



Convenience...

It's true, why do things the hard way? A world without GSM, the Internet, bankcards and credit cards is barely possible to imagine any more. Today, literally anything can be researched, ordered and paid for completely independent of time or place. This saves time and opens up whole worlds that were previously reserved for just the lucky few.

However, this technological development, which is beneficial in many respects, also creates an almost diabolical dilemma: in exchange for convenience, we all unavoidably leave digital footprints of all our movements, often without being aware of this at all. Because, technically, all these footprints are or can be saved and combined endlessly, we are now living in an open society in which even precious and vulnerable events from our private lives are or can be used, misused and disclosed. If this information is also used in situations in which there is some inequality of power – such as between the government and citizens or the business sector and consumers, but also between stronger and weaker citizens – this can have major consequences. This is not an imaginary danger, but rather an underestimated one. Identity fraud (already the biggest crime-related cost item in the US) is a clear example, as are discriminatory assessment and unequal treatment (sometimes also solely on statistical grounds) or the freezing of personal development opportunities and wishes. The ultimate consequence of this is undermining of trust in each other and in public and private institutions.

Contrary to what is often alleged, the worth of the principle of privacy protection transcends the interest of the individual, the family or the community. Ultimately, this principle of protection relates to society as a whole, to the collective interest served by the actual respect given in practice to boundaries that the legislator has imposed to this end. These boundaries are, broadly speaking, as follows, do not collect data before you have established that it is necessary to do so; in principle, do not use the data collected for a purpose other than the purpose for which they were originally collected; and, in any case, always handle the data collected with all due care and respect.

Of course, firstly and most importantly, the obligation to comply with these legal requirements lies directly with the parties that collect and process data. Added to this, a low-threshold access to the courts has been created for individual citizens, making it possible for them to stand up for themselves where they have sustained damage or loss as a result of the violation of statutory obligations.

However, precisely because compliance with legislation involves a collective interest, which cannot be sufficiently safeguarded by individual private parties alone, the legislator has created an independent supervisory authority, the Dutch Data Protection Authority (Dutch DPA) [College bescherming persoonsgegevens (CBP)]. To this end, the Dutch DPA has been granted competences that include powers geared towards enforcement. Where necessary, we are able to enforce investigations into compliance with legislation and, where violations are established, can apply administrative coercion, including the imposition of the corresponding sanctions.

One question that we - just as any organisation funded by the government - regularly have to ask ourselves is how we can perform the supervisory task allotted to us in a way that enables us to achieve the best possible result. In other words: how can we make an effective contribution to the prevention and combating of identity fraud, and the misuse and unlawful use of personal data?

Since 1998, the Registratiekamer [the former Data Protection Authority] and the current Dutch DPA have answered this question by formulating four different programme aspects: promoting awareness, promoting the development of standards, keeping track of technological developments and taking enforcement action where appropriate.

In the last year under review, we decided to change course and to shift our priority to what was previously the fourth aspect. Given the current state of privacy legislation, the Dutch DPA

will concentrate on carrying out investigations and enforcement actions – the core task of any independent supervisory authority – to ensure a more effective promotion of the awareness of standards, and a stronger, more efficient enforcement of the compliance with legislation. Of course, enforcement action must be preceded by clarity on the standards underlying our action.

In order to be able to achieve this change in course geared towards standards, investigation and enforcement, and given the budget allocated to us, we will give priority, as regards requests for help and assistance, to serious violations of a structural nature and to violations which entail major consequences for a substantial number of citizens or for groups of citizens.

However, we will do our utmost to help citizens and organisations that would previously have requested and received advice or help from us to gain an overview of the rights and obligations arising for them from the Wet bescherming persoonsgegevens (Wbp) [Dutch Data Protection Act] themselves, so that they themselves can take whatever action is necessary. To this end, we will invest further in the content of our two websites. The www.mijnprivacy.nl website, in particular, contains the information that individual citizens need in order to take action themselves in cases where their rights are being infringed. The www.cbpweb.nl website contains information that organisations and professionals can use if they have questions about the rights and obligations arising from legislation.

In other words: as a supervisory authority, to exercise the maximum influence possible on compliance with the statutory provisions entrusted to our supervision, we started to intensify general information policy last year, putting citizens, professionals and organisations in a better position to be aware of and comply with (or ensure compliance with) their rights and obligations. We also started to give priority to the tasks falling upon an efficient and effective supervisory authority: investigating how compliance with the relevant statutory provisions is being observed and, when a violation is identified, taking enforcement action.

The annual report before you will show that this change in course has been successful in the last year under review!

J. Kohnstamm

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