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Data Protection Ireland

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Headlines

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Safe Habor not safe enough, says Working Party

US cloud providers' 'Safe Harbor' certification may not be enough to provide true security for European organisations' data, according to the latest Opinion of the Article 29 Working Party.

Safe Harbor, a compromise between the US and EU that has allowed data interchange between the two continents in the absence of a federal data protection law in the US, requires that organisations follow a certain set of privacy practices, such as informing individuals that their data are being collected and how those data will be used.

Taking a position which could drastically affect the adoption of cloud computing by European companies in a predominately US-based cloud world, Opinion 05/2012 on Cloud Computing states that "loss of governance, insecure or incomplete data deletion, insufficient audit trails or isolation failures [are] not sufficiently addressed by the existing Safe Harbor principles on data security."

The Working Party recommends that organisations should firstly obtain proof that any claimed Safe Harbor certification exists and request evidence demonstrating that the principles are complied with. Then, they should also verify if the standard contracts composed by cloud providers are compliant with national requirements. Finally, they should consider whether additional data security safeguards are necessary.

Though the Opinion is not legally binding, it will heavily influence decisions on where and how cloud based data are stored. Most cloud providers are based in

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Existence of legal action does not preclude access requests, says ruling

The High Court has upheld a decision by the Data Protection Commissioner requiring Dublin Bus to provide CCTV footage to a woman who brought a personal injuries claim for an alleged fall on one of the company's buses.

The woman began personal injury proceedings against Dublin Bus in October 2009. After litigation had begun, Dublin Bus informed her lawyers of the existence of CCTV footage and invited the lawyers to view it. Following this, the woman made an access request for all documents and records that Dublin Bus held in respect of her.

The request was refused on grounds including that such information was prepared in anticipation of potential litigation and was privileged.

That refusal was appealed to the DPC. In his decision in January 2011 the DPC ruled that Dublin Bus was required to provide the woman with a copy of the requested footage.

That decision was later upheld at Dublin Circuit Court by Judge Jacqueline Linnane in July 2011, but was appealed to the High Court by Dublin Bus on a point of law.

Dublin Bus asked the High Court to determine whether the existence of

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