

**31st International Conference of Data Protection and
Privacy Commissioners**

Madrid

November 2009

Report of the Website Working Group

Closed Session Report

SUMMARY

Over the past year, the Website Working Group ("WWG") of the International Conference of Data Protection and Privacy Commissioners ("Conference") has continued its work to establish, consistent with the Conference's direction in 2007 and 2008, a permanent website for data protection and privacy authorities accredited to the Conference ("DPAs"). This work has been fruitful and has progressed to the point that the website can, subject to funding, become operational before the middle of 2010 as the permanent website desired by the Conference since 2005.

The website will be under the direction and control of a Website Committee comprised of six members representing DPAs. That committee will control all contents, and the look and feel, of the website.

The Website Committee will develop a user protocol and user agreement. Each DPA that wishes to post content to the website or make use of its closed portion will be required to sign the user agreement.

The WWG is proposing an interim funding arrangement and a permanent funding arrangement. It will take some time for funds to flow under the permanent arrangement. The interim arrangement will enable the website to be created and become operational quickly, until the permanent arrangement is fully in place.

The Privacy Commissioner of Canada has agreed to act as the Conference's representative for the purpose of entering into an agreement with the website service provider respecting website hosting services.

The proposed resolutions set out in Appendix 1 to this report seek the Conference's approval for the funding and administration of the website in line with the above.

BACKGROUND

In Montreal in 2007 the Conference directed the WWG to explore with the OECD the possibility that the OECD would provide the Conference with website hosting services. In addition to the convergence with WPISP's work and the London Initiative, this will further the goals of the Montreux Declaration¹ to establish a common base for information and resources management for the Conference.

At the 2008 closed session in Strasbourg, the Conference authorized the WWG to, among other things, seek approval of the Conference at the 31st Conference in Madrid for the website, with the commitment of individual DPAs to pay their share of the costs of creating and maintaining the website on an ongoing basis.

A website has been designed that meets the criteria approved by the Conference for a permanent Conference website. The website will serve as the home for current-year Conference information, an archive of materials from past annual conferences, and a restricted section for information about the closed sessions and ongoing inter-sessional work. Whoever is the host of the annual DPA Conference will still have primary webmaster responsibilities for the annual Conference portion, selecting a look and feel for the annual Conference site and posting the content. However, instead of creating an

¹ http://www.privacyconference2005.org/fileadmin/PDF/montreux_declaration_e.pdf.

entirely new site for each annual Conference, as is the current practice, the Conference host will simply create a new section on the permanent Conference website.

As the WWG reported to the Conference in Montreal and Strasbourg, the objective is to create a website for DPAs that serves as a permanent repository of Conference documentation and to allow the DPAs to share information with one another and with the public, academics and other stakeholders with an interest in privacy and data protection issues. As previously reported to the Conference, the website will have two spaces: a public space and a private space.

Access to the private space will be restricted to accredited DPAs. Access will be controlled by passwords. Among other things, the private space can facilitate enforcement cooperation between authorities. It will also allow DPAs to post questions to, or seek assistance from, other DPAs on policy matters. The private space will also provide a place to post proposed resolutions and other information relevant to upcoming Conferences. The website will also be the depository for documentation of standing committees of the Conference, such as the Credentials Committee, the Website Committee and *ad hoc* working groups of the Conference.

The public space will serve as a valuable privacy and data protection information resource for members of the public, non-governmental organizations, businesses, governments and others. The content could include:

- contact information for DPAs;
- links to other privacy websites and resources;
- information about the upcoming International Conference and papers/resolutions from past Conferences;
- a calendar of upcoming privacy conferences and events; and
- research papers, reports and studies prepared by or commissioned by DPAs of potential interest to the public.

As regards the costs of website creation and operation, the following elements are involved in designing and starting up the Conference website:

- supervision and project management;
- consultation with the Conference on precise communications needs;
- design and development of the website;
- assisting in the ongoing running and maintenance of the site during year one;
- providing training and support;
- consulting with and training users;
- purchasing, installing and configuring the basic hardware (server) and software;
- developing the user management interface; and
- operating costs.

The following elements are involved in ongoing operation of the Conference website:

- supervision and project management;
- assisting in ongoing running and maintenance of the site;
- providing training and support as needed; and
- maintenance and operating costs.

Cost estimates from the OECD for the Conference website are, for start-up costs during the first year, €35,000 to €45,000, with ongoing annual operation and maintenance costs in years two and three being in the range of €20,000 to €25,000. The WWG emphasizes that these are estimates.

The WWG here seeks the Conference's direction, as set out in the proposed resolutions set out in Appendix 1, to finalize arrangements for the Conference website and to take all steps (including through an agreement with the website service provider) necessary to bring the website into operation promptly after the 31st Conference.

The following section of this report discusses, in outline, the framework for creation, operation and funding of the Conference website.

WEBSITE FRAMEWORK

A. Governance

The following section sets out how the website will be governed:

1. The website will be entirely controlled and governed in all respects by the Conference, acting through a Website Committee of six members appointed by DPAs at the Conference. (The Committee should reflect the geographic and linguistic make-up of the Conference and, if possible, include a representative from a small DPA.)
2. The Committee will be responsible, among other things, for the following:
 - 2.1. providing direction to the website service provider about the format ('look and feel') of the website;
 - 2.2. deciding on the initial content of the website (for example, links to existing organizations, material from past conferences);
 - 2.3. developing a user protocol (as outlined below) to govern the ongoing posting of content on the website by DPAs;
 - 2.4. resolving any disputes that may arise regarding the posting of information on the website;
 - 2.5. communicating with and providing direction to the website service provider respecting any technical issues;
 - 2.6. considering requests and suggestions regarding changes to the type of content or the design of the website;
 - 2.7. providing direction, as needed, to the DPA that serves as the Conference's Representative (discussed below);
 - 2.8. making recommendations as required to adjust the funding formula for the website; and
 - 2.9. monitoring the website regularly to ensure links are accurate and working and to ensure that website content meets the requirements of the user protocol.
3. The host of each year's international Conference will be entitled to designate a Conference host liaison officer to provide advice to and participate in meetings of the Website Committee.
4. The Chair of the Website Committee will serve a two-year term.
5. Members will serve two-year terms (except for some initial three-year terms), with half of the members being replaced annually. Members will be eligible to serve a second two-year term.
6. The Website Committee will meet regularly, at least quarterly, by teleconference. It may meet more regularly as it considers desirable. The Website Committee may

meet in person if the members agree (for example, at the annual international Conference).

7. The Website Committee must decide all matters within its mandate by a simple majority vote of all members of the Website Committee. The quorum for the Website Committee is four members.
8. The Website Committee must elect a Chair at its first meeting. The first meeting must be held before 2010.
9. The Website Committee will report annually in writing to the Conference on the operation of the website.

B. The Role of the Website Service Provider

1. The website service provider² will, through a memorandum of understanding ("MOU") between the Conference's Representative and the website service provider, agree to develop, host and maintain the website as a service provider to the Conference. The website service provider will not control the website, including content posted to it.
2. The Conference, through the Website Committee, will maintain full control over the appearance and content of the website.

C. Role of the Conference Representative

1. The Conference does not exist as a separate legal entity. Nor does it have a board of directors, a secretariat, or any kind of executive management. The Conference therefore cannot enter into an agreement with the website service provider and a representative of the Conference and its individual DPA members is needed.
2. The Office of the Privacy Commissioner of Canada has agreed to act as the representative of the Conference ("Conference Representative") for a period of three years, subject to final approval by the Government of Canada. The Conference Representative will enter into the agreement with the website service provider (discussed below) as representative of the Conference.
3. The Conference Representative will collect website contributions from individual DPAs and disburse funds to the website service provider as set out in the agreement with the website service provider.
4. The Conference Representative will maintain a bank account that will be used only for receipt and disbursement of funds associated with the website.

D. Memorandum of Understanding with the Website Service Provider

1. An MOU will be entered into between the Conference Representative and the website service provider. This will set out what the website service provider has agreed to do and will specify that the website service provider is not responsible for, and has no control over, website content.
2. The MOU will set out responsibilities respecting issues such as the updating and posting of content.
3. The initial MOU will have a three-year term.
4. The MOU will commit the Conference, through the Conference Representative, to reimburse the website service provider for the costs it incurs, with a payment schedule being set out in the MOU. The MOU will contain provisions allowing either

² Consistent with the direction of the Conference, by resolutions passed in 2007 at Montreal and 2008 at Strasbourg, the WWG has continued discussions with the OECD and the OECD will be the website service provider for the Conference.

party to terminate the agreement at the end of three years or before then under agreed-upon circumstances.

5. The MOU will contain a dispute resolution process.
6. The MOU will provide that the Conference Representative will pay the website service provider a certain sum of money for performing the agreed-upon tasks (discussed below).

E. Subscription Agreement for DPAs

1. The WWG will develop a subscription agreement containing terms to which all accredited DPAs that wish to make use of and post content to the restricted website must sign as a condition of obtaining access.
2. The subscription agreement will, among other things, contain a commitment of each subscribing DPA:
 - 2.1. to contribute to the cost of operating the website by paying the annual fees calculated for that DPA in accordance with the proposed contribution schedule set out in this report (discussed below);
 - 2.2. to abide by the user protocol (discussed below); and
 - 2.3. to ensure that information specific in the agreement, such as DPA contact information and the name of the DPA's Commissioner information, is kept up to date on the website and with the Website Committee.
3. The subscription agreement will be developed and approved by the Website Committee promptly after the 31st annual Conference.

F. User Protocol

1. A user protocol will be developed that provides for issues such as:
 - 1.1. the process for posting content to the site;
 - 1.2. guidelines on the type of content that can and cannot be posted;
 - 1.3. guidelines or a checklist to help DPAs determine where content should be posted on the website;
 - 1.4. rules about who can post content and rules for the removal of content; and
 - 1.5. the role of the Website Committee with respect to resolving disputes that may arise respecting the posting of information and other matters.
2. The user protocol will be developed and approved by the Website Committee promptly after the 31st annual Conference.

G. Interim Funding Mechanism

1. The estimated costs of creating the website are €35,000 to €45,000 during the first year. This will cover the cost of purchasing necessary equipment, designing and creating the website and the operating costs for year one.
2. The estimated costs for operating the website are €20,000 to €25,000 each year after the first year.
3. Several DPAs have made commitments to provide funding for up to three years. To date, the following DPAs have committed funds: Australia, British Columbia, Canada, Denmark, Ireland, New Zealand and the United Kingdom in the amount of €19,000 for year one and €17,500 for years two and three.
4. The funding commitments to date will cover roughly one-half of the year one costs. The WWG recommends seeking further voluntary contributions from larger DPAs to cover the balance of the year one costs, so the website can be created and become operational as soon as possible since the proposed funding approach discussed below will not become fully operational for a period of time.

5. In terms of ongoing costs, the contribution commitments received to date amount to some €17,500, which is almost enough to cover the estimated operating costs of €20,000 to €25,000 per year in years two and following. The WWG recommends seeking further voluntary contributions from larger DPAs to cover the balance of the operating costs for years two and three, so the website can operate until the proposed funding approach discussed below becomes fully operational and funds are available.

H. Permanent Funding Mechanism

1. The WWG has concluded that it will be possible to have a permanent funding mechanism in place by the end of year two. This will be based on contributions made by all accredited DPAs according to their number of full-time employees (or equivalents), with those contributions being paid to the Conference Representative.
2. There are several advantages to this approach: the DPAs will be the primary beneficiaries of the website; this will produce a stable, predictable source of funding; and the addition of new DPAs will lessen the burden on existing DPAs.
3. The WWG proposes the contribution schedule set out below, noting that it can be adjusted as necessary, as recommended by the Website Committee, in future years.
4. Based on the funding formula set out below, and the WWG's estimate of the number of DPAs of various sizes, the WWG believes a slight surplus may be generated each year. Any such surplus will be retained, subject to direction by the Conference on recommendation of the Website Committee, to provide for contingencies.

Proposed Contribution Schedule

Number of FTEs	Annual Levy €	Estimated Number of DPAs ³	Revenue €
< 10	50	10	500
10 - 20	150	20	3,000
21 - 40	300	22	6,600
41-70	500	18	9,000
71-100	1,000	4	4,000
> 100	2,000	3	6,000
		75	29,100

CONCLUSION

The WWG requests that the Conference approve the resolutions found in Appendix 1.

The WWG notes that the appended resolutions do not, at the time of submission of this report to the Madrid Conference host, identify membership of the Website Committee. The WWG will, in advance of the 31st annual Conference, identify DPAs willing to serve on the Website Committee and propose their appointment when this report and the resolutions are considered and voted upon by the Conference in Madrid.

³ The estimate of the number of DPAs of various sizes is based on information from a survey conducted by the Office of the Data Protection Commissioner of Ireland and by information the Office of the Privacy Commissioner of Canada collected as part of the London Initiative. These are rough estimates.

As an exception to this, the WWG proposes at this time that the Office of the Privacy Commissioner of Canada be appointed as a member of the Website Committee for a three-year term. The WWG proposes this in view of, among other things, that Office's agreement to serve as the Conference Representative for website purposes, as discussed above. The WWG is grateful to Jennifer Stoddart, Privacy Commissioner of Canada, for generously offering to have her Office serve as Conference Representative and on the Website Committee.

Appendix 1

Resolutions Proposed by the Website Working Group

Proposer: Information and Privacy Commissioner for British Columbia

Co-sponsors:

- Privacy Commissioner of Canada
- Privacy Commissioner of Australia
- Privacy Commissioner of New Zealand
- Data Protection Commissioner of Ireland

Resolution

The 31st International Conference of Data Protection and Privacy Commissioners,

Receiving the report of the Website Working Group (“WWG”) pursuant to its mandate from the 29th Conference and 30th Conference,

Recognizing the London Initiative's willingness to structure the operations of data protection authorities and privacy commissioners (“DPAs”) and make them more visible and more effective, and the need to find a way of ensuring that the annual international DPA conferences live throughout the year,

Recognizing that it is desirable to continue to work toward the goals, set out in the Montreux Declaration, of greater exchanges of information among DPAs and the establishment of a permanent website as a common base for enforcement co-operation and for information and resources management,

Therefore resolves as follows:

1. The Conference approves the governance and funding arrangements for the Conference website as outlined in the WWG's report to the 31st annual Conference, a copy of which is appended to these resolutions;
2. Without affecting resolution 1, the Conference hereby appoints the first Website Committee, to be comprised of one representative from each of the following six DPAs, with each member serving for the terms set out below:

Name of DPA	Length of Term
	Two Years
	Two Years
	Two Years
Office of the Privacy Commissioner of Canada	Three Years
	Three Years
	Three Years

3. The Conference directs the Website Committee to take all steps that it considers necessary, and to enter into a website service provider arrangement with the OECD, for the operation of the Conference's permanent website, all such steps and arrangements being required to be consistent with the reports of the WWG to the 30th annual Conference and

the 31st annual Conference;

4. The Conference authorizes the Privacy Commissioner of Canada to enter into a memorandum of understanding with the OECD under which the Office of the Privacy Commissioner of Canada will act as representative of the Conference as set out in the WWG's report to the 31st annual Conference;
5. The Conference approves of the interim funding arrangement and the permanent funding arrangement as set out in the WWG's report to the 31st annual Conference; and
6. The Website Committee is directed to report to the Conference at the 32nd annual Conference on the operation of the website during the first year and to propose any action or decision the Website Committee considers necessary respecting the permanent funding and operational arrangements for the website.