

# Data Protection Ireland

Volume 14, Issue 1

January / February 2021

## Headlines

- New guidance on domestic CCTV, p.18
- DPC issues ‘Fundamentals’ for a child-oriented approach to data processing, p.19
- High Court to decide on DPC’s Facebook case, p.20

## Contents

<i>Expert comment</i>	2
<i>SCCs and Supplementary Measures — what to do in the interim</i>	4
<i>Lessons from the UK regulator’s data protection/innovation Sandbox</i>	7
<i>The proposed Digital Services Act Package — what you need to know</i>	10
<i>5 data protection and privacy predictions for 2021</i>	14
<i>News &amp; Views</i>	17

## EU Legal Opinion signals eased regulatory burden on DPC

A legal Opinion issued by the European Court of Justice’s senior legal advisor in a test case regarding a GDPR jurisdiction matter has, if followed, huge ramifications for big techs and other companies generating privacy complaints.

Advocate General (‘AG’) Michal Bobek was giving the Opinion in a case stemming from the Belgian regulator’s attempt to bring enforcement proceedings against Facebook in Belgium.

The Data Protection Authority sought an order from the Belgian High Court preventing Face-

book using cookies, plugins and pixels to track Belgian citizens across the internet and to restrict the ‘excessive’ collection of their personal data.

Facebook Belgium argued that under the GDPR, the Belgian regulator lacked the jurisdiction to take enforcement action against it. The social media company claimed that, given that its main centre of operations in Europe is in Dublin, only the DPC had that right regarding Facebook’s cross-border data processing. Belgium’s Court of Appeal referred questions to the CJEU.

The AG’s Opinion addresses several points. Firstly, the Lead SA (in this case the DPC) has general competence over cross-border data processing, including competence to commence judicial proceedings for infringements of the GDPR. Concerned SAs (in this case the Belgian SA) have a more limited power to act. While any SA has the power to commence proceedings against possible infringements affecting their territories, this power is limited with respect to cross-border data processing to enable

[\(Continued on page 17\)](#)

## EU releases new draft of the ePrivacy Regulation

The Council of the European Union has released a new draft version of the ePrivacy Regulation, the 14th iteration of the Regulation since the first draft was approved in January 2017.

The revised version was issued as Portugal took over the presidency of the Council for six months on 1st January 2021, and ahead of the next meeting

of the Council’s working party responsible for the draft ePrivacy Regulation.

The Portuguese Presidency’s draft largely follows the structure adopted by the preceding German Presidency. The Portuguese Presidency’s substantive amendments to the draft regulation propose to “simplify the text and to further align it

with the GDPR,” and further “reflect the *lex specialis* relation of ePrivacy to the GDPR.”

The Portuguese Presidency’s amendments include:

- widening the territorial scope of the draft regulation so that it also applies to pro-

[\(Continued on page 17\)](#)