

Data Protection Ireland

Volume 3, Issue 4

July/August 2010

Headlines:

- Irish MP calls for changes to Privacy Bill, p.14
- Terror data handover deal redrafted, p.15
- German minister tells Apple to open up to German DPAs, p.16

Inside this issue:

Editorial	2
Mandatory breach reporting in Ireland	4
Data protection and direct marketing — Part 2	8
International corruption and data protection	11
News & Views	14

Applicant's right to privacy rejected by Irish Court

The Irish High Court has refused to grant released rapist, Michael Murray, an injunction preventing newspapers from publishing his personal data pending the outcome of a full court action over alleged breaches of his privacy and right to life.

Mr Murray was released from prison last year after serving 13 years for raping four women over a six day period in 1995.

The basis for his case against the police is that he has been unable to have a permanent home

since then, because the papers keep publishing his address and pictures of him.

In refusing to grant the interim injunction, Ms Justice Mary Irvine said Mr Murray had not established that his right to privacy outweighed that of the newspapers to freedom of expression, and the right of the public to discuss the issue of the release of sex offenders.

"The outcome is not surprising in the specific circumstances of the case" says Rob Corbet, a Partner in Arthur Cox.

"In previous cases where a right of privacy was weighed against the right to publish, such as the *Herrity* and *Kennedy* cases, the court was careful to consider the respective merits of each argument.

"However, in this case, the judge was reluctant to rule out a potential public interest defence on the evidence presented at interlocutory injunction stage. If the case goes to full trial, the precedent value of the case will be clearer."

New Opinion on online behavioural advertising

The Article 29 Working Party has adopted its new Opinion on online behavioural advertising.

The Opinion deals with the roles and responsibilities of the different 'players' involved in online behavioural advertising, and issues surrounding consent and notice.

In the Opinion the Working Party states

that advertising network providers and publishers — but not advertisers — will be primarily responsible for complying with data protection law.

Also, in what Eduardo Ustaran of Field Fisher Waterhouse LLP describes as a "radical departure from the current industry approach," advertising network providers, who are normally

regarded as data processors in agreements with advertisers, will not be exempt from notice, consent, and other data protection obligations.

An article on the new Working Party Opinion will feature in *Data Protection Ireland*, Volume 3, Issue 5.