

ARTICLE 29 Data Protection Working Party



Brussels, 22 September 2014

Mr Satya Nadella, CEO
One Microsoft Way
Redmond, WA 98052-6399
USA

By e-mail: satyan@microsoft.com

Subject: Microsoft Service Agreement

Dear Mr Nadella,

Thank you for your response letters of 7 March and 29 April 2014 and the constructive collaboration regarding the review by the Article 29 Working Party of the Microsoft Service Agreement (“MSA”) and related documents.

The Working Party welcomes Microsoft’s plans to build a more user-friendly privacy architecture embedding a dashboard providing users with automatic tools to access their personal data and customize their privacy settings and control data combination between the different Microsoft services. The Working Party also welcomes Microsoft’s commitment to provide users with accurate information regarding the process of their data, from collection to storage and, in some cases, deletion.

Furthermore, the Working Party has taken notice that Microsoft has proactively reminded third-party publishers which use Microsoft advertising services of the need to obtain user consent for cookies on their websites and the need to provide prominent information about privacy settings and opt-out tools. The Working Party encourages Microsoft to pursue its efforts to make sure that third party websites embedding Microsoft targeted advertising comply with the requirements of EU data protection law and respect their contractual commitments.

In the context of the growing concern of users for the confidentiality of their personal data, the Working Party reminds Microsoft only to transfer users’ data to law enforcement authorities with a valid legal request and to ensure that there is a sound legal basis for all data transfers outside the EEA. In this context, the Working Party notes the MSA states that “Microsoft does not unilaterally send content that may violate applicable law to law enforcement authorities”, and that “Microsoft does send information about images that are

This Working Party was set up under Article 29 of Directive 95/46/EC. It is an independent European advisory body on data protection and privacy. Its tasks are described in Article 30 of Directive 95/46/EC and Article 15 of Directive 2002/58/EC.

The secretariat is provided by Directorate C (Fundamental rights and Union citizenship) of the European Commission, Directorate General Justice, Freedom and Security, B-1049 Brussels, Belgium, Office No MO59 02/34

Website: http://ec.europa.eu/justice_home/fsj/privacy/index_en.htm

determined to be child pornography to National Center for Missing and Exploited Children (NCMEC), which then determines whether to refer the data to law enforcement.”¹

Finally, the Working Party acknowledges Microsoft’s efforts to provide satisfactory answers to the recommendations made by European Data Protection authorities and has already noticed the implementation of many of its recommendations in the MSA’s contractual clauses of June 2014. The Working Party is aware that some of its recommendations require more time to be fully implemented. In particular, it appears necessary in our view to continue the discussion on the implementation of the working party’s recommendations concerning cookies and users’ consent, as mentioned in the Working Party’s opinion 2/2010 and working document 2/2013.

Yours sincerely,

On behalf of the Article 29 Working Party,

Isabelle FALQUE-PIERROTIN
Chairwoman

¹ Microsoft’s response to the Working Party’s questionnaire of 4 April 2013