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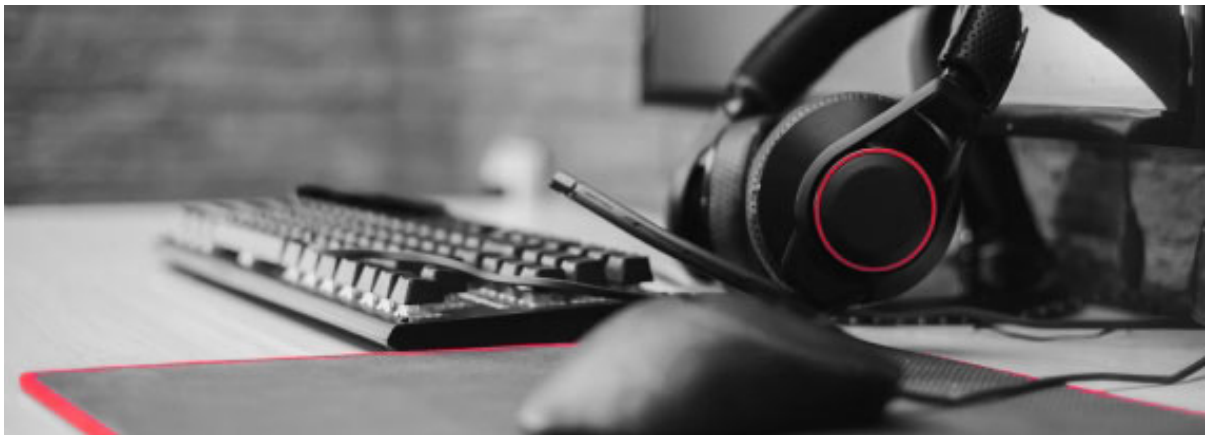

Privacy Ticker

October 2026

+++ EUROPEAN COMMISSION PRESENTS DRAFT KIDS ACT +++ FEDERAL COURT OF JUSTICE: SCHUFA REQUIRED TO PROVIDE INFORMATION ON CREDIT SCORES +++ REGIONAL COURT OF COLOGNE: SNAPCHAT MAY NOT USE AI CHATBOT DATA FOR ADVERTISING WITHOUT CONSENT +++ NORWAY: EUR 8.6 MILLION FINE AGAINST MICROSOFT SUBSIDIARY XANDR +++ EDPB: STATEMENT ON SMART GLASSES +++

1. Changes in legislation

+++ EUROPEAN COMMISSION PRESENTS DRAFT KIDS ACT +++

The European Commission has presented a draft regulation to better protect minors online. The so-called EU Kids Act provides,

in particular, for an EU-wide minimum age of 15 for the independent use of social networks. Children under 13 would generally be prohibited from using them. In addition, providers of social networks, video platforms and other digital services would be required to implement comprehensive protective measures. These include, in particular, privacy-friendly default settings, restrictions on manipulative and addictive features, and age-appropriate safety measures ("Safety by Design"). Age verification is to be carried out using data protection-compliant methods that process as little personal data as possible. The draft is currently undergoing the legislative process. Comments may be submitted until 26 November 2026.

To the press release of the European Commission (dated 2 October 2026)

To the draft regulation of the European Commission (dated 17 September 2026)

+++ GERMAN BUNDESTAG PASSES DIGITAL IDENTITY ACT +++

The German Bundestag passed the Digital Identity Act (DIdG) on 15 October 2026. The Act provides the legal basis for the introduction of the European Digital Identity Wallet (EUDI Wallet) in Germany. It is intended to enable citizens to store digital identity documents, such as identity cards or driving licences, on their smartphones and to identify themselves electronically to public authorities and private service providers. The German EUDI Wallet ("d-you") is scheduled to be available from January 2027, free of charge and on a voluntary basis. From a data protection

perspective, the aim is to strengthen informational self-determination in particular, as users will be able to decide for themselves which personal data they share with third parties. The EUDI Wallet is also intended to be subject to high data protection and data security requirements.

To the press release of the German Federal Government (dated 9 October 2026)

2. Case Law

+++ FEDERAL COURT OF JUSTICE: SCHUFA REQUIRED TO PROVIDE INFORMATION ON CREDIT SCORES +++

The Federal Court of Justice has clarified the requirements for claims for access against SCHUFA concerning the calculation of credit scores. The generation of a score may constitute automated decision-making within the meaning of Art. 22 GDPR and give rise to a right of access under Art. 15 (1) (h) GDPR. This requires that a company's decision whether to enter into or terminate a contract depends significantly on the score transmitted. Data subjects must, in principle, prove this, although substantial evidentiary relief should be available to them. In particular, if an adverse contractual decision is made shortly after a score has been transmitted, its decisive influence may be presumed. The court set aside four judgments of the Higher Regional Court of Dresden and referred the cases back because there were insufficient findings as to whether the respective contractual decisions had significantly affected the plaintiffs. If a right of

access exists, the information SCHUFA has provided to date is, in any event, insufficient.

To the press release of the BGH (dated 21 October 2026, I ZR 227/25 et al., in German)

+++ REGIONAL COURT OF FRANKFURT AM MAIN: 3D AERIAL IMAGES OF ENCLOSED PROPERTIES REQUIRE CONSENT +++

The Regional Court of Frankfurt am Main has ruled that property owners may generally prohibit the publication of three-dimensional aerial images of their enclosed property without their consent. The case concerned the depiction of the plaintiff's home and property as an interactive 3D model in Google Earth and Google Maps. The models were based on aerial and satellite images that also showed parts of the property not visible from the street. The plaintiff sought injunctive relief and deletion of the relevant depictions. The court upheld the claim. The right to privacy covered the entire enclosed property insofar as it was shielded from public view. Particular weight was attached to the fact that the images had been obtained during unannounced flyovers. The affected data subject was effectively unable to protect their property from such recording. Moreover, the collected data could be linked with other sources, allowing conclusions to be drawn about lifestyle and security aspects.

To the judgment of the Regional Court of Frankfurt am Main (dated 24 September 2026, 2-03 O 388/25, in German)

+++ REGIONAL COURT OF COLOGNE: SNAPCHAT MAY NOT USE AI CHATBOT DATA FOR ADVERTISING WITHOUT CONSENT +++

The Regional Court of Cologne has decided that Snapchat may not use user data entered into its AI chatbot "My AI" for advertising purposes without explicit consent. The Federation of German Consumer Organizations ("Verbraucherzentrale Bundesverband") had filed a lawsuit against Snap Group Limited, London. According to the court, the use of the chatbot typically involves the processing of sensitive personal data within the meaning of Art. 9 (1) GDPR, as users are expressly encouraged to share personal information. Art. 9 GDPR applies regardless of whether the controller specifically intends to collect sensitive data. Since no explicit consent had been obtained and no other exception applied, the data processing was unlawful. Moreover, the pre-ticked boxes for advertising preferences did not meet the requirements for valid consent, while the pre-selection of the "Alcohol" and "Gambling" categories for underage users also violated youth protection and gambling regulations.

To the judgment of the Regional Court of Cologne (dated 17 September 2026, 33 O 120/24, in German)

+++ ADMINISTRATIVE COURT OF BERLIN: RIGHT OF ACCESS MAY ALSO COVER HANDWRITTEN NOTES +++

The Administrative Court of Berlin has ruled that handwritten notes may also constitute personal data. In the underlying case, the plaintiff, a lawyer, challenged a notice issued by the defendant data protection authority. She had taken handwritten notes on a

case in the course of her legal work and had responded to the data subject's access request under Art. 15 GDPR only after the one-month deadline had expired. She argued that the notes had not been digitized and were therefore not subject to a duty to provide access. The court clarified, however, that handwritten information may constitute personal data if it can be attributed to an identifiable person. An explicit mention of a name is not required for this. The court therefore upheld the notice issued by the Berlin data protection authority because of the delayed response to the access request. However, the court did not address whether the notes also met the requirements of Art. 2 (1) GDPR. Under that provision, non-automated processing of personal data is subject to the GDPR only if the data forms part of a filing system or is intended to form part of one.

To the judgment of the Administrative Court of Berlin (dated 29 June 2026, 42 K 24/25, in German)

3. Regulatory Investigations and Enforcement Actions

+++ NORWAY: EUR 8.6 MILLION FINE AGAINST MICROSOFT SUBSIDIARY XANDR +++

The Norwegian data protection authority Datatilsynet has imposed a fine of NOK 92 million (approx. EUR 8.6 million) on advertising technology company Xandr, now part of Microsoft. Xandr had shared personal data of users of the dating app Grindr with potentially thousands of companies as part of automated real-time

auctions for personalized advertising (real-time bidding). The data allowed inferences to be drawn about users' sexual orientation and therefore required particular protection. In the authority's view, valid consent from the data subjects was lacking. Xandr had relied on Grindr having obtained the relevant consent without verifying its validity itself. The authority found Xandr and Grindr to be joint controllers and emphasized that companies cannot transfer their responsibility under data protection law to other parties involved.

To the press release of Datatilsynet (dated 12 October 2026)

+++ ITALY: EUR 7 MILLION FINE FOR UNLAWFUL PROCESSING OF HEALTH DATA +++

The Italian data protection authority Garante per la Protezione dei Dati Personali (GPDP) has imposed a fine of EUR 7 million on health data analytics company IQVIA Solutions Italy S.r.l. The company had created a database containing health data of around one million patients from 800 medical practices for research purposes. Contrary to IQVIA's assessment, the data was not anonymized, as patients could potentially be identified by means of individual identifiers and other information. The GPDP considered that there was no appropriate legal basis for the processing. Moreover, patients had not been adequately informed, no retention periods had been defined, and neither appropriate security measures nor a data protection impact assessment had been carried out. IQVIA must bring its data processing into compliance with the GDPR within 120 days if it wishes to continue it.

To the EDPB press release (dated 9 October 2026)

To the GPDP press release (dated 2 October 2026, in Italian)

4. Opinions

+++ EDPB: STATEMENT ON SMART GLASSES +++

The European Data Protection Board (EDPB) has published a statement on the data protection risks associated with smart glasses (see also Privacy Ticker September 2026). Equipped with cameras, microphones and, in some cases, AI functions, these glasses allow the collection of personal data in a way that is barely noticeable to third parties. The EDPB emphasizes that the GDPR generally applies to the use of smart glasses as well, unless an exemption, such as for purely personal activities, applies. Depending on the processing, users, manufacturers and service providers may all qualify as controllers. The EDPB identifies transparency and the lawfulness of data processing as particular challenges. It therefore recommends clearly visible recording indicators, privacy-friendly default settings and limits on data collection. The EDPB takes a particularly critical view of the further processing of collected data for commercial purposes or AI training.

To EDPB Statement 1/2026 (dated 13 October 2026)

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