



January 18th, 2011 | By Gregory P. Bufithis, Esq.

European Data Protection Supervisor, Peter Hustinx, issues opinion on “Review of the Data Protection Legal Framework”



18 January 2011 — The European Data Protection Supervisor, Peter Hustinx, has issued an opinion in response to the Commission’s Communication regarding the “Review of the Data Protection Legal Framework” . Hustinx agrees with the Commission that a review of the present legal framework for data protection in the EU is necessary in order to ensure effective protection in a further developing information society. On the other hand, Hustinx believes that a more ambitious approach than the one proposed by the Commission would lead to a more effective system.

It is an extremely important opinion on EU data protection and even though it hasn't been published anywhere yet we have a great discussion and analysis from Monique Altheim, Esq. (she *always* seems to get the inside scoop on these things) and it is on her website *Ediscoverymap.com* which you can access with a [click here](#).

NOTE: Monique is our “go to” person for all-things-EU-data-privacy and serves as our Privacy Officer. A U.S. and Belgium citizen and a registered attorney in each jurisdiction, she has her CIPP (Certified Information Privacy Professional) certificate and she has developed a keen expertise in EU data protection law. She covers all major events touching on EU data privacy and she advises our EU corporate clients on EU data privacy issues. She has a thorough understanding of both the American and the European legal systems and cultures and speaks most Western European languages.

We had met with Mr Hustinx in London last month at the Hogan Lovells “The Future of Data Protection Law in the European Union” seminar. It was a great discussion on the future of data protection law in the European Union. It was moderated by Christopher Wolf, Leader, Hogan Lovells Privacy and Information Management Practice.

Frankly we did not share the optimism shown by Mr. Wolf on the eventual uniformity of US and EU law re: privacy. Mr. Hustinx was very careful with his answers and we believe he did not intend to create false hope, specifically when referring to “the day when the United States privacy framework will be recognized by the EU as providing adequate protection and thus allowing cross-border transfers without the employment of auxiliary legal tools”. Even though Mr. Hustinx did recognize specific steps moving forward in that direction such as the FTC Report — issued the day before this seminar — in that it contained concepts now present under the EU Directive and paralleled in significant ways the Commission’s draft privacy agenda, he was guarded. It was perhaps due to the select audience present — which was approximately 70% from Hogan Lovells. Furthermore, in response to Wolf’s comment “EU adequacy recognition for the US would come” Mr. Hustinx said “but not in the immediate future”.

During the seminar Mr. Hustinx referred to the dimension of the EU and the complexity of the different and concurrent positions on the privacy area, using as example how legalist it can be in countries such as Germany that have a finer view on this topic. Nevertheless, Mr. Hustinx ended the interview stating that it would be in the best interest of all to move in the same direction.

Gregory P. Bufithis is the founder and chairman of Project Counsel SCS (<http://www.projectcounsel.com>). He is also the founder and chairman of The Electronic Discovery Reading Room (<http://www.ediscoveryreadingroom.com>) and Babel-Law (www.babel-law.com).