

Google Inc.  
CEO Larry Page  
1600 Amphitheatre Parkway  
Mountain View, California, 94043  
U.S.A.

Paris, **16 MARS 2012**

N/Réf : IFP/BPS/CE121169

Mr. Page,

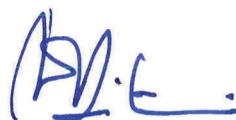
The CNIL was invited by the Article 29 Working Party to take the lead in the analysis of Google's new privacy policy, which took effect on 1 March 2012. The CNIL deeply regrets that Google did not delay the application of the new policy, despite the first conclusions of our analysis regarding its compliance with the European data protection legislation.

As announced in our letter dated 27 February 2012, we have prepared a list of detailed questions, which is annexed to this letter. These questions have been prepared with the cooperation of all European DPAs. They reflect the need for legal clarifications on your new privacy policy and in particular on the sharing of user data across Google services. They also highlight the difficulties end users may face when trying to understand how Google uses their data.

Your letter dated 28 February 2012 mentions that Google is keen to answer our concerns and cooperate with European data protection authorities. Therefore, we encourage you to provide detailed and specific answers to each question. We appreciate your offer to meet with the Article 29 Working party to address concerns of data protection authorities. However, a hearing would be premature at this stage of the process. It is necessary that we receive written responses to our questionnaire before we can reconsider this request.

We would be happy to receive these responses by April 5, 2012. Although we will publish this letter and its annex on our website, please note that your responses will be treated confidentially and will only be shared among data protection authorities within the Article 29 working party. They will not be published unless you explicitly authorize us to do so.

Yours sincerely,



Isabelle FALQUE-PIERROTIN

# Questionnaire to Google

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## 1. Definitions

The following terms will be used for the purpose of this questionnaire:

- a) *“Google service”*: any service operated by Google that interacts with users and/or their terminal equipment through a network, such as Google Search, Google+, Youtube, Analytics, DoubleClick, +1, Google Location Services and Google Android based software.
- b) *“personal data”*: any information relating to an identified or identifiable natural person, as defined in article 2(a) of Directive 95/46/EC, taking into account the clarifications provided in recital 26 of the same Directive.
- c) *“processing”*: the processing of personal data as defined in article 2(b) of Directive 95/46/EC.
- d) *“Sensitive data”*: any type of data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, or data concerning health or sex life, as defined in article 8(1) of Directive 95/46/EC (*“special categories of data”*).
- e) *“new privacy policy”*: Google’s new privacy policy which took effect on 1 March 2012.
- f) *“non-authenticated user”*: a user accessing a Google service without signing in to a Google account, as opposed to an *“authenticated user”*.
- g) *“passive user”*: a user who does not directly request a Google service but from whom data is still collected, typically through third party ad platforms, analytics or +1 buttons.
- h) *“consent”*: any freely given specific and informed indication of the data subjects wishes by which he signifies his agreement to personal data relating to him being processed, as defined in article 2 (h) of Directive 95/46/EC.

## 2. The transition to the new privacy policy

QUESTION 1. Please indicate if Google implemented a process to answer questions from users since the announcement of the new privacy policy on January 24, 2012.

QUESTION 2. Please provide the approximate number of complaints/demands/questions addressed to Google following the announcement of the new privacy policy in January 2012.

QUESTION 3.

A) Please provide the number of unique visitors that visited Google’s dedicated privacy main site (<http://www.google.com/intl/en/policies/> and localized versions).

B) Please compare it to the total unique visitors of Google’s websites.

C) Please provide the same figure for the previous change in October 2010.

## 3. Services and collected data

QUESTION 4. Google’s privacy policy uses various terms such as *“information”*, *“personal information”* and *“personally identifiable information”*. Please confirm that for the purpose of the new privacy policy, they should be understood by end users as all equivalent to *“personal data”* (as referred in the introductory definitions of this questionnaire).

QUESTION 5.

A) Please provide the complete list of Google's processings and services covered by the new privacy policy.

B) Please also indicate for each processing if it corresponds to a particular Google service (for instance, a processing related to security may cover several or all services).

QUESTION 6. For the following categories of data please detail the service(s) in which such data is processed and the purpose(s) of this processing:

A) "credit card data",

B) "device-specific information",

C) "telephony log information",

D) "location information",

E) "unique device identifiers".

QUESTION 7. The new privacy policy describes a list of *"Information that we get from your use of our services"* and includes in this description *"Device information"*, *"Log information"*, *"Location information"*, *"Unique application numbers"*, and *"Cookies and anonymous identifiers"*. Please indicate if this list is comprehensive or if Google may collect additional data related to the user's use of its services.

QUESTION 8. The new policy states: *"We may use the name you provide for your Google Profile across all of the services we offer that require a Google Account. In addition, we may replace past names associated with your Google Account so that you are represented consistently across all our services."*

A) If a user does not have a Google Profile, please confirm that the user is not concerned by these sentences or detail how he may be affected.

B) Please confirm that all users can delete their Google Profile.

C) Please indicate the list of services that are not available without a Google Profile.

QUESTION 9. The new privacy policy states: *"We require opt-in consent for the sharing of any [sensitive personal information](#)."*

A) Please describe when, how and in which services *sensitive data* may be collected by Google.

B) Please provide the purposes of such collection.

C) Please confirm that Google defines « sensitive data » as referred in the introductory definitions of this questionnaire.

QUESTION 10. Please describe how and in which cases *"opt-in consent"* is (or will be) collected for the sharing of sensitive data.

QUESTION 11. Google does not mention face recognition in its new privacy policy. Does this mean that Google does not use facial recognition processings or that a specific policy will apply for such processing. In this case, will Google ask users for prior explicit consent before applying face recognition to pictures or other material uploaded by users (for example a picture used for a Google account, or pictures uploaded to Google+ representing the user or third parties)?

QUESTION 12. The use of many Google services results in the creation of a PREF cookie, such as in the following example:

**PREF**=ID=3a391cb61c62dbb1:TM=1331203931:LM=1331203931:S=ZRtXLvbm7vQc3jbR;  
expires=Sat, 08 Mar 2014 10:52:12 GMT; path=/; domain=.google.com

A) Please confirm that the use of most online Google services (and especially services in the google.com domain) will result in the storage and access to a cookie called “PREF” in the user’s terminal equipment for each interaction with the service (typically any http request) and that this cookie is not modified when logging in or out to one or several Google accounts.

B) Please indicate when, how and for which purposes information collected with this cookie is used.

C) Please detail the role of the “ID” component in this cookie.

## 4. Purposes

QUESTION 13.

A) Please indicate which categories of personal data are used to *“improve the services and develop new services”*.

B) Please indicate if Google uses sampling techniques and anonymisation/pseudonymisation processes for these purposes. If so, please provide the methods Google is using.

QUESTION 14. Please provide examples of information Google collects and uses for the purposes of *“protecting Google and its users”*.

QUESTION 15. Google indicates that it will also use *“information to offer the user tailored content – like giving the user more relevant search results and ads”*. Besides search results and ads, please be more specific about the different types of tailored content Google provides to the user.

QUESTION 16. Please provide the list of Google services that collect information from users for the purpose of providing *“more relevant search results”* to the user.

QUESTION 17. Please provide the list of Google services that collect information from users for the purpose of providing *“more relevant ads”* to the user.

QUESTION 18. Please detail how Google plans to collect user consent *“before using information for a purpose other than those that are set out in this Privacy Policy”*.

## 5. Data retention

QUESTION 19.

A) Please explain why Google *“may not remove information from [...] backup systems”*, when the user asks for its deletion.

B) Please clarify if this means that data will actually be deleted from all backups after an additional period of time or not.

C) Please provide an upper bound on the additional retention period needed to delete data from all backups.

QUESTION 20. Google’s *privacy FAQ* indicates that Google anonymizes IP addresses after 9 months and cookies after 18 months for its search engine service. For other services, please provide the maximum retention periods that are applicable to data regarding *“non-authenticated users”* and

“passive users”, including IP addresses, cookies and any other types of data. Please distinguish according to the different types of services.

QUESTION 21. Please provide the maximum additional retention period for data deleted by authenticated users, following content withdrawal, service un-subscription and full account deletion.

## 6. Rights & consent

QUESTION 22.

A) What does the sentence “We will not reduce your rights under this Privacy Policy without your explicit consent” mean? Please provide examples of reduction of rights that would require explicit consent according to Google’s privacy policy.

B) In this respect, Google removed the sentence “we may give you the opportunity to opt out of combining such information”, which appeared in the previous version of the privacy policy. Do you consider that *the fact Google no longer gives the opportunity to opt-out of combining such information* constitutes a reduction of the user’s rights?

QUESTION 23. With regards to the previous question, how does Google plan to obtain “explicit” consent from users and in what circumstances? Please distinguish between users with a Google account and users not signed in or who do not have a Google account.

QUESTION 24. Does Google consider that the users who had a Google account before 1 March 2012 and who continue to use Google’s services after March 1<sup>st</sup> thereby express consent to the new privacy policy?

QUESTION 25. What does Google mean by “*personally identifiable information*” in the sentence “*we will not combine DoubleClick cookie information with personally identifiable information unless we have your opt-in consent*”? Does this “*personally identifiable information*” include the following data collected by Google when using Google services:

- A) IP-addresses and/or
- B) unique device identifiers and/or
- C) telephone numbers and/or
- D) geolocation data

QUESTION 26. In the new privacy policy, Google defines “*non-personally identifiable information*” as “*information that is recorded about users so that it no longer reflects or references an individually identifiable user*”.

A) Please provide examples of such information.

B) Please specify if this only refers to IP-addresses of which the last octet is deleted, or also to other data?

## 7. Google terms of service versus the new privacy policy

QUESTION 27. Google’s terms of service indicate that “*When you upload or otherwise submit content to our Services, you give Google (and those we work with) a worldwide license to use, host, store, reproduce, modify, create derivative works [...], communicate, publish, publicly perform, publicly display and distribute such content*”.

A) Please indicate how these terms of service apply to personal data uploaded by users on Google's services, and in particular to:

- posts on Google+,
- photos in Picasa,
- videos on Youtube
- documents in Google Docs.

B) Please indicate in what circumstances the terms of service take prevalence over the privacy policy regarding contents that are personal data.

QUESTION 28. The previous version of the terms of use contained a section indicating that *"Some of the Services are supported by advertising revenue and may display advertisements and promotions. These advertisements may be targeted to the content of information stored on the Services, queries made through the Services or other information"*. Why did Google delete this section about ads targeted to content of information?

## **8. Legitimacy of data connection between services**

### **Perimeter**

QUESTION 29. Please confirm that the combination of data across services only applies to data from authenticated users. In particular, can you confirm that data collected in Search, Maps, Youtube and News will not be combined for a non-authenticated user?

QUESTION 30. Will all of the personal data Google collects about users be combined into a single user profile? Or will some types of data be kept separately in service specific distinct profiles?

QUESTION 31.

- a) Please confirm that advertising services will use personal data combined across several services.
- b) Please indicate which personal data from other services are used by advertising services.

QUESTION 32. Please provide the legal basis for the combination of data across different services, with respect to article 7 of the Data Protection Directive (95/46/CE).

QUESTION 33.

- A) Please indicate what Google considers as a contract with the user.
- B) Please indicate if the combination of data across services is necessary to perform elements of the contract (in relation with article 7(b) of Directive 95/46/EC).
- C) Please detail such elements of a contract.

QUESTION 34. Please provide for which legitimate interest(s) Google may combine data across services (in relation with article 7(f) of Directive 95/46/EC). Please detail to which type of data this is applicable.

QUESTION 35. How does Google avoid (through technical/organizational measures) that, by combining data from different services, personal data that are provided by users become publicly available or shared with public services for a purpose for which they had not been provided to Google (for instance in another service than the one in which the user provided the data)?

QUESTION 36.

- A) Please indicate if turning Web History off will stop Google from using the collected search data in other Google services (including ads).

B) In this regard, please detail if tailored search results and ads may still be proposed based on previous searches and clicks on results if Web History is turned off.

C) Please also describe if turning Web History off or on has an impact on the management of the “PREF” cookie (see Question 12).

QUESTION 37. Similarly, please indicate if turning Youtube History off will stop Google from using the collected history data in other Google services (including ads).

QUESTION 38. Please indicate what is the purpose of the current automatic http request sent to youtube.com (which results in the setting of a cookie) when a user logs in or out of a Google Account.

QUESTION 39. Please confirm that existing independent Youtube accounts have automatically been transformed in Google Accounts on 1 March 2012.

QUESTION 40.

A) Please indicate if Google may combine data from different Google accounts related to distinct users who share the same computer (and the same browser), for example in a family environment.

B) If yes, please detail how this combination operates, its purposes and the conditions of the processing (retention period, access rights, etc.).

QUESTION 41.

A) Please indicate if Google may combine data from the use of authenticated services (e.g. Gmail) and from the use of non-authenticated services (e.g. Maps) on the same browser/computer.

B) If yes, please detail how this combination operates, its purposes and the conditions of the processing (retention period, access rights, etc.).

### **Consent and right to oppose: general rules**

QUESTION 42. Please explain why the sentence *“For certain services, we may give you the opportunity to opt out of combining such information”*, which was present in the previous version of the privacy policy published in October 2011, has been removed from the new privacy policy.

QUESTION 43. Please confirm that authenticated users cannot fully opt-out or oppose to the combination of data across services through a one step centralized process.

QUESTION 44. Please confirm that the combination of data across services automatically applies to users that have created their Google Account before March 1st, 2012, without any specific consent from the user.

QUESTION 45. Please list all possible means the user can use to permanently oppose or opt-out to combination of data across Google services, detailing what data and what services these mechanisms apply to.

QUESTION 46. Please detail how users are informed about this combination of data across services (e.g. in the process of account creation, upon login, at first launch of a new service, during the use of the services themselves).

QUESTION 47. Concerning Google Apps, which is offered in several versions, including a “free” version, a “business” version and an “education” version:

A) Please indicate any specific rules that apply to the combination of data for Google Apps end users who are employed by companies, public agencies and education establishments.

B) Please provide specific distinctions that may apply to different versions of Google Apps, if any exist.

QUESTION 48. When a user creates a new Google account with a Gmail address, his data is automatically connected with several services by default (including Google+ and Picasa). Please indicate the full list of services the user's personal data are connected to after the creation of a new Google account (including advertising services).

QUESTION 49. Please list Google's services an authenticated user can unsubscribe independently from others (after having used them at least once).

## **Cookies**

QUESTION 50. Please indicate which of Google's cookies are '*strictly necessary*' to provide a service '*explicitly requested*' by the user and explain why. In particular, please indicate the status of the "PREF" cookie and of the DoubleClick cookie in this regard.

QUESTION 51. Please indicate how Google informs users and collects consent for cookies that are not '*strictly necessary*' to provide a service '*explicitly requested*' by the user, in compliance with article 5(3) of the revised ePrivacy Directive (2002/58/CE).

## **Advertisement**

The following table sums up our interpretation of the different kinds of personalized advertising of Google and the means to opt-out for authenticated, non-authenticated users, and passive users. The table has been constituted in reference mainly to the following pages:

<https://www.google.com/intl/en/policies/privacy/ads/>,

<http://support.google.com/websearch/bin/answer.py?hl=en&answer=1634057>,

<http://support.google.com/websearch/bin/answer.py?hl=en&answer=1668840>,

<https://plus.google.com/+1/personalization>,

[http://www.youtube.com/static?hl=en&template=interest\\_based\\_ads](http://www.youtube.com/static?hl=en&template=interest_based_ads)



Passive users		Non-authenticated users		Authenticated users	
Available	Opt-out possible	Available	Opt-out possible	Available	Opt-out possible

Through Google Search						
Ads based on the content and the query	N/A	N/A	X	X (1)	X	X (1)
Ads based on previous queries	N/A	N/A	X	? (1)	X	? (1)(3)
Ads based on clicks on previous ads	N/A	N/A	X	? (1)	X	? (1)
Ads based on location	N/A	N/A	X	? (1)	X	X (1)
Ads based on Web History	N/A	N/A	N/A	N/A	X	X (3)
Ads based on visit on others sites	N/A	N/A	X (in some countries (10))	X (to be confirmed) (1)	X (in some countries (10))	X (to be confirmed) (1)
Ads based on “information you tell us”	?	?	?	?	?	?
Other personalization	N/A	N/A	?	?	?	?

Through Google Gmail						
Ads based on email content	N/A	N/A	N/A	N/A	X	X (1)
Ads based on other emails	N/A	N/A	N/A	N/A	X	X (1)
Other personalization	N/A	N/A	N/A	N/A	X	? (1)

Through Youtube						
Other personalization than DoubleClick	?	?	?	?	?	?

On the Web through Google Ad networks						
Ads based on content of the page	X	?	X	?	X	?
Ads based on navigation history (targeted ads)	X	X (5) (6)	X	X (2) (5) (6)	X	X (2) (4) (5) (6)
Ads from third parties	X	X (7)	X	X (7)	X	X (4) (7)
Ads based on ‘+1’	N/A	N/A	N/A	N/A	X (only for G+ users)	X (8)

Mobile applications (AdSense and AdMob)						
Ads based on installed apps	X	X (for Android and iOS only) (9)	X	X (for Android and iOS only) (9)	X	X (for Android and iOS only) (9)
Other personalization	?	?	?	?	?	?

- (1): <http://www.google.com/settings/ads/preferences/?hl=en#optout>
- (2): [http://www.google.com/settings/ads/onweb/?hl=en#display\\_optout](http://www.google.com/settings/ads/onweb/?hl=en#display_optout)
- (3): Deactivation of Web History: <https://www.google.com/history/>
- (4): The opt-out of targeted ads on the web is not linked to the Google account (DoubleClick cookie)
- (5): Google offers a plug-in to permanently remember the opt-out, for Firefox and Internet Explorer
- (6): Refusing third party cookies also permanently deactivate the DoubleClick cookie (Chrome and Safari)
- (7): Opt-out through Network Advertising Initiative: [http://www.networkadvertising.org/managing/opt\\_out.asp](http://www.networkadvertising.org/managing/opt_out.asp)
- (8): Delete Google+ account or here: <https://plus.google.com/+1/personalization>
- (9): <http://www.google.com/intl/en/privacy/ads/apps.html>
- (10): <http://support.google.com/websearch/bin/answer.py?hl=en&answer=1634057>

QUESTION 52. Please confirm or complete/modify the content of the table above regarding advertising. In particular, please detail any other personalization of the ads that may happen in Search, on the web or on mobile phones.

QUESTION 53. Please specify how Google collects “*opt-in consent*” to combine DoubleClick cookie information with personally identifiable information?

QUESTION 54.

A) Please provide the list of cookies and other tools (such as pixel tags) that are used for advertising purposes.

B) “Fingerprinting” allows a website owner to identify a specific browser instance by using various information about the browser, such as screen size, IP address, User Agent, fonts and extensions, etc. without storing data like cookies. Please indicate if Google uses “fingerprinting” techniques . to identify individual browsers.

C) Furthermore, if the cookie named PREF is used for advertising purposes (see Question 12) please indicate if it can be combined with personal data (for example the location of the user or the date of birth)?

QUESTION 55. Please indicate when an opt-out prevents the collection of data and when it prevents only the display of personalized advertising for the following opt-out procedures:

- A) Ad Preferences Manager for Search,
- B) Ads Preferences Manager on the web,
- C) Web History,
- D) Youtube History,
- E) Third-party advertisers,
- E) +1,
- F) Mobile.

QUESTION 56.

A) Please indicate if the new privacy policy applies to data gathered by Google Analytics.

B) Please indicate if Google combines information gathered through Google Analytics with information related to users (authenticated, non-authenticated or passive) gathered through other services, notably to provide tailored content.

QUESTION 57.

A) When data controllers using Google Analytics enable “*sharing Google Analytics data with other Google products*” please indicate how you provide reasonable guaranties that end users are informed of this data sharing.

B) Please specify the default state of the ‘data sharing’ option in Google Analytics.

## Browser settings

QUESTION 58. Does Google recognize browser settings as a valid option for users to express their preference regarding tracking and privacy?

QUESTION 59. In what circumstances does Google consider it legitimate to circumvent browser enabled third party cookie blocking?

QUESTION 60. In what circumstances does Google consider it legitimate to circumvent P3P browser settings?

## Mobile platforms

Mobile devices such as smartphones contain personal data like contact lists, phone numbers, unique mobile device identifiers, SMS and location data, which may be accessible by mobile applications in some circumstances.

QUESTION 61. Please clarify how an Android user is informed that creating a Google Account is optional to use its device.

QUESTION 62.

A) Does the new privacy policy apply to personal data stored in mobile devices and accessible to Google Mobile Applications?

B) On mobile platforms, please specify if a distinction is made between authenticated users, non-authenticated users and passive users.

QUESTION 63. Please indicate how Google Services inform users and request consent before accessing data stored in a mobile device (such as contact lists, phone numbers, SMS, unique mobile device identifiers and location data), having regard to article 5(3) of the revised ePrivacy Directive (2002/58/CE).

QUESTION 64. This question attempts to clarify the nature of the relationship between the “*device identifier*” (hereafter referred as “*real device identifier*” for clarity) and the “*anonymous device identifier*” described in the Google privacy FAQ.

In the Google privacy FAQ, it is indicated that if Google receives a *real device identifier*, an *anonymous device identifier* is created and associated with the user’s device. Please indicate if the *real device identifier* is transmitted to Google over the network or if the computation of the *anonymous device identifier* is done by the application in the user’s terminal without a transmission of the *real device identifier* outside the phone, to Google.

## 9. Information

QUESTION 65. Please provide, for each service/processing, the list of documents and other information means (such as pop-ups, banners, etc.) that Google offers to inform the user about the identity of the data controller, the purposes, the categories of data, the recipients and the access rights for this particular services/processing. Please distinguish between passive, authenticated and non-authenticated users where applicable.

QUESTION 66. In particular, describe for each service/processing any specific information that is delivered to authenticated users when they use the service/processing for the first time, if such information exists.

QUESTION 67. Please explain why the content of some of Google's documents may vary depending on the language (e.g. for Calendar, in English:  
<http://support.google.com/calendar/bin/topic.py?hl=en&topic=1672474&parent=1669340&ctx=topic>  
and in French:  
<http://support.google.com/calendar/bin/topic.py?hl=fr&topic=1672474&parent=1669340&ctx=topic>)

QUESTION 68. In the future, does Google plan to use additional means to inform users about privacy such as (butterbuttons, interstitial screens, emails, educational videos, etc.)?

## **10. Additional remarks**

QUESTION 69. Please provide any additional information Google wishes to share with data protection authorities.