



Our reference: P12/12

Dr Roger Clarke  
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Dear Dr Clarke *Roger*

### Google's Announcement of Changes to its Terms and Policies

Thank you for your letter dated 29 January 2012. I am now in a position to advise you of the actions taken by this office in relation to the various issues raised by Google's changes to its Terms of Service and Privacy Policy (Policy).

#### Recent discussions with Google

On 19 January 2012, OAIC staff met with Google to discuss the changes that Google proposed to make to the Policy, including the introduction of single, simplified Policy applying to multiple Google products and services.

On 28 February 2012, the Australian Privacy Commissioner, Timothy Pilgrim, wrote to the CEO of Google, Mr Larry Page, on behalf of the Technology Working Group (TWG) of the Asia Pacific Privacy Authorities (APPA). A copy of that letter is available on the OAIC website (see [www.privacy.gov.au/materials/types/other/view/7167](http://www.privacy.gov.au/materials/types/other/view/7167)).

On 29 February 2012, Google responded to the letter from APPA. A copy of Google's response is available on the OAIC website (see [www.privacy.gov.au/materials/types/other/view/7168](http://www.privacy.gov.au/materials/types/other/view/7168)).

After receiving and considering Google's response, the members of the TWG had a number of further questions about the revised Policy. Accordingly, on 21 March 2012, on behalf of APPA, staff from the OAIC and the Office of the Privacy Commissioner for Personal Data (Hong Kong) met with Google. In respect of the issues raised in your letter, the outcomes of that meeting relevantly included the following:

- Google undertook to provide the TWG with a list of Google products and services covered by the revised policy, noting that Google's product suite changed regularly.
- Google advised that users can already, and will continue to be able, to use many Google services (including Search and YouTube) without being logged in (and thus without a record of their online activity being associated with their Google accounts).

- Google advised that a single user may already create and use multiple accounts. Google also stated that it does not attempt to link separate accounts that belong to the same user. Google demonstrated to the attendees of the meeting that many Google products and services (including Gmail and YouTube) allow multiple accounts to be signed in simultaneously, allowing users to easily switch between accounts for different products and services.
- Google advised that it has already implemented privacy tools to assist users in limiting the information that they share while using Google products and services.
- Google users may delete their accounts at any time via an online process. See, for example: <http://support.google.com/accounts/bin/answer.py?hl=en&answer=32046>. Further, Google advised that it has implemented tools to assist users to transfer their data out of Google services. See, for example, Google Takeout ([www.google.com/takeout/#](http://www.google.com/takeout/#)) and the Data Liberation Front ([www.data liberation.org/home](http://www.data liberation.org/home)).
- Google has published a copy of its new Policy that shows the changes from the previous version of the Policy: [www.google.com/policies/privacy/archive/20111020-20120301/](http://www.google.com/policies/privacy/archive/20111020-20120301/).
- Google advised that data collected prior to 1 March 2012 (when the new Policy came into effect) from YouTube and Web History would not be shared between Google products.
- Google advised that it does not actively collect 'sensitive information' (within the meaning of the *Privacy Act 1988* (Cth)), and does not target advertising based on sensitive information.

Regarding the impact of the revised Policy on users of mobile phones operating on the Google Android platform, I understand that the Office of the Privacy Commissioner for Personal Data (Hong Kong) will be continuing discussions with Google on that issue on behalf of the TWG.

The OAIC has provided Google with advice on best privacy practice and the application and operation of Australian privacy law regarding Google's revised Policy. We continue to maintain an open dialogue with Google regarding privacy matters.

### **Next steps**

You may also be aware that in February 2012 the Commission National de l'Informatique (CNIL) initiated an investigation into Google's new privacy policy on behalf of the Article 29 Working Party and the Data Protection Authorities in the European Union. Our Office has been liaising with the CNIL about their investigation.

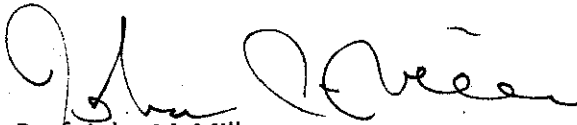
The CNIL formed the preliminary view that the new Privacy Policy did not meet the requirements of the *European Directive on Data Protection (95/46/CE)*<sup>1</sup> and the revised *Directive on Privacy and Electronic Communications (2002/58/CE)*<sup>2</sup> and requested that Google delay the implementation of the policy (see <http://www.cnil.fr/english/news-and-events/news/article/googles-new-privacy-policy-raises-deep-concerns-about-data-protection-and-the-respect-of-the-euro/>)

On 16 March 2012, the CNIL again wrote to Google specifying 69 questions that needed legal clarification specifically in relation to the new Privacy Policy and the sharing of data across Google services (<http://www.cnil.fr/english/news-and-events/news/article/googles-new-privacy-policy-cnil-sends-a-detailed-questionnaire-to-google/>). The CNIL also highlighted the difficulties end users may face when trying to understand how Google uses their data. Google has responded to 24 of the 69 questions (see [www.cil.cnrs.fr/CIL/IMG/pdf/google\\_CNIL.pdf](http://www.cil.cnrs.fr/CIL/IMG/pdf/google_CNIL.pdf)) and has agreed to respond to the remaining questions in mid-April 2012.

The OAIC will continue to monitor the activities of Google and, in particular, the outcomes of the CNIL's investigation. Based on the outcomes of that investigation, we will consider whether further action is required.

I would be happy to keep the APF informed of any further developments on this matter. If you have any questions, please contact Melanie Drayton, Director – Policy, at (02) 9284 9682, or at [melaine.drayton@oaic.gov.au](mailto:melaine.drayton@oaic.gov.au).

Yours sincerely



Prof. John McMillan  
Australian Information Commissioner

16 April 2012

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<sup>1</sup> Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data [1995] OJ L 281.

<sup>2</sup> Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) OJ L 201.