

## GPEN Alert

### A Secure Information-Sharing System for the Global Privacy Enforcement Network

In June 2007, the Organization for Economic Cooperation and Development (OECD) adopted a Recommendation on Cross-border Cooperation in the Enforcement of Laws Protecting Privacy (Recommendation). The Recommendation provided that “[m]ember countries should

In any case, it remains to each member authority to decide what information they will input, share, and access via GPEN Alert according to their own domestic regimes.

When adding information to GPEN Alert, a member authority is able to select whether all other members or a specified subset of members can view the information by selecting from a list of member authorities and other groupings to be implemented (“International Conference members,” “APEC CPEA Members” etc...).

Specifically, GPEN Alert members may use this secure tool to (1) alert other members about investigations and law enforcement matters and (2) find out whether other members are investigating or taking enforcement actions against the same company, person or practices. Information may be contributed and accessed only by GPEN member authorities that have

# MULTILATERAL MEMORANDUM OF UNDERSTANDING FOR PARTICIPATION IN THE “GPEN ALERT” SYSTEM

## Preamble

The signatories of this Memorandum of Understanding (“MOU”),

RECOGNISING that modern commerce and communications increasingly rely on the seamless flow of personal information across borders, and that these global data flows occur across jurisdictions having a wide diversity of privacy laws and enforcement arrangements;

RECOGNISING the challenges posed by cross-border flows of personal data;

RECOGNISING the desirability of more effective cross-border enforcement of privacy and data security laws and regulations;

RECOGNISING the desirability of enhancing confidence in cross-border data flows, and of preventing harm that can result from privacy and data security violations;

RECOGNISING that GPEN was created to strengthen personal privacy protections in this global context by assisting public authorities with responsibilities for enforcing domestic privacy laws to strengthen their capacities for cross-border cooperation;

RECOGNISING that other international organizations and networks, such as the OECD, the International Conference of Data Protection and Privacy Commissioners, and several regional networks have called for and taken practical steps to improve international privacy enforcement cooperation;

RECOGNISING that the International Conference of Data Protection and Privacy Commissioners has called for the development of an international secure information platform that offers a “safe space” for privacy enforcement authorities to share confidential information and to facilitate the initiation and conduct of coordinated enforcement action;

RECOGNISING that this Memorandum of Understanding does not impose legal commitments on the Participants, and that nothing in this Memorandum of Understanding requires Participants to participate or provide support in a manner inconsistent with their respective national laws, law enforcement policies, or other important interests, or to cooperate or share information with any other Participant in this Memorandum of Understanding on any given matter,

HAVE REACHED THE FOLLOWING UNDERSTANDING:

### 1. Definitions

This MOU uses the following definitions:

- A. “Participant(s)” refers to GPEN members that are signatories to this MOU, and may also include former Participants with respect to continuing confidentiality and data security commitments.
- B. “Specified Participant(s)” refers to one or more Participants that have been granted access to view contributed GPEN Alert Information by the Participant that contributed the information.
- C. “Consumer Sentinel Network” or “CSN” refers to a secure, non-public, online database maintained by the U.S. Federal Trade Commission (“FTC”) that stores consumer complaint data and other investigatory information provided by consumers, participating law enforcement agencies, and other contributors about consumer fraud and deception.
- D. “GPEN Alert” refers to the secure online information-sharing tool operated and maintained by the FTC built onto the CSN platform as a separate service for GPEN members that have signed this Memorandum of Understanding.
- E. “GPEN Committee” refers to the GPEN Committee designated under the GPEN Action Plan.
- F. “Joint Oversight Panel” or “JOP” refers to a three-Participant panel (that includes the FTC as the operator of CSN and GPEN Alert) that assists the FTC with the implementation and operation of GPEN Alert system and that performs the functions set out in paragraph 6 of this MOU.
- G. “Privacy Enforcement Authority” refers to a public privacy enforcement authority that: (1) is responsible for enforcing laws or regulations the enforcement of which has the effect of protecting personal data; and (2) is empowered to conduct investigations or pursue enforcement proceedings.
- H. “GPEN Alert Information” refers to information contributed by Participants that identifies the targets and subject matters of their ongoing or anticipated investigations or enforcement actions, including the existence of such investigations, to facilitate coordination and cooperation with other Participants that are interested in the same targets.

## 2. Purpose and Use

This MOU is entered into by the Participants for the purpose of facilitating the confidential exchange of information through GPEN Alert relating to ongoing or anticipated investigations or enforcement matters that have cross-border aspects, so that Participants can coordinate and cooperate with one another where desired, appropriate and permitted by their respective domestic laws.

3. Access to GPEN Alert Information

Participants intend for GPEN Alert Information to be available only to other Participants

where practicable and appropriate.

## 5. Scope of Participation

and publicize these recommendations via the GPEN Committee.

- D. Perform any other functions related to GPEN Alert as requested by the Participants or by the GPEN Committee.

#### 7. Hosting GPEN Alert

The FTC is to use best efforts to:

- A. host and maintain GPEN Alert as a separate part of the FTC's CSN;
- B. make GPEN Alert available to Participants consistent with the data security and safeguards requirements, and the decisions of the GPEN Committee and the Joint Oversight Panel, as outlined in this MOU; and
- C. delete GPEN Alert Information that is more than one year old unless it has been removed or renewed by the providing Participant.

#### 8. Duration of Participation

Participants intend to provide 60 days written notice to the JOP if they are ending their participation under this MOU. If a Participant ends their participation in this MOU, the Participant is to continue to maintain the confidentiality of any GPEN Alert information in its possession or control in accordance with Paragraph 4 and the data security and safeguards requirements.

#### 9. Legal Effect

This MOU and its Appendix do not create any legally binding obligations by or amongst the Participants. In Particular, nothing in this MOU or its Appendix creates an obligation for Participants to provide information or cooperate in particular cases or with any particular other Participant. Participation pursuant to this MOU remains subject to the domestic laws and international obligations applicable to Participants. Any investigatory and enforcement cooperation following information sharing and coordination through GPEN Alert is subject to the applicable laws in the jurisdictions involved and any other arrangements between or amongst the cooperating Participants.

This MOU is not intended to create any rights on the part of any private person.

SIGNATURE PAGE FOR THE  
MULTILATERAL MEMORANDUM OF UNDERSTANDING FOR PARTICIPATION  
IN THE "GPEN ALERT" SYSTEM

Members of GPEN may become Participants in GPEN Alert by signing this MOU.

Signed:

Date:

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\_\_\_\_\_

Name:

Title:

Signed:

Date:

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\_\_\_\_\_

Name:

Title:

Signed:

Date:

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Name:

Title:



## APPENDIX

### GPEN Alert User Account Operating Costs

GPEN Alert is built on the secure infrastructure, user interface, and authentication of the Consumer Sentinel Network (CSN) platform. Access to CSN is strictly controlled and uses unique user names, passwords, multifactor login authentication, approved IP address ranges, and security safeguards that the FTC has determined are necessary to ensure the confidentiality and security of the system and its data.

Participants understand that to provide this secure infrastructure:

1. Participant staff members can access GPEN Alert with individual accounts that use multifactor authentication.
2. Participants are to reimburse the FTC