



Legality of Business to Business Sharing of International Cyber Threat Intelligence

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International Cyber Threat Intelligence Sharing

- **Business-to-business sharing**
- **International environment**
- **Law of major U.S. trading partners**
 - **privacy and data protection**



Project Focus

Research Questions:

- **What is personal data as defined by national law?**
 - Is an IP address personal data?
- **Lawful disclosure?**



Project Progress

2016

Completed

- European Union
- Australia
- New Zealand
- Japan
- Singapore
- Malaysia
- Canada
- South Africa
- Mexico
- Estonia
- United Kingdom
- Germany

2017/8

Underway/Next

- India
- PR China
- Israel
- France
- Netherlands
- Poland
- Belgium
- Norway
- Slovak Republic
- South Korea
- Sweden
- Turkey
- Chile

Extension:
Russian Federation,
Ukraine, Romania



Key Finding

Significance and influence of the E.U. Data Protection Regime

- **Current 1995 Directive**
- **New General Data Protection Regulation**

Is an IP addresses personal data?



Points of Similarity

Focus on the rights of a data subject

- **Definitions and Implications**
 - **“Personal data”**
 - **Data “processing”**
 - **Data “transfer” and “disclosure”**
 - **Extraterritoriality**



Points of Similarity

Balancing the rights of a data subject with the public interest

- **Lawful disclosure**
 - **Right to privacy under international law**
 - **Right to data protection in E.U.**
 - **Processing personal data in the public interest**



Key Finding

- **“personal data”**
 - “identifiable” natural person
- **Breyer case, decision of the European Court of Justice in October 2016**
 - “identifiable” interpreted broadly
 - **dynamic IP addresses are personal data** if there is “legal means” enabling the identification of the person associated with the IP address..



Key Finding

Lawful disclosure

1. Free, informed consent of data Subject
2. Necessary for the legitimate interests of the controller or by a third party
 - Notification of data subject
3. In the public interest



Key Finding

Lawful disclosure

“processing is **necessary** for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller...”

(emphasis added)



Key Finding

“A service provider may have a legitimate business interest in ensuring that its customers will not misuse the service (or will not be able to obtain services without payment), while at the same time, the customers of the company, taxpayers, and the public at large also have a legitimate interest in ensuring that fraudulent activities are discouraged and detected when they occur.”

Art 29 WP (emphasis added)



Concluding Remarks

1. Overall objective
2. “*In the public interest*”: 2017 Vol 33 Issue 1
Computer Law and Security Review 14-29
3. Next countries
4. More research



Cyber Threat Information Sharing Project Overview

Questions?



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