

# INTERNATIONAL CONFERENCE OF DATA PROTECTION AND PRIVACY COMMISSIONERS

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**2011/OBS/R/ 001**  
Agenda Item IV: (c)

## **APEC Data Privacy Sub-Group (“DPS”) Meeting San Francisco, 16-18 September, 2011**

### *Observer Report*

**33<sup>rd</sup> International Conference of Data Protection  
and Privacy Commissioners  
November 1, 2011  
Mexico City**



**33<sup>rd</sup> International Conference  
Of Data Protection  
and Privacy Commissioners**

*Privacy: The Global Age*  
2-3 November 2011 Mexico City

**APEC Data Privacy Sub-Group (“DPS”) Meeting  
San Francisco, 16-18 September 2011**

**Report by Observer to meeting appointed on behalf of the International  
Conference of Data Protection and Privacy Commissioners**

**Report by Florence Raynal, CNIL, appointed by the International Conference to  
observe the meeting as an APEC ECSG DPS meeting guest**

## **1. Introduction**

The APEC Data Privacy Sub-Group (“DPS”) met on September 16-18, 2011 in San Francisco, United States.

Almost all the 21 APEC member economies attended that meeting.

In addition to the participation of the International Conference of Data Protection and Privacy Commissioners (represented by Florence Raynal of the French Data Protection Authority - “CNIL”), there were also representatives from the International Chamber of Commerce, several NGOs (e.g., the Electronic Frontier Foundation, Privacy International or Internet Society). Several multinational companies, such as Microsoft and Hewlett Packard, lawyers and potential future certification agents also attended that meeting. Despite its strong implication in the DPS initiative, the OECD could not attend the San Francisco meeting.

The International Conference of Data Protection and Privacy Commissioners’ participation was a great opportunity to have a better understanding of the APEC privacy initiative and its system of Cross Border Privacy Rules (CBPR). It was also the opportunity to present the European Binding Corporate Rules (BCR) to the APEC forum and exchange ideas with several Asian delegations.

The APEC privacy initiative involves a Privacy Framework, adopted by the Ministers of the APEC economies in 2004. Such Framework encompasses 9 major privacy principles. To facilitate and secure cross border transfers of personal data, a Data Privacy Sub-Group was set up with the view to develop a system Cross Border Privacy Rules (CBPR).

Under the CBPR system, to be certified for transfer of personal information between participating APEC economies, businesses will have to develop privacy policies/procedures in accordance with the APEC privacy principles set in its Privacy

Framework and perform a self-assessment against APEC privacy requirements. After being appointed, certification agents, who can be either private organizations or public authorities, will review the businesses' privacy documentation according to some criteria. Upon their certification (for one year subject to renewal), the applicant organizations will be listed on the APEC website allowing consumers to be able to make claims should there be any privacy issues.

## **2. Objectives of the meeting**

The DPS sub-group meeting focused mainly on the finalization and adoption of two critical outstanding components of the APEC Cross-Border Privacy Rules ("CBPR") necessary for moving forward with its implementation.

## **3. Outcomes of the meeting**

### **\* Adoption of the CBPR system:**

After discussion and finalization of some outstanding documents, the whole CBPR package was adopted by the DPS sub-group.

However, the APEC CBPR system is not yet up and running despite the significant progress made in San Francisco. The APEC ministers still need to decide at governmental level whether they want to be part of the CBPR system and they remain totally free to do so. However, to be able to join the CBPR system, there are several prerequisites, including being part of the APEC Cooperation Arrangement for Cross Border Privacy Enforcement.

### **\* 2012 workplan:**

Several actions still need to be taken for the rollout of the CBPR system including:

- establishing the "Joint Oversight Panel" that is to provide assistance with the effective implementation of the system;
- developing the CBPR system website;
- beginning the recognition of accountability agents;
- communicating on the system.

### **\* Interoperability:**

Another item on the agenda of the San Francisco meeting was the possible connection ('interoperability') between the APEC CBPR system and some other major privacy initiatives such as the Japanese "trustmark" system or the European BCR system. However, the interoperability issue was not addressed during the San Francisco meeting because of lack of time.

Report submitted: October 2011

**Links to APEC documents**

1. [Report of Data Privacy Sub-Group Meeting](#)
2. [APEC CBPR System – Policies, Rules and Guidelines](#)
3. [APEC CBPR System - Intake Questionnaire](#)
4. [APEC CBPR System – Program Requirements for Use by Accountability Agents](#)
5. [APEC CBPR System – Accountability Agent Recognition Criteria](#)
6. [APEC CBPR System – Cross-Border Privacy Enforcement Arrangement](#)
7. [APEC CBPR System - Workplan for the Development of a Directory of CBPR Certified Organizations and APEC-Recognized Accountability Agents](#)
8. [APEC CBPR System – Endorsement Request](#)
9. [Work Plan for 2012](#)
10. [The Contribution of Data Privacy in Improving Trade Facilitation in APEC – Presentation](#)
11. [Scoping Paper on Privacy System Interoperability](#)
12. [APEC Cross Border Privacy Rules System Implementation and Administration Assistance](#)
13. [P Mark – CBPR Mapping Template](#)