

Google Inc.
CEO Larry Page
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Mountain View, California, 94043
U.S.A.

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A rappeler dans toute correspondance

Mr. Page,

Following Google's letter dated 3 February 2012, I would like to inform you that the CNIL began an investigation into Google's new privacy policy. The CNIL was invited by the Article 29 Working Party to take the lead in the analysis of the announced changes. It has decided to conduct an investigation after its first analysis of the relevant public details, on behalf of the data protection authorities in the EU. I wish to share with you the preliminary findings of this investigation.

First, the CNIL and the EU data protection authorities welcome Google's large campaign to inform its users about the new privacy policy. This initiative is very useful to increase internet users' awareness of privacy online.

However, we regret that Google did not take a real opportunity to consult the authorities prior to the announcement of its new privacy policy on 24 January 2012. Contrary to public statements by Google representatives suggesting that data protection authorities across the EU had been "extensively pre-briefed", not all authorities were informed, and those that were informed only heard about the changes a few days before the announcement. They saw the contents of the new privacy policy at best a few hours before its public release, without any opportunity to provide any constructive feedback.

Indeed, our preliminary analysis shows that **Google's new policy does not meet the requirements of the European Directive on Data Protection (95/46/CE)**, especially regarding the information provided to data subjects.

Google's online services are numerous and differ greatly both with regard to purposes and types of data they process. The new privacy policy provides only general information about all the services and types of personal data Google processes. As a consequence, it is impossible for average users who read the new policy to distinguish which purposes, collected data, recipients or access rights are currently relevant to their use of a particular Google

service. The fact that Google informs users about what it will not do with the data (such as sharing personal data with advertisers) is not sufficient to provide comprehensive information either. We request that Google complies with articles 10 and 11 of the Directive. To this end, Google should supplement existing information with service and purpose specific information.

While we welcome Google's effort to streamline and simplify its privacy policies, we firmly believe that this should not be conducted at the expense of transparency and comprehensiveness for users. In its Opinion 10/2004 on More Harmonised Information Provisions, the Working Party addressed this issue by recommending the use of a multi-layered approach for each service, where basic information may be delivered in a short notice (layer 1) but more detailed information is provided in the condensed and full notices (layer 2 and 3). We suggest Google follows a similar approach to reconcile simplicity and transparency, and we are available to discuss this matter further with you.

Moreover, rather than promoting transparency, the terms of the new policy and the fact that Google claims publicly that it will combine data across services raises fears about Google's actual practices. Our preliminary investigation shows that it is extremely difficult to know exactly which data is combined between which services for which purposes, even for trained privacy professionals. In addition, Google is using cookies (among other tools) for these combinations and in this regard, it is not clear how Google aims to comply with the principle of consent laid down in Article 5(3) of the revised ePrivacy Directive, when applicable.

The CNIL and the EU data protection authorities are deeply concerned about the combination of personal data across services: they have strong doubts about the lawfulness and fairness of such processing, and about its compliance with European Data Protection legislation, especially with articles 6 and 7 of the Data Protection Directive.

We will fully address this question in the following weeks. On behalf of the Working Party, the CNIL will send Google a full questionnaire regarding this matter as well as other related aspects of Google's data processing activities before mid-March 2012.

In the meantime and in light of our early findings, we reiterate, on behalf of the Working Party, our call for a pause until we have completed our analysis.

Yours sincerely,



Isabelle FALQUE-PIERROTIN