

DATA PROTECTION ACT 1998

UNDERTAKING

Data Controller: Google Inc

1600 Ampitheatre Parkway
Mountain View
CA 94043
USA

I Kent Walker, Senior Vice-President and General Counsel of Google Inc, for and on behalf of Google Inc, hereby acknowledge and confirm the details set out below and undertake to comply with the terms of the following Undertaking:

1. Google Inc is the data controller as defined in section 1(1) of the Data Protection Act 1998 (the 'Act') in respect of the personal data processed in the context of its Google UK Ltd establishment, and is referred to in this Undertaking as the 'data controller'. Section 4(4) of the Act provides that, subject to section 27(1) of the Act, it is the duty of a data controller to comply with the data protection principles in relation to all personal data in respect of which it is a data controller.
2. On 24 January 2012 the data controller publicly announced that it would be changing its privacy policies on 1 March 2012 by merging approximately 70 different policies into one policy, hereafter referred to as the 'Privacy Policy'. The new Privacy Policy was to apply to all of the products and services offered by the data controller, with the exception of a limited number of services and products which were to still have additional policies. Whilst under the pre-existing policies the data controller was able to combine personal data across some products and services, the new Privacy Policy was intended to make it clear that data could now be combined across all products and services. By way of example personal data collected through Youtube could now be combined with personal data collected through Google Search.
3. The new Privacy Policy was to apply equally to Google account users when they are signed in and out, and to users who do not have a Google account yet access the data controller's products and services. However the type and quantity of data collected would differ between these groups of users. It would also apply to individuals who are not directly accessing one of the data controller's products or services but whose data is nonetheless collected when they visit a website which uses a data controller

product or service as a third party, such as the data controller's advertising products and services. These latter individuals will hereafter be referred to as 'passive users'.

4. It was acknowledged that the data controller had taken steps to promote and highlight the changes made to the Privacy Policy, in particular, providing advance notice to users by email, on Google sites, and upon user log-in the month prior to launch. However, the all-encompassing nature of the new Privacy Policy for all products prompted concerns as to whether it would comply with the European Data Protection Directive and relevant national laws. One of the main concerns was whether the Privacy Policy would provide sufficient information so that service users could understand how their personal data was collected and used by the data controller and therefore compliance with the first data protection principle.
5. On 2 February 2012 the Article 29 Working Party ('WP29'), of which the Information Commissioner (the 'Commissioner') is a member, informed the data controller that it would be analysing the new Privacy Policy, and requested that the data controller delay the launch of the Privacy Policy whilst the analysis took place. This analysis was to determine whether the Privacy Policy was compliant with the European Data Protection Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data. The French data protection authority, the Commission Nationale de l'Informatique et des Libertés ('CNIL'), was tasked with conducting this investigation on behalf of WP29 with a view to ascertaining further details regarding Google's processing of personal data, and the transparency of the Privacy Policy.
6. The data controller launched the new Privacy Policy on 1 March 2012.
7. The WP29 continued to conduct its investigation and subsequently concluded that the new Privacy Policy was not compliant with the European Directive. A number of recommendations were then put to the data controller on 16 October 2012 by the WP29, with a deadline for compliance of 15 February 2013.
8. On 8 January 2013 the data controller requested a meeting with the WP29 to discuss the recommendations. This request was not accepted at the time and the WP29 agreed on 26 February 2013 to establish a taskforce. This taskforce was to comprise of representatives of the French, Spanish, Italian, German, Dutch, and UK data protection authorities. Its purpose was for the authorities in the taskforce to consider the Privacy Policy's compliance with their

respective national legislation, and take such action as they considered appropriate within the confines of their national legislation.

9. A meeting was then held on 19 March 2013 between representatives of the taskforce and the data controller. Subsequently the data controller set out some measures which it would implement further to the recommendations of the WP29.
10. In the UK, the Commissioner then considered the Privacy Policy's compliance with the Act. For this purpose the Commissioner considered not only the Privacy Policy but also the web content associated with it and in-product notices which the data controller utilises, together with the information which had been obtained as a result of the CNIL's earlier investigation on behalf of the WP29.
11. On 4 July 2013 the Commissioner's staff wrote to the data controller setting out that the Commissioner considered the Privacy Policy to not be compliant with the First and Second Data Protection Principles which are set out in Schedule 1 Part I to the Act. The focus of the Commissioner's concerns was that there was insufficient easily accessible information describing the ways in which, and purposes for which, service users' personal data is processed by the data controller.
12. In particular the Commissioner recommended that the data controller should do more to bring users' attention to processing which would not be within their reasonable expectations. When considering this point it was noted that some users will not have sufficient technical knowledge to fully appreciate the ways in which the data controller can obtain their data from their use of the data controller's products and services, how the data is combined, and how behavioural advertising on the internet operates. It was suggested that further examples of the processing would assist in this regard.
13. With respect to the descriptions of the purposes for which personal data is processed in the Privacy Policy the Commissioner considered that the descriptions were too vague, especially in relation to the improvement of services, development of new services and the potential combination of data across services. The Commissioner recommended that further information should be provided to users in order for the processing for these purposes to be made fair.

14. It was made clear in the 4 July letter that the Commissioner expected changes to be implemented by 20 September 2013, in line with steps being taken by some other data protection authorities.
15. Shortly thereafter the data controller approached the Commissioner to request a meeting to further understand the recommendations which had been made, and to discuss how the data controller could address these. The Commissioner's staff met the data controller. During the meeting the data controller explained that it would not be able to implement all changes by the 20 September 2013 deadline. The data controller explained that it did not believe it would be appropriate to make changes to the global Privacy Policy further to the Commissioner's recommendations, to then change it again to satisfy the requirements of each of the data protection authorities as and when each authority made its recommendations. The data controller therefore suggested a period of dialogue and engagement so that it could understand the various recommendations with a view to putting forward proposals which would address the concerns of all of the data protection authorities at the same time. The Commissioner accepted the reasons for this approach, and considered it to be in the interests of the users of the data controller's products and services as multiple changes to the Privacy Policy over a short period of time might confuse users further.
16. Once the data controller had received sufficient information from the various data protection authorities to enable it to put forward a potential solution, a proposal was made on 6 December 2013. The data controller proposed to:
 - Change the Privacy Policy and provide further notice to users by:
 - Developing an overlay to the Privacy Policy which would include clarifying examples to illustrate what the text of the Policy means in practice.
 - Providing a new section within the Privacy Policy with additional relevant information, including information about the data controller's use of cookies, by including links to existing information pages to increase the accessibility of the information.
 - Providing additional explanations of technical terms
 - Enhancing the navigation, structure and terminology on the Policies website.
 - Internally document its standards for in-product notices and consent flows on the data controller's sites.
 - Provide increased notice, information, and help for passive users.

- Promote the explanations for passive users with enhanced contracts with partners in connection with products such as AdSense, DoubleClick, and Google Analytics which would require publishers to disclose the data collection, sharing, and usage that takes place on their sites as a consequence of using Google products.
 - Help publishers meet the duties set out in the EU ePrivacy Directive concerning cookie information.
 - Internally document its cookie review and approval process.
 - Simplify, enhance and unify general user privacy controls.
 - Enhance its internal user data deletion policies.
17. These changes were to be implemented in two separate phases. The first set of changes, including the substantive changes to the Privacy Policy itself and the supporting web content, were to be implemented on the 31 March 2014, and the second on 30 June 2014.
18. Following these proposals the Commissioner considered whether they would address his concerns. The Commissioner considered that they would as long as sufficient information was provided, and this information was easily accessible. The Commissioner therefore continued to engage with the data controller and his staff met with the data controller's representatives shortly before the 31 March 2014 changes to provide feedback on the draft proposals.
19. The data controller then implemented the changes, as proposed, by the respective deadlines. The Commissioner has considered the changes which have been made and whether formal regulatory action would be appropriate in respect of the primary concerns which he had at the outset of the matter. An Enforcement Notice has been considered but in light of the changes which have been made, and the data controller's commitment to ongoing dialogue with the WP29 and the Commissioner with a view to further improvements to the Privacy Policy, the Commissioner does not believe such action to be appropriate or necessary in the circumstances.
20. However the Commissioner believes further improvements can still be made and so it is agreed that in consideration of the Commissioner not exercising his powers to serve an Enforcement Notice under section 40 of the Act, the data controller undertakes as follows:

The data controller shall, as from the date of this Undertaking and for a period of two years thereafter, implement (having regard to the fact that some measures have already been implemented) appropriate measures to:

- (1) Carry out the steps set out in Annex 1 with regards to the accessibility and content of the Privacy Policy and associated web content by 30 June 2015,**
- (2) Ensure that there is continued evaluation of the privacy impact of future changes to processing which might not be within the reasonable expectations of service users so that users are provided with prompt and adequate notice of such processing,**
- (3) Keep the content of the Privacy Policy and associated web content under review and take appropriate actions so that service users are informed as to the ways in which their personal data may be processed,**
- (4) Keep the overlay examples for the Privacy Policy under review to ensure that informative and relevant examples are always in use,**
- (5) Continue to ensure that any significant future changes to the Privacy Policy are reviewed by user experience specialists and with representative user groups before the policy and associated tools are launched as appropriate,**
- (6) Continue to pro-actively cooperate with the Commissioner and provide appropriate advance notice of any significant changes, and respond promptly to enquiries relating to the ways in which Google processes user data and its proposals for consequential changes to the Privacy Policy and supporting web content,**
- (7) Provide a report to the Commissioner by August 2015 setting out the steps which the data controller has taken in response to the commitments set out in this undertaking.**

In addition to these undertakings the data controller also commits to on-going dialogue and engagement with the Commissioner's Office.

Signed:

Kent Walker
Senior Vice-President and General Counsel
Google Inc

Dated:

Signed:

Christopher Graham
Information Commissioner

Dated:

ANNEX 1

- Google will enhance the accessibility of its Privacy Policy to ensure that users can easily find information about its privacy practices.
- Google will enhance the disclosures in its Privacy Policy to describe its data processing activities more clearly, including the types and purposes for which it processes user information, and to provide users with information to exercise their rights.
- Google will provide clear, unambiguous and comprehensive information regarding data processing, including an exhaustive list of the types of data processed by Google and the purposes for which data is processed.
- Google will provide information to enable individuals to exercise their rights.
- Google will provide user resource covering data processed by Google and the purposes of processing.
- Google will include two provisions of the Google Terms of Service, regarding the processing of email data and the shared endorsement feature, in the text of the Google Privacy Policy.
- Google will add more information to its Privacy Policy about the entities that may collect anonymous identifiers on Google properties and the purposes to which they put that data.
- Google will implement several measures to ensure that passive users are better informed about the processing of their data and that publishers using Google products obtain the necessary consents.
- Google will revise its Privacy Policy to avoid indistinct language where possible.
- Google will enhance its guidance for employees regarding notice and consent requirements.
- Google will ensure, so far as practicable, that the requirements of the first principle are applied equally to all Google products, regardless of which terminal device the Google user is accessing them on, including mobile, tablet, desktop, and new hardware offerings.

- Google has implemented a multi-layered approach to its Privacy Policy and will make additional changes to further enhance the layers.
- Google will launch a redesigned version of Account Settings, which will allow users to find a variety of controls and information more easily, and will more prominently feature the Dashboard at the top level.