly mechanism to opt-out from any data collection and comprehensive anonymisation mechanisms that are applied to other collected identifiable information such as IP addresses.

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Swiss ruling means Google can stay

Switzerland’s highest court has upheld Google’s right to use Street View technology in the country.

The search engine appealed to the Court after the national data protection regulator demanded that Google’s pixilation technology, which blurs certain images, function without error, 100 percent of the time.

The Swiss Federal Supreme Court said that

99 percent (the percentage that is apparently already met by the company) would be acceptable, therefore leaving the service legally intact in Switzerland.

However, the Court upheld several of the conditions made by the regulator, such as that schools, prisons and other ‘sensitive facilities’ must be completely obscured before publication on the internet.

One legal expert described the verdict as “a typical Swiss legal compromise.”

Meanwhile, shortly after the ruling, the UK regulator reopened its investigation of Google’s StreetView.

The ICO, which was under pressure to investigate after previously dropping a probe into the affair, wrote a letter

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