# CEN

# WORKSHOP

# AGREEMENT

# CWA 16111

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English version

## Voluntary Technology Dialogue Framework (VTDF)

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EUROPEAN COMMITTEE FOR STANDARDIZATION
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EUROPÄISCHES KOMITEE FÜR NORMUNG

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# Foreword

The production of this CWA (CEN Workshop Agreement) specifying a Voluntary Technology Dialogue Framework, was formally accepted at the Workshop's kick-off meeting on 2008-03-11.

CWA approval was obtained following an electronic approval process which started on 19 October 2009 and finished on 30 November 2009.

Attention is drawn to the possibility that some of the elements of this document may be the subject of patent rights. CEN [and/or CENELEC] shall not be held responsible for identifying any or all such patent rights.

This CWA has been approved by participants from the following organizations:

BSI – Consumer and Public Policy Committee
FEDMA
HELLENIC DATA PROTECTION AUTHORITY
ICRI-K.U-LEUVEN
INTEL
IQNet/SQS
IxASSOCIATES
John BORKING Consultancy
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Comments or suggestions from the users of the CEN Workshop Agreement are welcome and should be addressed to the CEN-CENELEC Management Centre.

# Introduction

The integration of data protection and privacy requirements early in the design of new technology (the principle of “privacy by design”) is an indisputable need for industry. With this issue in mind, the 27th International Conference of Data Protection Commissioners in 2005 in Montreux, Switzerland, appealed to the information technology industry in its final communiqué “to develop products and systems integrating privacy enhancing technologies.” [1] Furthermore, strong data protection (corresponding to European standards) built into new technology may simplify implementation in non-EU states while providing benefit to all users worldwide.

However, industry may face difficulties in addressing this need, due to lack of awareness, capacity and/or expert opinion [2]. Regulators, on the other hand, may not be aware of new technological developments, relevant data protection and privacy concern until new technology is adopted for use. Therefore, the need to bridge the gap between industry and regulators at European, National and/or local/regional levels in order to create a framework for dialogue and knowledge exchange is increasing.

The adoption of a discussion platform would enable industry to consult regulators at the very early development stages, building trust in new technology, and avoiding future privacy concerns, which could be damaging for data subjects, as well as costly for industry. Regulators would also benefit from knowledge exchange for the purposes of refining guidelines, building practical interpretations and potentially providing related regulation update proposals.



1 “ Montreux Declaration” from the 27th International Conference of Data Protection and Privacy Commissioners “The protection of personal data and privacy in a globalised world: a universal right to respecting diversities.” See:http://www.privacyconference2009.org/privacyconf2009/dpas_space/documentos_adoptados/common/2005_Montreux/MONTREUX-EN2.pdf

2 Technical innovations may complicate enforcement of privacy and data protection regulations, although some instruments to tackle these problems have already been developed, e.g. technical data security measures and Privacy Enhancing Technologies (PET). These are discussed in the "Communication From The Commission To The European Parliament And The Council On Promoting Data Protection By Privacy Enhancing Technologies (PETs)", COM (2007) 228 Final, Brussels, 2.5.2007

# 1 Scope and Objectives

This CWA aims to provide a framework for industry and regulator interaction through improved information exchange at key milestones. This is to be done in the development of new technology as well as for upgrades and modifications of existing technologies. Establishment of a framework would benefit industry, regulators and data subjects in the creation of a forum for dialogue regarding privacy benefits and concerns at an early enough stage in design where changes can still be made. Such a framework might be established at European level, but could also be realised at the international and/or national level.

More specifically, the goal of the CWA is to develop a Voluntary Technology Dialogue Framework (VTDF) for data protection and privacy that will satisfy the needs of both industry and regulators and thereby provide benefit to data subjects. The VTDF will enable close information exchange between industry, regulators and internationally recognised legal and technical NGOs, experts and consultants from the public and private sectors during the development cycle of new technology, in order to provide fast and effective data protection assessments of new design concepts (including upgrades and modifications). In this respect the specific purposes of the project are:

1. To ensure better understanding of new technology and how to apply the data protection principles for both the industry and the regulators:
   - to provide both better understanding of, and compliance with, data protection and privacy principles, as well as refining regulations and guidelines while building practical interpretation.
   - to educate industry as to regulatory expectations in the context of new technology and to enhance regulators' knowledge on related technical developments.
   - to potentially reduce the reputational and financial risks to industry associated with developing new technology which, on reaching the market, are considered damaging to individuals' privacy.
2. To promote privacy enhancing technologies, privacy protective or privacy friendly technology features and to reduce the risk of privacy invasive technologies being marketed.

Such a framework would provide tangible privacy enhancing technology benefits to EU citizens, while protecting against privacy invasive technologies being launched on the EU or global market. Regulators will benefit from receiving briefings on future technology roadmaps via the VTDF. Industry would enjoy the economic benefits of closer liaison with regulators at an early stage of new technology development. Such liaison would help create privacy compliant design specifications and support industry in becoming more familiar with its obligations under the existing European legal framework on data protection and privacy.

The proposed VTDF includes suggestions for the dialogue process, triggers for the initiation of engagement between industry and regulators, as well as recommendations for the collaboration process and suggested outputs. The aim is to create a process that will be voluntary for both regulators and industry, allowing a prioritized, practical, international, and productive exchange of ideas and recommendations. However, this document does not include a detailed analysis of the legal and regulatory implications of the process, or specific information regarding organisational set-up or operational processes.

## 2 Informative References

Data protection and privacy [3] are important European values, which are becoming more and more crucial in the modern world of information and telecommunication technology. Legal regulations and implementations to ensure protection of personal data involve European, national and regional legislation, of which the European Data Protection Directive (95/46/EC) and the e-Privacy Directive (2002/58/EC) are the most prominent. With the appearance of ubiquitous computing, the intention of the European legal framework for data protection and privacy is that users may operate securely and safely in the Information Society while maintaining control of their private sphere.

Of particular interest in Directive 95/46/EC in this context are articles 6(1) c and e (embodying the principles of data minimization, finality and proportionality), as well as article 17 (requiring state of the art security measures). Recital 46 further stresses that appropriate technical and organizational measures should be taken at both the time of the design of the processing system as well as at the time of the processing itself.

In article 4 of Directive 2002/58/EC network security is required and article 14(3) requires that terminal equipment is constructed in such a way that users can protect and control the use of their personal data. Recital 30 of Directive 2002/58/EC states that systems for the provision of electronic communication networks and services should be designed to strictly minimise the amount of personal data processed as defined in the Directive 95/46/EC.

The EC recognises the growing importance of data protection and privacy requirements in their funding of research projects (see FP7 projects) by addressing privacy aspects at early stages of development of new technology. The projects are often expected to identify ethical aspects together with privacy issues and assess the impact of the development of new technology on privacy.



[3] Although the European legal framework mostly refers to the concept of "data protection" , the broader concept of "privacy" is often used, especially with regard to integration of data protection concerns into new technological developments. Both terms are used as complementary for the purpose of this CWA.