

After completion of the investigation on the collection of personal data in Spain by Street View that started in May

The Spanish DPA (AEPD) opens infringement proceedings to Google for the collection of personal data from Wi-Fi networks for Street View

- **The opening of infringement proceedings comes after the finding of signs of the commission of two serious and three very serious violations of the Spanish Data Protection Act (LOPD) (attributable to Google Spain and Google Inc.) such as collection and storage of personal data without consent.**
- **It has been established that location data of WI-FI networks, with the identity of their owners, and personal data of various types included in payload such as email addresses -with names and surnames- , messages associated with those accounts and instant messaging services, or user codes and passwords, among others, have been collected.**
- **The existence of international transfers of data to the US by Google, without respect to the due process under the LOPD has also been established.**
- **The AEPD has forwarded to Court N ° 45 of Madrid the final inspection report and, in accordance with the Administrative Procedure law, has adjourned the processing of infringement proceedings pending the outcome of the Court.**

(Madrid, October 18, 2010). The Spanish Data Protection Agency (AEPD) has opened an infringement proceeding against Google after completing the preliminary inspection activities carried out since May on the collection and storage without consent of WI-FI networks location data, and of traffic data associated with them (payload) by the vehicles used to photograph streets of several Spanish cities, for the Street View application. Moreover, once the infringement proceeding is initiated, the AEPD has forwarded to the court the final inspection report, and according to the Administrative Procedure law, has adjourned the proceedings, pending the outcome of criminal proceedings in which the company is involved in the Court of Instruction No. 45 of Madrid.

The opening of an infringement proceeding by the Spanish Data Protection Agency follows the conclusion of the investigations carried out by the AEPD's inspection, which have revealed the presence of signs of the commission of a total of five violations -two serious and three very serious- of the Spanish Data Protection Act. Two of them are attributable to Google Inc. in its capacity as responsible for providing the service and designing the software that collects data for the Street View service. The other three

are attributable to Google Spain, in its role as responsible for collecting and storing data in Spain, and for transferring them to the United States, as well as for being the representative in Spain of the company.

Specifically, in the course of the investigations carried out by the Spanish DPA, it has been verified the collection and storage by Google vehicles of personal data of various types transmitted through open WI- FI networks. Between the typology of personal data transmitted through this WI- FI networks, the AEPD has established the collection and storage by Google of email addresses, with names and surnames, addresses associated to email messages or instant messaging; access to social network accounts and websites or user names and passwords with personal data identifying its owners and, in some cases, allowing access to special sensitive data, among others.

Furthermore, it has been established the collection by Google of location and identification data of the wireless networks, such as SSID, identifiers or names of the WI-FI network, that in some cases, contains the real name of the subscriber, and the MAC addresses- that identify the router and the connected devices and the geographic position in which they were collected.

In addition, it has been established the international transfer of personal data by Google to United States, without demonstrating the compliance of the guarantees provided by the Data Protection Act, that authorizes the international transfers.

In this regard, the decision starting the infringement proceedings charges each Google Spain and Google Inc with the commission of serious violations of the Organic Act 15/1999 – subject to fines from 60.101,21 € to 300.506,05 € each – due to the processing of personal data without the consent of the data subject, as well as very serious violations – subject to fines from 300.506,05 € to 601.012,10 € each – due to the collecting and processing of personal data with special protection when not covered by law or without the explicit consent of the data subject, as stated by the Data Protection Act. Also, Google Spain is charged with another very serious violation of the Organic Law - subject to fines from 300.506,05 € to 601.012,10 € - because of the international transfer of data to the United States of America without the guarantees foreseen by the Data Protection Act.

Stay of proceedings

By virtue of the section 7 of the Royal Decree 1398/1993, the Spanish Data Protection Agency has to adjourn the administrative proceedings because of the criminal proceedings started by the First-instance Court number 45 of Madrid.

Once finalised the criminal proceedings, the Spanish Data Protection Agency will resume the administrative proceedings in accordance with the legal procedural rules; in that sense, the affected entities will have a term for bringing pleadings or evidences, before the final resolution of the Authority deciding on the commission of the infringements and on their legal categorisation.