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DIRECTORATE-GENERAL JUSTICE, FREEDOM AND SECURITY

FINAL REPORT

Evaluation of the Means used by National Data Protection Supervisory Authorities in the promotion of personal Data Protection

Framework contract
for evaluation and evaluation related services

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1   Introduction

In the 'information society', an increasing amount of personal data is collected and shared by a wide range of public and private organisations, contributing to a global flow of data. Personal profiles are constructed, revealing life style and consumer habits that fuel a knowledge-based economy. The formation of extensive databases in the public sector for the purposes of service-delivery, health care, law-enforcement and national security are changing the relationship between the citizen and the state. The data collected in the workplace has changed the nature of employment. Technological developments as well as business and governmental aims are the main drivers of these developments, and new information industries, in part based on the collection, processing and communication of personal data, are central to the prosperity of contemporary societies.

These developments have brought many benefits to individuals, companies and states. However, they raise important questions about how privacy can be effectively protected. Real and constant risks for an identifiable person result from the 'data explosion', and a large proportion of the population are both unaware of what happens to their personal data and powerless, by themselves, to control these processes. Many are not particularly concerned about their privacy, although some of this lack of concern can be attributed to a lack of understanding and appreciation of the potentially adverse effects of so much data processing.

Yet privacy remains an important social value and a fundamental human right, enshrined in documents and laws promulgated by a variety of leading organisations, including the United Nations, the European Union, the Council of Europe, the OECD and other bodies. Since the 1970s, laws, codes and institutions for protecting personal data have taken shape, not least in the Member States of the European Union and at the level of the EU itself, but also in a very large number of countries around the world. But there remains a question about the ability of these law-based resources to provide effective protection against the existing and potential threat that is posed to individuals and groups by the economic and other advances outlined above.

A crucial institutional element in the protection of personal data in the Member States of the EU are the data protection supervisory authorities (DPSAs) that are required under the terms of the European Union Data Protection Directive 95/46/EC. These bodies have the responsibility to oversee the implementation of national data protection or information privacy legislation in their Member States, and to co-operate in practical terms at EU level, for instance, in the Article 29 Working Party established under the Directive. Overseeing implementation, however, has long been seen as engaging in activities that go beyond the application and enforcement of law. DPSAs have become increasingly involved in policy issues, guidance, advice, education, awareness-raising, and a host of other activities that present opportunities for creating a 'privacy culture' alongside, and possibly helping to control and guide, the 'information society'.

DPSAs in the Member States define and carry out these roles in different ways that are shaped by national judicial, political, social, economic and other influences over the work of regulatory agencies, and by public expectations. Broadly speaking, this *promotional* work has received relatively less attention and recognition from policy-makers and legal specialists than has the work of DPSAs in their legal oversight role.

The 'London Initiative', launched at the end of 2006 by the world's privacy commissioners, stressed the key challenges that present risks to individual liberties and to data protection authorities themselves. Amongst the objectives of the Initiative were to communicate data protection and make it more effective. It proposed concrete measures for more effective communication of data protection.

Promotional activities, however, take place against a background of limited awareness among data subjects and data controllers of personal data protection, manifested in poor knowledge of their rights or poor knowledge of the existence of a DPSA. This has been revealed in recent surveys conducted across the EU, which have also highlighted the tasks for the promotion of protection of personal data that have been undertaken, using different promotional methods and to varying degrees, in Member States.

This background makes our evaluation study particularly timely. The Task Specification of this study concerned taking a closer look at the way in which national DPSAs perform their promotional role in the Member States. Two objectives guided this study:

1. To identify and examine in detail the means used by national DPSAs in promoting personal data protection in general, and awareness raising in particular.

2. On the basis of the results of the first objective, to conduct an in-depth examination of the means referred to above, examining also their efficacy and potential for application throughout all EU Member States.

Following an overview carried out in Stage One, the focus of our work was specified in Stage Two, by agreement with the Commission and in keeping with the Terms of Reference, as an in-depth examination of DPSAs' promotional activities in seven Member States: France, the Federal Republic of Germany, Romania, Slovenia, Slovakia, Sweden, and the United Kingdom.

The evaluation of many facets of the DPSAs' promotional role and activities enables us to assess their effect in raising public and organisational awareness of data protection rights, compliance responsibilities, and possibilities for further safeguarding privacy beyond what law itself may require. Thus, promotion has much to do with cultural and social development and innovation, alongside the contribution that legal compliance, enforcement and sanctions may make to the protection of personal data and of individual rights. We show examples of 'best practice', which may be of use to all Member States in improving or modifying their

promotional efforts. As required, we also make recommendations for the improvement of the promotional side of DPSAs' work, both in terms of the promotional means themselves and in the manner in which they are used. These recommendations, however, do not imply that we have found fault with the DPSAs in the seven Member States.

The evaluation study that follows describes the methods used and the findings of our investigation into the practices of DPSAs in the seven Member States. We have carried out this evaluation through a combination of surveys of data controllers, data subjects and experts; interviews with DPSA officials; and the evaluation of DPSAs promotional outputs in terms of websites, tangible materials, and other promotional means. We present the evaluation findings for the seven DPSAs along a number of dimensions and criteria constructed for the purpose of understanding and evaluating the relationship between the activities and outputs, on the one hand, and their effect on raising awareness and on other desirable behaviour of individuals and organisations with regard to data protection.

We should emphasise certain limits to this approach to evaluation. There are difficult methodological and practical issues concerning, for instance, sampling procedures and practical arrangements for interviews, and concerning the inherent constraints of a short-term project of comparative analysis and evaluation stretching over several countries and DPSAs. Within these limitations, we believe that we have evaluated the promotional activities of DPSAs in sufficient depth and breadth to be able to inform the European Commission about this important area in the protection of information privacy, and to make recommendations for policy and practice upon which the Commission may help to build a more privacy-protected future for all our citizens.

2   Scope of the Evaluation

The evaluation has been carried out over an eight-month period and in accordance with the Specifications and the Technical Proposal is organised in three phases:

Stage One – Review Phase
- Preliminary Tasks (Work Package 1)
- Desk Research (Work Package 2)
- Development and Finalisation of the Methodology (Work Package 3)

Stage Two – Field and Analysis Phase
- Communication means review in 7 Member States (Work Package 4)
- Stakeholder surveys (Work Package 5)
- Interviews with National DPSAs (Work Package 6)
- Analysis and Reporting (Work Package 7)

Stage Three – Finalisation Phase
- Validation (Work Package 8)
- Consolidation and Final Reporting (Work Package 9)

In terms of **input and scope**, during **Stage Three** the evaluation team implemented Work Packages 8 and 9. During the present Stage the output of Stage Two was subject to a final review, with the help of a validation workshop and complementary inputs under Work Packages 5 and 6, where necessary.

The **output** of **Stage Three** is the result of Work Package 9 (Consolidation and Final Reporting), which, in accordance with the Task Specifications, takes account of the outputs of both Stages One and Two.

The **objective** of the above output is to consolidate and finalise the first conclusions and tentative recommendations made in the previous report about the efficacy of means used by the DPSAs of seven EU Member States to promote personal data protection, with a particular focus on awareness raising.

2.1   Content of the Final Report

This document contains the final output of the evaluation, a result of the work completed in Stage Three (finalisation phase) of the project, prepared by the KANTOR Management Consultants Consortium for the assignment "Evaluation of the means used by National Data Protection Supervisory Authorities in the promotion of personal Data Protection", which has been carried out for DG Justice, Freedom and Security (DG JLS).

The Final Report is structured as follows:

- **Section 1** introduces to the context in which the present evaluation takes place;

- **Section 2** summarises briefly the contents of the Final Report;

- **Section 3** refers to the work already accomplished by Review (Stage One) and Field and Analysis (Stage Two) phases, and provides an overview of the tasks carried out during the finalisation phase;

- **Section 4** presents an overview of the means used by national Data Protection Supervisory Authorities in the promotion of personal data protection in the EU;

- **Section 5** provides the consolidated findings of the in-depth technical examination of promotional activities of (i.e. communication means employed by) the seven selected Data Protection Supervisory Authorities (DPSAs) of EU Member States. These findings were updated to integrate both the results of the validation workshop (Work Package 8), carried out with national DPSA representatives, and the results of complementary DPSA inputs and stakeholder surveys (performed under Work Packages 5 and 6);

- **Section 6** draws final conclusions concerning the efficacy or otherwise of the promotional activities examined;

- **Section 7** establishes final recommendations as to how to improve the efficacy of promotional activities aiming to raise the awareness about data protection issues and rights.

The final report is supported by the following **Annexes**:

- Screening tables: DPSAs' Annual Reports, DPSAs' websites, 2007 Spring Conference Survey, 2003 and 2008 Flash Eurobarometer surveys (Stage One output): Annex A;
- Final Evaluation Questions (Stage One output): Annex B;
- Stakeholder Survey Questionnaire template (Stage Two tool): Annex C;
- DPSA Interview Guidelines (Stage Two tool): Annex D;
- Briefing note informing DPSAs of the interview themes (Stage Two tool): Annex E;
- Promotional activities/products checklists template (Stage Two tool): Annex F;
- List of contacts (by Member State and target group) established via research and with the support of some DPSAs for stakeholder surveys (Stage Two tool): Annex G;
- Selection of examples of good practice by evaluation criterion (Stage Two output): Annex H;
- Stage Three Validation Workshop draft power point presentation (Stage Three tool): Annex I;
- Proposal for a set of common indicators for measuring effectiveness of DPSA promotional activities (Stage Three output): Annex J.

3 Tasks carried out during the Evaluation Phases

3.1 Review Phase (Stage One)

Work Package 1: Preliminary Tasks

A kick-off meeting was held with representatives from European Commission's DG JLS for this assignment on 29 May 2008. At the meeting, the background of the evaluation, key issues and the overall methodological approach were discussed.

Work Package 2: Desk Research

Desk research primarily focused on information that served:

- the identification of the specific means actually employed by national data protection authorities of different Member States (confirmation of the clusters/typology of promotional activities);
- the identification/confirmation of target groups addressed by the means promoting personal data protection;
- the establishment of a first estimate regarding the extent of data and resources existing within the DPSAs which are of relevance to the proposed evaluation questions;
- the identification of contact persons who are involved in / can provide information on promotional activities within the respective DPSAs.

Desk research comprised of the following screening activities:

- Review of the 2007 Spring Conference Questionnaire Survey Results;
- Screening of EU MS Data Protection Supervisory Authorities' Websites;
- Screening of two Eurobarometer Surveys performed in 2003 and 2008;
- Screening of EU MS Data Protection Supervisory Authorities' Annual Reports (ARs), from 2001 onwards, where available;
- Screening of other Background Documentation;
- Consolidation of Work Package 2 findings.

The result of the above exercise (Annex A) determined the completion of further tasks under Work Package 3.

Work Package 3: Development and Finalisation of the Methodology

a) Finalisation of Promotional Activities Clusters / Typology

Based on the information obtained through the desk research, in particular the Annual Reports / screening of websites and the Spring Conference survey, the promotional activities' clusters/typology was reviewed. Suggestions were made for omitting types of promotional activity initially suggested or adding newly identified types.

b) Finalisation of Evaluation Questions

The final set of evaluation questions (Annex B) resulted from the effort of integrating the generic evaluation questions, initially presented in the Technical Proposal, with the 'issues to be assessed', as stated in the Specifications (structured according to standard evaluation criteria in section 3.2 of the Technical Proposal), and with cumulative statistical findings derived from the ARs' / websites' screening and the findings of the Eurobarometer surveys.

c) Stakeholder Survey Questionnaires

Directly following from the finalisation of evaluation questions, stakeholder survey questionnaires for different target groups were developed (Annex C). This task was carried out fully taking into account the results of the screening exercise under work package 2 and the initial suggestions made in section 4.5 of the Technical Proposal.

d) DPSA Interview Guidelines

Similarly, following from the finalisation of evaluation questions interview guidelines for the meetings with seven selected DPSAs were elaborated (Annex D). While this task was carried out fully taking into account the results of the screening exercise under work package 2 and the initial suggestions that were made in section 4.6 of the Technical Proposal, room was left for specific / ad hoc questions that could come up from the stakeholder questionnaire survey.

e) Standardised Evaluation Checklists for Promotional Activities/Products

Detailed checklists were developed in order to evaluate the promotional activities/products that have been put in place by seven selected DPSAs (Annex F), in order to measure the potential impact of promotional and awareness raising activities which have been implemented over the years (means used and whether and how these may change perception, understanding or interest).

f) Development of Selection Criteria and Proposal of a Selection of seven DPSAs

Based on the findings of the screening exercise performed under Work Package 2 the evaluation team completed the development of the selection criteria, initially suggested in the Technical Proposal, that formed the basis for the selection of the seven DPSAs, whose promotional activities aimed at raising awareness became the subject of the in-depth evaluation of Stage Two.

3.2 Field and Analysis Phase (Stage Two)

First Interim Report meeting

At this meeting, held with representatives from DG JLS on 03 October 2008, the evaluation tools prepared for Stage Two were discussed and minor adjustments agreed. The developed criteria and the resulting selection of DPSAs from seven Member States suggested by the evaluation team were agreed by DG JLS. By 13 October 2008 DG JLS had informed in writing the DPSAs selected for Stage Two.

Table 1 – Selection criteria and DPSAs selected

Country / DPSA	Year of establishment of DPSA	Number of inhabitants[1] covered by DPSA (millions)	Availability of information (Ticked if high)	Proactive DPSA (ticked where evidence exists)	Advanced in pro-motional activities (ticked where evidence exists)	Countries where awareness has been raised
FR: National Commission for Data protection and the Liberties	1978	63	√	√	√	√
DE: Federal Commissioner for Data Protection and Freedom of Information	1978	82,5	√	√	√	√
RO: National Authority for the Supervision of Personal Data Processing	2006	22,3[2]	√	√	√	√[3]
SK: Office of Personal Data Protection	2002	5,4	√	√	√	√
SL: Information Commissioner	1995	2	√	√	√	√
SE: Swedish Data Inspection Board	1973	9	√	√	√	√
UK: Office of the Information Commissioner	1985	60,2	√	√	√	√

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[1] Data from 2002
[2] Data from 2006
[3] Increased awareness in Romania was confirmed during Stage Two of the evaluation (in-depth analysis of seven Member States)

Work Package 4: Communication Means Review in seven Member States

The promotional and awareness raising means employed in the seven Member States selected were the subject of a detailed review. Each of the seven DPSAs was invited to provide examples of its promotional products, in particular examples of those aiming at awareness raising.

The standardised evaluation checklists were applied to evaluate the promotional products which have been put in place by the DPSAs, in order to measure the potential impact of promotional and awareness raising tools which have been used over the years (means used and whether and how these may change perception, understanding or interest).

In terms of the promotional activities cluster/typology, this exercise covered websites, publications and other promotional product (i.e. 'reminder'-type items) tools. The remainder of the promotional activities cluster/typology was covered through the DPSA interviews.

Work Package 5: Stakeholder Surveys

The evaluation team invited DPSAs to nominate a representative sample of entities and/or personalities to represent one of the three DPSA target groups established by the evaluation team: (1) data subjects, (2) data controllers and (3) other experts associated with fundamental rights and data protection. In parallel evaluators carried out research to identify stakeholders themselves. The total survey sample (Annex G) resulting from both efforts was more important than assumed in the technical proposal. This was a highly desirable result in view of the evaluation team's ambition to achieve an amount of questionnaire responses that by number would still correspond to the percentage response rate expressed in relation to the initial survey sample size.

Three different e-mails were sent out per Member State, containing the questionnaire for the target group in question. These were complemented by a support letter, which was issued by DG JLS during Stage One. Additional e-mailing was launched in cases where DPSA feedback on survey contacts was obtained at a later stage.

In sequence, two reminder e-mails were sent out to survey contacts, the second reminder being followed by phone calls in order to verify accuracy of contact persons addressed and whether they had actually received the questionnaire. It is not surprising that telephone calls turned out to be the main driver for improving the response rate. In most cases survey contacts had not actually received the questionnaire due to the evaluation team's e-mail not being redirected within the contact's organizational structure. In some cases, and despite this being stated in the questionnaire, survey candidates sought reassurance that confidentiality would be maintained. It is particularly for this reason that survey contacts have been annexed to the present report without showing if contacts have actually responded or not. Returned

survey questionnaires will also neither be included integrally nor in part in any of the evaluation deliverables or reports.

By the end of Stage Two, the resulting response rate allowed for a first analysis deemed representative. The analytical exercise was focusing on stakeholder target groups. This approach was adopted taking into account that the DPSA selection criteria were aiming at the identification of DPSAs offering a good potential for examples of good practice. It was not the intention to assess the performance of individual DPSAs. Instead, the objective of the Stakeholder Survey analysis was to obtain an overview of specific common issues related to promotional efforts as such. This was particular useful for the preparation of the Stage Three validation workshop discussion with the selected seven DPSAs, as it helped to identify most important areas of concern that at the same time offer the potential for transnational cooperation among DPSAs.

Still, certain target groups remained underrepresented. Given that Stage Three time-wise left sufficient room for a final effort, the evaluation team decided to continue efforts further into the final phase of the project so as to improve the response rate.

Work Package 6: Interviews with National Data Protection Supervisory Authorities

Once personal contact was established, DPSAs were provided with a one-page briefing note (Annex E), so as to inform DPSA contact persons of the interview themes and allow them to prepare themselves for the interviews. All interviews were carried out and structured interview feedback in accordance with the previously agreed interview guidelines was obtained from evaluators during Stage Two. Due to the variety of tasks that promotional activities naturally involve, it was not unexpected that most interviews established the need for supplementary information, be it from the DPSA contact person or other DPSA staff concerned. These additional exchanges continued and allowed us to clarify areas covered by the interview questionnaires.

Work Package 7: Analysis and Reporting

Following from the above Stage Two Work Package activities, the Second Interim Report was elaborated to describe the outcome of the analytical work undertaken. In accordance with the provisions of the Terms of Reference the state of progress of the evaluation was presented, together with preliminary conclusions and a set of first (tentative) recommendations.

The analytical work on the promotional means used by the selected seven Member State DPSAs, especially the analysis of interviews indicated that some of the evaluation criteria were not easy to separate when interpreting the answers of interviewees. Contrasting answers were obtained from the promotional means analysis and the different target groups

of the survey. Therefore findings of the analysis were treated with caution at this stage, until consolidation had taken place in the Finalisation Phase, including additional information received by DPSAs with telephone follow-up, refinement following validation workshop, and a more complete set of survey answers.

3.3   Finalisation Phase (Stage Three)

The Stage concluding with the present report comprised a set of key activities aiming at the completion of the present study.

Work Package 8: Validation Workshop

On 12 December 2008, evaluators held a Validation Workshop in Brussels. All DPSAs whose promotional efforts were the subject of the Stage Two in-depth assessment had been invited to participate. The purpose of the workshop was to confirm, share and consolidate Stage Two evaluation findings in a group discussion. The intention was to enhance the relevance of the study by integrating feedback about the trends identified from the DPSA interviews, the promotional means review and the stakeholder survey (Annex I). The specific objectives of the workshop are presented in Section 5 below.

In addition, this event provided the opportunity to add value to the exercise through the exchange of practical experience between DPSAs (typical problems, difficulties and solutions) and evaluators expect generally that the workshop also helped to identify areas of interest for possible transnational cooperation among DPSAs.

The meeting was held in presence of the European Commission. Among the participants were the representatives of the DPSAs from France, Sweden, Slovenia and the Slovak Republic and the evaluators who did the research, interview and evaluation work in France, Germany, Sweden, Slovenia, the Slovak Republic and Romania.

The Validation Workshop and its findings have been included in Section 5 below, updating the Stage Two in-depth technical examination of promotional activities of the DPSAs in the seven Member States selected.

Work Package 9: Consolidation and Final Reporting

Prior to the final reporting and as part of the consolidation exercise evaluators have carried out the following tasks:

a) Complementary efforts related to Work Package 5: Stakeholder Surveys

A targeted final effort was made, re-sending the Stakeholder Survey questionnaire to selected target groups in the Member States to achieve an improvement of the response rate.

Survey step	Date
4th Reminder (Re-sending questionnaire; e-mail)	19/12/2008
5th Reminder (Follow-up Phone Calls)	28/12/2008-09/01/2009
6th Reminder (Follow-up Phone Calls & Phone Interviews)	12-13/01/2009

Reminder phone calls have continued up to the maximum possible. In some cases those surveyed agreed to be interviewed over the phone, all the above enhancing the representativeness of the survey outcome.

b) Complementary efforts related to Work Package 6: DPSAs Interviews

Specific information outstanding from some of the DPSA interviews held in November was completed. This refers to cases in which the interviewees were not able to answer all questions, having referred to other colleagues within their DPSA.

c) Final Reporting

Further in-depth analytical work has been undertaken, in order to conclude the sections below:

- A reminder of the results achieved during Stage One – this being the overview of the promotional means currently used by data protection supervisory authorities in all Member States, in the form of a typology of promotional activities;
- A summary of the Stage Two in-depth evaluation performed of the promotional means applied in those seven EU Member States selected;
- The fully consolidated conclusions regarding the efficacy of the means that have been examined; and
- The finalised recommendations as to how to improve the efficacy of these means either as to the means themselves or as to the manner in which they are used to raise awareness.
- A proposal for a set of common indicators for measuring effectiveness of DPSA promotional activities (Annex J).

4 Overview of the Means used by National Data Protection Supervisory Authorities in the Promotion of Personal Data Protection in the EU

This chapter presents the final overview of the means used by national DPSAs in the promotion of personal data protection. This overview stresses the key aspects that have been taken into account in reaching conclusions on the efficacy of these means. The fieldwork carried out enables us not only to describe these means but also make some reference to their effectiveness as perceived by DPSAs (effectiveness in detail, however, is analysed in Section 5).

The desk research carried out during the review phase identified some preliminary answers to key evaluation questions. These had to be checked, explored further and verified or updated during the fieldwork and analysis phase. One important caveat to this exercise has been that the fieldwork applied to the DPSAs of only the seven Member States that had been chosen according to certain criteria as being the most suitable for further, in-depth examination. Therefore the consolidation of the means used by national DPSAs in the promotion of personal data protection is based on additional information obtained during fieldwork in these seven countries.

The typology identified during the review phase can now be confirmed as the final one. The value added to that typology from the work carried out in subsequent phases is that the different categories of promotional activities have been classified according to the following criteria:

a) their <u>effectiveness</u>, i.e. those that have been found by DPSAs to be more effective for raising awareness (red in the table);
b) their <u>potential effectiveness</u>, i.e. those that are considered to be potentially effective for reaching target groups, increasing awareness, changing perceptions and generally making a change not only in terms of what people know but also on how seriously they take personal data protection into account, but have either not been used or used rarely by DPSAs due to various constraints. Such constraints include mainly budgetary ones but can also be related to timing or availability of resources (yellow in the table);
c) their <u>proactive or reactive character</u>, i.e. whether they are offered/implemented by the DPSA on its own initiative or whether they are offered as a response to target group demands/requests (explained in the text below).

Table 2 below presents the final typology with these classifications. The consolidated overview of all these means offers useful insight into their characteristics. The findings on this table are based on Stage 1 Desk Research, in particular on the screening of DPSA websites, Annual Report, the Spring Survey and Eurobarometer surveys. These desk research findings were complemented with further findings for the seven Member States selected for further in-depth examination in Stage 2 of the evaluation.

Table 2– Final typology of promotional activities

Category	Sub-category	Typical content	AT	BE	BG	CY	CZ	DA	EE	FI	FR	DE	GR	HU	IE	IT	LV	LT	LU	MT	NL	PL	PT	RO	SI	SK	ES	SE	UK	%
Web-based tools	Web	e-Publications, including guides leaflets, brochures, studies, annual reports, press releases, info on events, info on legislation, info on cooperation and exchange activities	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	100%
	Interactive tools	Online forms to fill in, interactive guides on what to do when personal privacy is breached	✓							✓	✓				✓	✓	✓	✓	✓			✓	✓	✓				✓		48%
	FAQ	Answers to typical questions that data subjects or data controllers may seek	✓	✓						✓	✓		✓	✓	✓		✓			✓	✓	✓	✓	✓	✓		✓	✓	✓	67%
Publications (printed & web-based)	Press	Press releases on personal data protection issues, press articles and interviews	✓	✓		✓	✓	✓	✓		✓	✓		✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	81%
	Brochures/ Leaflets	Data protection in general, the work and structure of the DPSA, specific themes of personal data protection	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	96%
	Magazines/ Newsletters	Information on recent events and current affairs related to data protection	✓	✓	✓					✓	✓	✓		✓	✓		✓	✓		✓	✓	✓	✓		✓	✓		✓	✓	67%
	Case studies	Usually on specific topics which have been in the focus of the media, e.g. personal data unlawfully processed in the banking sector, unsolicited marketing, inappropriate use of CCTV										✓			✓	✓						✓	✓							19%
	Videos/ CD-ROM	On various personal data protection topics								✓	✓						✓												✓	15%
Events	Seminars/ conferences /workshops	General or thematic, for instance, "privacy by design", "video surveillance", etc.		✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	93%
	Data Protection Day	Information campaigns through: conferences, info on website, posters, leaflets, education programmes, events targeted at young/children, open days, competitions, surveys, media appearances/publications (press, radio, TV), events addressed to data controllers/legal professions.	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	100%
	Schools/ Universities	Presentations, seminars, competitions					✓				✓			✓	✓		✓		✓			✓		✓	✓	✓	✓			37%
Provision of targeted information / advice	Information services	Targeted training, on site inspections in certain sectors or organisations, written and telephone advisory services to the public (via help line or call line)	✓	✓		✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓		✓		✓	✓	✓	✓	✓	✓	78%
	Presentations	On specific topics targeted at a sector or age group (e.g. hospital sector, young people at school)			✓	✓				✓	✓	✓	✓	✓	✓		✓	✓	✓			✓	✓	✓	✓		✓	✓	✓	67%
	Interpretative guidance	Guides on various topics related to personal data protection	✓	✓	✓			✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓		✓			✓	✓		✓	✓	✓	67%
	Information through media	Press releases on personal data protection issues, press articles and interviews, radio programmes and TV appearances	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	100%
Cooperation and exchange	Civic cooperation	Cooperation with non public, non profit institutions on very specific topics.					✓			✓	✓			✓	✓	✓			✓	✓								✓		33%
	Joint projects	Cooperation activities between DPSAs which have produced effective/tangible results for improving promotion of data protection																												0%
	Participation in relevant projects	Collaboration with public and private institutions in campaigns	✓				✓			✓	✓						✓	✓	✓	✓								✓		33%
	Consultation with business	Cooperation with other organisations/ companies in the IT sector to target teenagers			✓						✓				✓	✓												✓		19%

Websites comprise the most common promotional mean that practically all DPSAs possess to offer a wide range of information. They comprise a promotional tool in themselves but also serve for offering promotional material and awareness raising tools. More specifically, the content of websites includes:

- Typical promotional material that websites offer are publications in electronic form, including guides, leaflets, brochures, studies as well as annual reports, press releases and up-to-date information from the media on major issues pertaining to personal data protection, information on events, information on current legislation in relation to personal data protection and information on any cooperation and exchange activities.

- Awareness raising tools include interactive tools available on the websites which visitors are induced to use in order to obtain more information about personal data protection rights, risks and what to do when the privacy of personal data is breached.

- Few websites offer videos as they are quite costly to produce, but some DPSAs have found a way around this issue by using videos other countries have produced with subtitles.

- The majority of websites also offer a section on frequently asked questions (FAQ section).

- Websites also comprise one of the tools used by DPSAs to assess the extent of awareness raising through measuring the number of website visits.

Websites are regarded by DPSAs as one of the most effective promotional mean as they can act as a direct interface between the public and the DPSA on all personal data protection issues. They are used by DPSAs in a proactive manner, i.e. they are developed and updated regularly at the initiative of the DPSA with the objective to offer target groups up-to-date information on a continuous basis.

Publications are produced by all DPSAs although they do not all focus on the same type of publications. Publications are usually available electronically through the websites or in printed version upon request. Categories of publications include the following:

- Most common type of publication produced by practically all DPSAs is general information leaflets and brochures most frequently on personal data protection in general and the role/activities of the DPSA but also on various specific themes regarding personal data protection. Leaflets and brochures differ also in their format and content depending on whom they are addressed to, for instance, leaflets addressed to teenagers are different to those addressed to the public in general.

- Most DPSAs offer press releases or articles published in the press (usually through their websites). Press releases are an important component of the DPSA contact with the media, which is one of the main channels used by all DPSAs for promoting the protection of personal data (see below).

- Many DPSAs also produce magazines or newsletters. While leaflets and brochures have a more permanent character by offering targeted and concise information on personal data protection or a specific aspect of it, newsletters are "live" publications that offer information on recent events and current affairs related to data protection. Their content becomes obsolete if they are not updated regularly.

- Studies are produced by some DPSAs, usually on specific topics, and they are often triggered by an issue which has received much attention in the media, for instance, studies on the risks to personal data processed in the banking sector and how to avoid them, or studies on the use of IT, amongst others. In a limited number of cases, DPSAs call their studies "case studies" when they are produced on very specific topics often linked to a concrete sector or company. Case studies are usually prompted by complaints received or by appearance of the case in the media. Typical examples include a company's failure to comply with an access request, online shoppers receiving unsolicited marketing from a company, inappropriate use of CCTV footage by an organization or company, etc. More specific examples include:

  - A data subject had made an access request to her employer, a Co-Operative Society Limited, in March 2006 but it had not been complied with within the statutory forty day period;

  - Individuals complained to their DPSA regarding direct marketing emails which they had received from a big supermarket chain. In all cases, the complaints had registered for online shopping with the supermarket chain. Soon afterwards they began receiving direct marketing emails. Before complaining to the DPSA the individuals had tried to unsubscribe from the super market's marketing list by using the 'unsubscribe' facility provided in the marketing email. Despite their attempts to unsubscribe they continued to receive further marketing emails;

  - A data subject alleged breaches of the Data Protection Acts by inappropriate use of CCTV footage at a sports and health Club. Following a complaint she made to the Club about the cleanliness of the sauna/steam rooms, the Club manager showed her false CCTV footage refuting the claim that she had made a phone-call on the issue on the morning in question. The data subject informed the DPSA that she found it acceptable to be shown CCTV footage to assure her that the sauna/steam rooms had been cleaned but she found it unbelievable that the Club kept and viewed footage to discredit members' genuine complaints. She felt strongly that the CCTV footage was shown to her to intimidate her and question her good character and was used to say that she was lying.

- Videos and CD-ROMs are not very common promotional means, mainly due to the high cost involved in their production. There have been cases where DPSAs use videos produced by DPSAs in other countries and add subtitles in order to address viewers in their own country.

Overall, publications are most effective when they are targeted to a specific target group or are focused on a concrete topic. Amongst the above categories, videos are considered a very effective means, whose use has been restricted for budgetary reasons as mentioned above. They can therefore be considered as promotional means with potential effectiveness since we cannot at this stage prove they have been effective due to their limited use. Publications are developed in a proactive manner, i.e. their content, design, timing and distribution channels are decided by DPSAs. However, they are usually made available to target groups upon request. This may involve a person printing them from the website or requesting them to the DPSA by phone or visit. In some cases, DPSAs take along and distribute pertinent publications when conducting on site visits or when they participate in conferences.

Events include conferences, seminars and workshops where DPSAs participate either as organisers or are invited as speakers, events related to the European Data Protection Day or competitions and training seminars targeted specifically at schools. Participating in conferences is a key activity of DPSA officials, some of whom attend conferences or seminars at least on a monthly basis. They are used as a means to make the work of the DPSA known and offer an opportunity for DPSA staff to act as an interface between the public and the authority that protects their rights in this field. They also serve for informing data controllers on their obligations. Events targeted at schools are not so common yet; however, targeting the education sector is regarded by DPSAs as the area where their work should focus in the future.

The **provision of targeted information and advice** is carried out through various channels:

- Information services offered mainly through targeted training. Targeted training is commonly addressed to organisations and can be organised for data controllers to inform them of their obligations or for individuals or groups of individuals to inform on data subjects' rights.

- On site inspections by DPSA staff of certain companies. On site inspections are often triggered by complaints and therefore have a reactive character. On site inspections with a proactive character are less frequent since they are more difficult to organise, especially in large countries. Alternatively, in some countries, DPSAs address chambers, associations or similar organisations as a channel to get information through to companies.

- Advisory services upon request via e-mail, a dedicated call line, a help line or simply answering telephone calls as part of the day to day work of the DPSA staff. Apart from providing advice to data subjects and data controllers, DPSAs also offer advisory services to their respective governments.

- The media is intensively used by all DPSAs as a channel to provide information (usually after the media has contacted the DPSA) and as a source of information for designing their strategies and orientating their campaigns to address key issues.

Of the above categories, help lines or call lines are regarded by DPSAs as amongst the most effective means, although they have a reactive rather than proactive character, i.e. advice is demand driven. Their value lies in making available to target groups a method of immediate and direct communication on any personal data protection issues. The media is also considered as one of the most effective means (together with websites, they stand out as most effective) because of the impact media coverage has on target groups. However, the media is used more in a reactive than a proactive manner. This is confirmed through for instance EU wide surveys like the Eurobarometer survey which reveals that generally "the media contacts DPSAs more often than they contact them". It is also confirmed through field visits to the seven selected DPSAs who acknowledge that they use the media more frequently in a reactive manner, i.e. react to media publications. DPSAs usually react to what has received a lot of attention in the media, either by providing information to the media upon request or by building on this for designing their campaigns. It is less common for DPSAs to contact the media seeking to appear in the press, radio or TV. This is mostly due to budgetary restrictions but it also the case that big news are usually "caught" by the media before anyone else knows, leaving therefore little room for DPSAs to be proactive.

Cooperation and exchange activities are the means less commonly used by DPSAs. When they happen, they tend to take place with non-public, non-profit institutions on very specific topics or they involve cooperation in campaigns with private and public institutions. Cooperation between DPSAs takes place in the context of the Article 29 Working Party, however, there is no formal cooperation currently in relation to the promotional means used for raising awareness about personal data protection. Some bilateral cooperation takes place between neighbouring DPSAs or between DPSAs for exchanging specific outputs such as, for instance, borrowing a video and adding subtitles to it. Cooperation for the design and implementation of communication/promotional activities at EU level is recognised by DPSAs as very useful, although no one is currently undertaking any efforts towards this end. Despite the narrow use of cooperation and exchange means, these are considered to have a high effectiveness potential for the results that can be achieved by joining forces and sharing experiences.

5   In-depth Examination of Promotional Means used by National Data Protection Supervisory Authorities in Seven Members States

This chapter presents the consolidated findings from the three sources of information used for the in-depth examination of promotional means used by seven DPSAs, namely interviews, review of communication means and stakeholder surveys.

Some important caveats need also to be stressed in relation to the evaluation criteria used for the in-depth examination of Seven Member States. The separation of effectiveness and impact for instance is very subtle since the former refers to immediate effects such as increased awareness and the latter to longer lasting effects such as increased interaction between target groups and DPSAs. There can be effectiveness without impact, i.e. increased awareness will not necessarily imply increased interaction. This subtlety of definitions is further complicated by two related factors: (a) the lack of formal mechanisms of DPSAs to assess their own effectiveness, making it more difficult to distinguish between effectiveness and impact; (b) the lack of clarity as to whether some indicators used as proxy for increased awareness may actually also indicate reduced awareness depending on how DPSAs interpret them (a good example is the increase in the number of complaints: some claim it is an indication of increased awareness, however, others also rightly claim there is an increase in complaints because the public is not aware of how to protect themselves against personal data violations).

Furthermore, the distinction between relevance and utility is also difficult to make. The former is defined as the extent to which target group needs are taken into account while the latter relates to the extent to which these needs are finally met. Again, the lack of formal assessment mechanisms makes the answers also seem confusing at times.

For these reasons, we have consolidated our findings by interpreting answers with caution while our conclusions in Section 6 are grouped by category of evaluation criteria stating also whenever necessary the consolidated definition of the respective criterion.

5.1   Consolidation of interview findings

Additional information received by some DPSAs through follow-up calls confirms previous findings from the interviews. The table below offers an overview of the typical content of promotional activities undertaken in the seven Member States examined. The remainder of this section summarises the key findings from the interviews. Specific good practice examples from the seven DPSAs that support these findings can be found in **Annex H**.

Table 3 – Outputs of promotional activities by country

Country	Categories of outputs				
	Web based	Publications	Events	Provision of targeted information an advice	Cooperation and exchange
France	Website offering access to all publications, events, advisory services and other activities and including interactive and animation tools.	Annual Report Weekly press review Various thematic publications and guides Leaflets CD ROM addressed to young	Press conferences Organisation and participation in conferences Launch of an award on "Information technology and liberties". Regional visits to inform regions on personal data protection.	Information through the media, especially a weekly radio programme. Written and telephone advisory services to the public	
Germany	Website with recent development on data protection, DPSA's range of services and publications available on line	Annual Reports Info brochures and flyers Thematic papers Contribution to specialist publications periodicals	Data Protection Day (public events held once a year, last one in a school) Seminar/conference presentations for businesses, universities, administration	Information through the media: TV, radio, press. Response to requests of data subjects and controllers; referral to federal level authorities according to competence. Advisory services to parliament and government.	
Romania	Website offering access to all publications, events, advisory services and other activities	Annual Report Brochures, including CDs Quarterly Newsletters	Thematic seminars at central or regional level Training sessions (e.g. to police officers) Participation in national and international conferences Press conferences European Data Protection Day University courses Open Doors Day (access for citizens to the premises of national authorities)	Information through the media On site inspections in certain sectors or organisations	
Slovenia	Website offering access to all publications, events, advisory services and other activities	Annual Report Studies Thematic Guides	Conferences where the DPSA is invited to. Events organised on key current affairs	On site inspections in certain sectors or organisations. Advisory services via phone and e-mail.	

Table 3 – continued

Country	Categories of outputs				
	Web based	**Publications**	**Events**	**Provision of targeted information an advice**	**Cooperation and exchange**
Slovakia	Website offering access to all publications, events, advisory services and other activities	Bi-annual reports Leaflets	Participation in press/media conferences Training seminars on specific topics addressed to individual sectors	Media: press and audio-visual (cases, topics or news on a certain theme or general) Information in specialised journals Consultancy provision to institutions, business and individuals	Cooperation with non public, non profit institutions on very specific topics.
Sweden	Website offering access to all publications, events, advisory services and other activities	Annual Reports Leaflets and guides (yearly) Quarterly Newsletter/Magazine Checklists	Seminars/conferences (general and thematic)	Press releases (4-5 per month) A Call centre with lawyers answering questions Response to requests via e-mail, phone or fax (e-mail prevails).	Cooperation with other organisations/ companies the IT sector to target teenagers. Collaboration with public and private institutions in campaigns.
UK	Website with rich content Advisory services through the web	Annual reports Various thematic reports Leaflets School information packs	Conferences and seminars (general and thematic), organised by the DPSA or participation of the DPSA in conferences organised by others (E.g. of conference themes: "Privacy by design", "video surveillance"). Regional conferences at DPSA branches.	Responding to government consultations. Giving evidence to Parliamentary Committees. Press releases. Opinions on current developments.	

DPSAs produce a variety of promotional outputs addressed to data subjects, data controllers, government and the scientific community. Potentially the most effective of these are the websites and the media, followed by a help line, targeted campaigns and seminars/conferences. The main reason that makes them likely to be effective for raising awareness is their direct and immediate character (for media, conferences, advisory services through a helpline, targeted campaigns). These promotional means permit a direct interface between DPSAs and their target groups. In the case of websites it is their capacity to hold large amounts of up-to-date information and documents and being a hub where target groups can access what they need to know about personal data protection.

Promotional activities appear to address the needs of target groups when they adopt mechanisms for continuous feedback from the users of promotional products. DPSAs can learn more about what their target groups need to know if they are in constant contact with the media (as most personal data protection violations obtain important publicity), respond to requests and complaints and carry out regular on site inspection visits, including a focus on certain data protection sensitive sectors like health, education and banking.

Awareness raising activities are in some countries stipulated by law, such as Data Protection Acts or similar. However, even in countries where national data protection regulation does not specify awareness raising activities in the duties of the Data Protection Authorities, DPSAs take measures to ensure that data subjects are aware of the existence of the right to object to the processing of personal data.

Promotional activities are considered increasingly successful in raising awareness amongst target groups about the existence of the DPSA and about personal data protection in general. This, however, should be interpreted with caution, as it is often difficult to isolate the effect of promotional activities from other factors such as increased media coverage, or simply better informed/concerned citizens. There is scope for improvement in the work of DPSAs in establishing formal and systematic mechanisms and tools for measuring the effectiveness of their own promotional work. This point is picked up and highlighted in the recommendations section of this report (Section 7).

The capacity of DPSAs to cope satisfactorily with promotional activities is constrained by budgetary and human resource issues. Not all DPSAs have a department dedicated exclusively to communication activities, and where this is the case, promotional work becomes a horizontal activity across various departments. A key finding is that their capacity is medium since they devote only a small proportion of their total staff and total budget to promotional activities. Given these constraint, however, DPSAs are carrying out significant efforts for communicating personal data protection issues to their target groups. They are also relying extensively on promotional means that incur a relatively low cost, such as intensive use of the media (excluding advertising, for which a higher budget is required).

Again, there is scope here for improvement as there are some activities that are considered to be very effective for raising awareness but with prohibitive costs. These are mainly multi-media applications such as videos or promotional spots through the TV.

The work of DPSAs has probably had an impact on the interaction between target groups and the DPSA and on the concerns people have about data privacy. This is suggested by the increase in the number of requests and complaints (an indicator of increased interaction between the public and DPSAs) and the considerable number of invitations DPSAs receive to participate in conferences or contribute to specialist publications (an indicator of increased interaction and dialogue between DPSAs and representatives of data controllers such as businesses, universities and administrations). There is, however, scope for improvement in terms of measuring the impact of DPSA promotional activities as in most cases there are no formal mechanisms in place to measure and monitor such impact. It is also difficult to isolate the impact from the work of the DPSA from impact coming from other sources, such as increased publicity.

Certain promotional activities, in particular websites, contacts with the media and certain publications are likely to be sustainable over time as their maintenance involves low cost while at the same time their effect on target groups is significant.

Relationships with the media are intensive and frequent in all cases, while in some they are considered a key promotional activity. These relationships are two-way, i.e. both DPSAs and the media interact with each other, the former seeking to increase awareness raising through press releases for instance on one hand and to become better informed about the needs of target groups on the other hand. The latter seek to obtain information on current topical issues that have become the subject of "data protection scandals". The power of the media is a two way channel because of its capacity to communicate in a relatively direct manner with target groups and its capacity to give feedback to DPSAs about the public perception of the DPSA's work or of personal data protection in general.

DPSAs participate in international and EU level conferences and events where they have the opportunity to cooperate and share with each other. Although the coordination of a large number of participating DPSAs' representatives, and some differences in DPSA's powers and functions, may present difficulties for effective cooperation, there are nevertheless common issues and concerns at EU level which justify a closer coordination of promotional activities by various national DPSAs. In this context and based on the analysis of interview findings, we may suggest that the European Commission can play a facilitating role in the future by providing central steering of cooperation between DPSAs.

DPSAs consider that current awareness raising activities could be supplemented with other actions targeted directly to governments and parliaments as well as with enforcement activities. There are also other methods the increased use of which would add value to

existing ones, comprising mainly multi-media means such as video clips and television and higher reliance on marketing tools. DPSAs reported however, that all these imply costs that they cannot currently meet, since their budget is only enough to cover their current day-to-day activities and they therefore have no budget surplus for pursuing other more costly promotional activities. Other more cost efficient activities suggested by DPSAs may include flexible use of websites held by other organisations or placing banners/posters in public places.

5.2   Consolidation of findings from the promotional means review

The examination of promotional means covered three main categories of outputs, namely websites, publications and other promotional material, notably, reminder items. The analysis was carried out by our experts covering each of the Seven Member States using detailed checklists. **Annex F** presents the template used for checklists while Figures 1 and 2 in this chapter present some of the results from these checklists, namely those used for reviewing websites and publications. The use of experts with relevant language skills facilitated the assessment of promotional means along a series of variables comprising:

- For websites, their functionality for users, ease of navigation, the quality and attractiveness of design to ordinary users, the potential of the content to raise awareness, interactivity (promotion of interaction between the DPSA and the public), the clarity and quality of communication offered by websites.

- For publications, publicity aspects (types of publications, who they address, where they are to be found, how they are disseminated), the quality and attractiveness of design to ordinary consumers including the format of publications, the potential of their content to raise awareness, the promotion of communication between the DPSA and the public (via for example, the provision of DPSA contact details, brand recognition, regularity of release, attractiveness of titles).

- Other promotional material included mainly reminder items such as badges, rulers, notebooks, key holders, pens, mouse pads, posters, banners, scarves and T-shirts. These were examined against their publicity potential (who they address, how they are disseminated), the quality and attractiveness of their design to ordinary consumers, the capacity of their content to raise awareness (e.g. getting messages through, topics covered) and the promotion of communication between the DPSA and the public through for instance the provision of contact details prompting users to obtain further information.

Websites were generally found to be attractive, functional and easy to navigate. Key characteristics that make their design attractive to ordinary consumers are their professional design, their light, logical and clear layout, including attractive visuals, captions and cross-references. Additional characteristics that make their content probably effective and consistent with target group needs is that they include up to date and useful information, supplemented with sufficient contextual information as well as information on current topical

issues. Websites are a tool that facilitates the interaction between DPSAs and their target groups by offering them the facility to contact DPSAs either directly or through easy to use forms and templates. The clarity with which they communicate information to target groups and the updating effort undertaken by DPSAs make websites a sustainable promotional tool for the future. We present here two representative graphs from the examination of websites regarding the ease of navigation and their content, as they are aspects that pertain more closely to awareness raising. These graphs confirm findings from the review phase and the interviews that websites are an effective means for raising awareness.

Figure 1 – Examination of websites
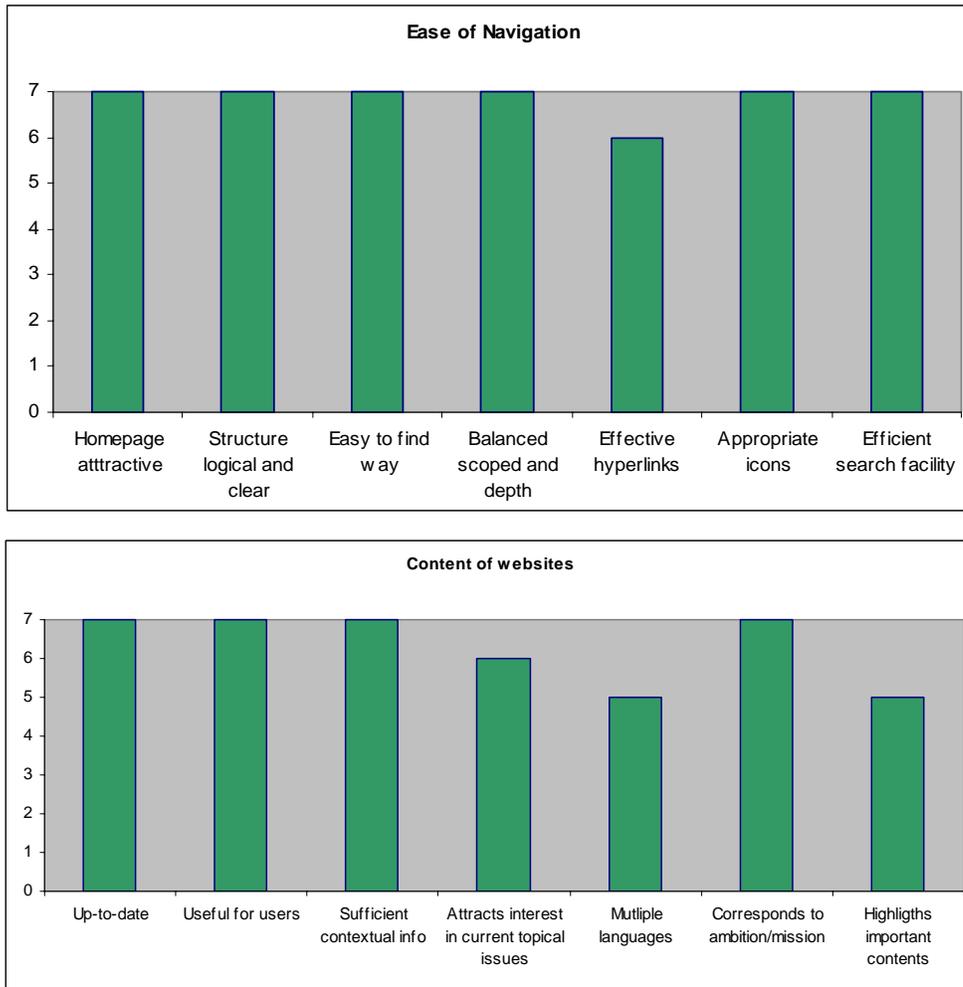
Note: Numbers in the Y (vertical) axis represent number of "Yes" answers to the variables in the X (horizontal) axis (for instance the questions "is the website content up-to-date?" has received 'yes' answers for all 7 DPSAs examined).

Publications are easily found on DPSA websites, with up to date attractive content, appropriate length and design characterised by professionalism, light, logical and clear layout and practical format. They also prompt readers to learn more by contacting the DPSA. Representative graphs from publications below show they generally have an attractive design

and confirm other findings on the lack of regular pattern. These graphs also confirm that publications

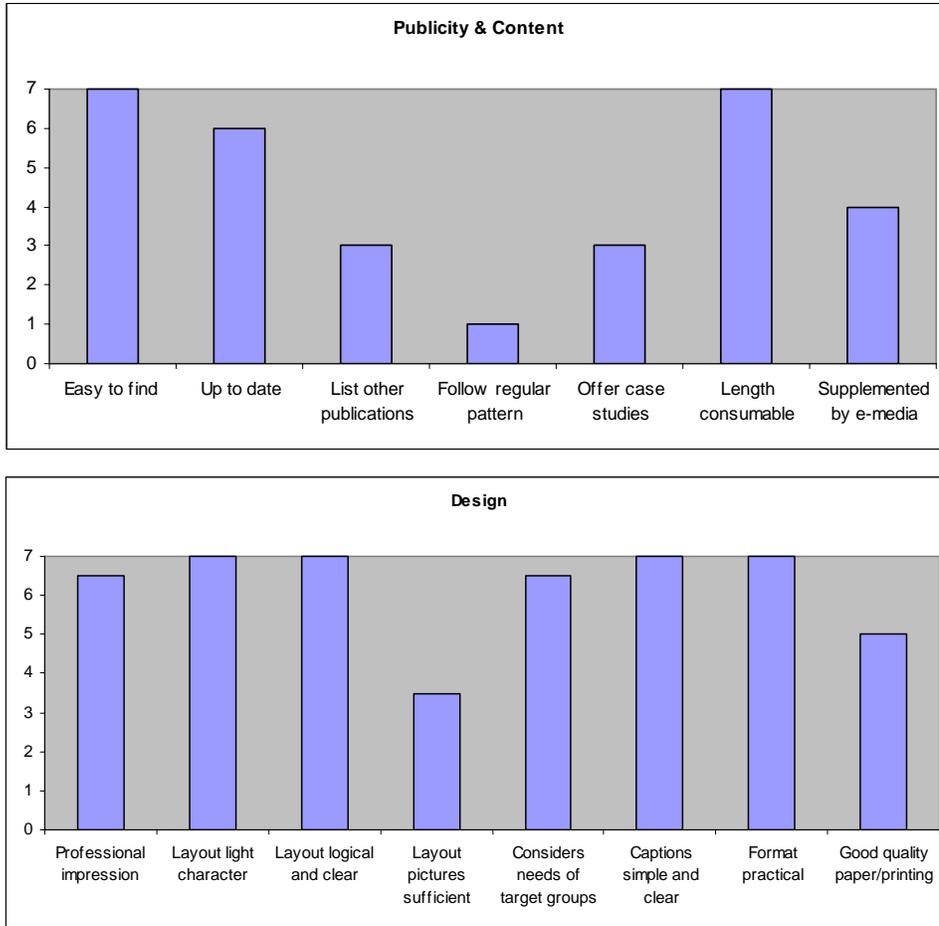**Figure 2 – Examination of publications**

Note: Numbers in the Y (vertical) axis represent number of "Yes" answers to the variables in the X (horizontal) axis (for instance the questions "is the publication easy to find?" has received 'yes' answers for all 7 DPSAs examined).

The checklist used for analysing **other promotional material** covered items consisting of reminder/gift objects (e.g. pens, mouse pads, rulers, calendars, scarves, notebooks, etc.). The results from applying the questions of the checklist to analyse these items reveal that they generally have a simple and clear layout and promote data protection through attractive messages/slogans and DPSA logos and prompt contact with the DPSA by providing some contact details.

5.3   Consolidation of findings from the survey

The second Interim report presented the initial findings from the stakeholder surveys. Following the submission of the second Interim Report more answers were received and therefore the findings have somewhat changed. This section presents therefore the consolidated findings from the surveys taking into account all answers received. The graphs

presented here differ from those presented under the second Interim Report since they were updated with new data.

Data controllers' perception on the **availability of information** is better than that of data subjects. Likewise, data controllers are in closer **contact with DPSAs** than data subjects are (see Figures below). Only just over half of respondents representing data subjects appear to be aware of the existence of the DPSA, which probably explains why the large majority of them (67%) do not contact the DPSA. On the contrary, data controllers report to sometimes or very often contacting DPSAs. A key difference is that although around a third of representatives of data subjects have never contacted the DPSA, there is no data controller claiming not to have ever contacted the DPSA. Experts in data protection are more knowledgeable of the DPSA than data subjects are and have a more positive view on the availability of information than either representatives of data subjects or data controllers have.

In conclusion, by and large, all surveyed groups are aware of the existence of DPSAs and of the information available on personal data protection. However, the extent to which they contact DPSAs differs widely, with data controllers appearing to be in much closer contact with DPSAs than representatives of data subjects are.

Figure 3 – Data subjects: availability of information and contact with the DPSA
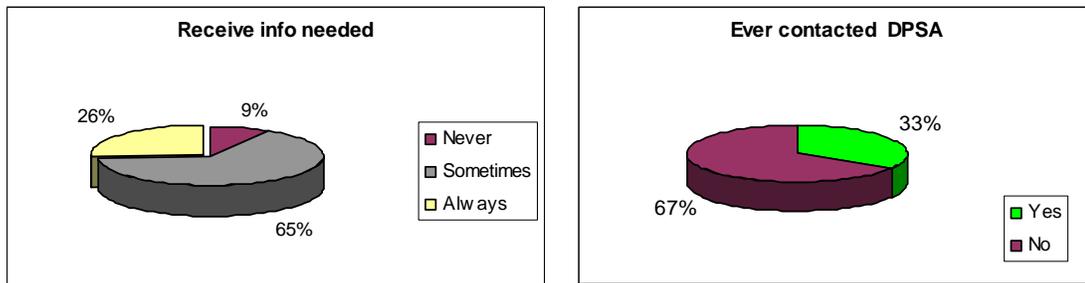

Figure 4 – Data controllers: availability of information and contact with the DPSA
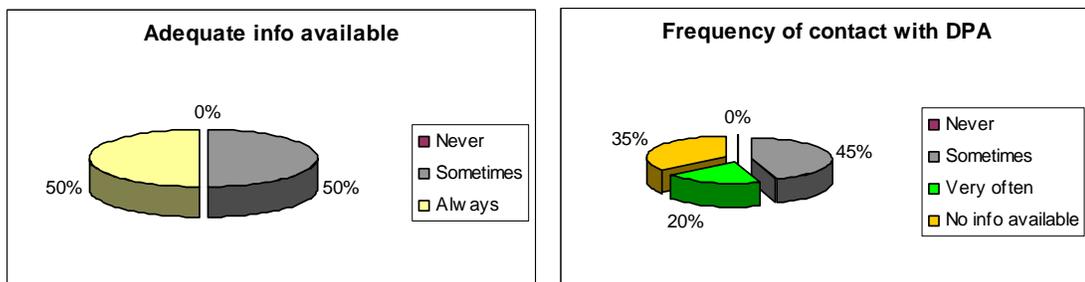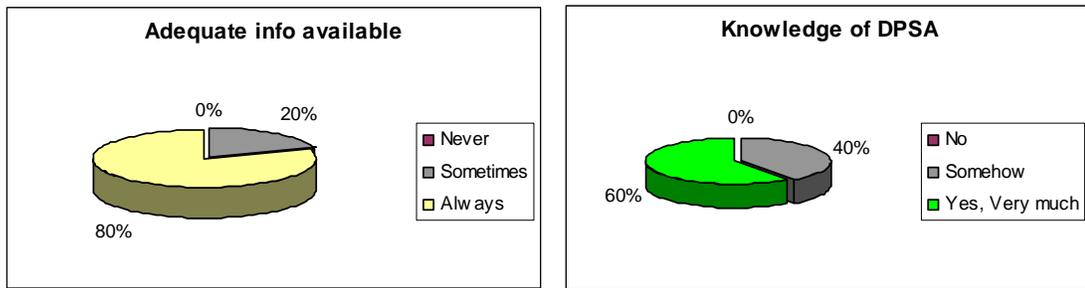
Figure 5 - Experts: availability of information and contact with the DPSA


The perception of the **quality of promotional outputs**[4] differs considerably between representatives of data subjects and data controllers (see Figure 6 below). For the former poor quality of promotional outputs dominates over good quality. In contrast, data controllers as well experts, consider promotional outputs of good quality.

The only aspect of promotional outputs that is considered by all as relatively poor is the use of multi-media applications. Here again, this confirms an earlier conclusion from the interviews that the use of multi-media is desirable, however, their high cost makes them a non- feasible output. Hence, it is not surprising that where they exist, their quality is average possibly due to efforts to produce them at a lower cost.

In conclusion, the survey answers highlight two key issues: (a) there is scope for improvement in the quality of certain outputs, such as advisory services to data subjects, multimedia applications, leaflets, frequently asked questions sections of websites; (b) certain promotional outputs may need to be refined to address more accurately the needs of data subjects.

Figure 6 – Perceptions of the quality of promotional outputs

Representatives of data subjects   **Data controllers**

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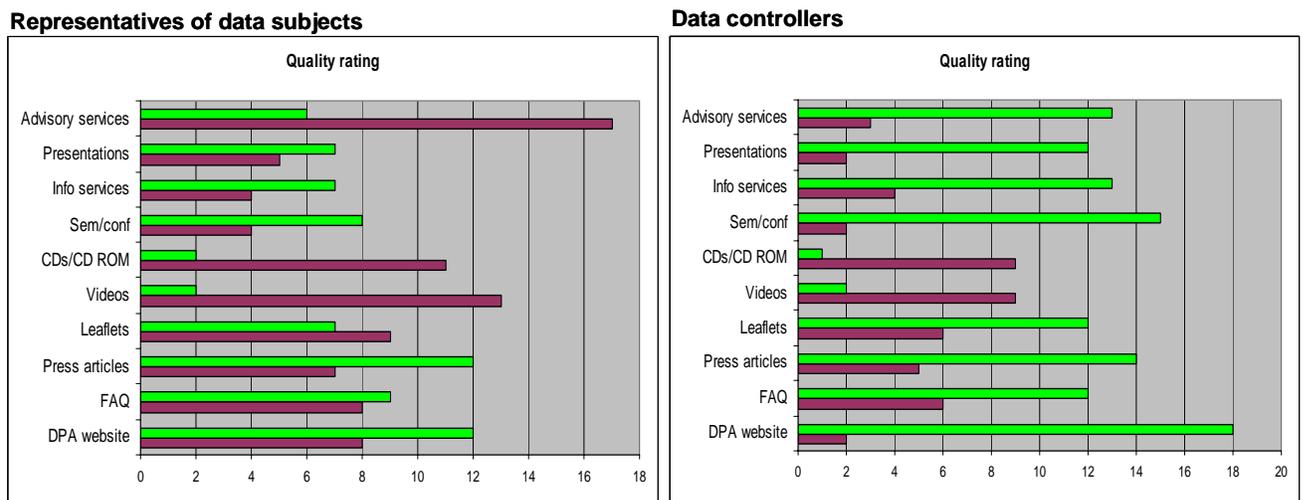
[4] For the content of promotional outputs, see table 3, under chapter 5.1 Consolidation of interview findings.

Experts
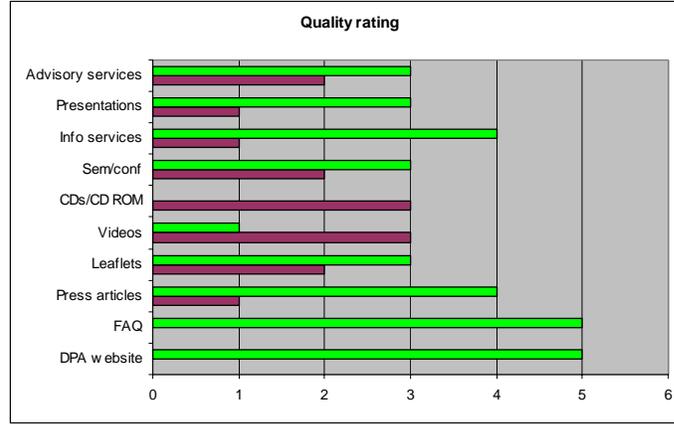
Note 1: *Green colour represents "good/very good" answers. Red colour represents "poor/very poor" answers.*
Note 2: *Different scale ranges were used for the three graphs due to fact that different samples were surveyed.*

Although **promotional events** are regarded by all mostly as good quality activities, the representatives of data subjects are more critical of them than data controllers are (see Figure below). For the former, there are aspects of events that were not assessed very positively for their quality, such as the media coverage, the limited opportunity they offered for improving procedures or for launching initiatives. In a few cases, they also rated the content of the event as not very useful. In contrast, data controllers have been more positive in their assessment.

In conclusion, the evaluation of events by participants (which is generally lacking) could help obtain the necessary feedback so as to tailor them to the needs of different target groups while making them a forum of continuous learning, exchange and improvement in communicating personal data protection issues.

Figure 7 – Perception of events in which they participate

Representatives of data subjects   **Data controllers**
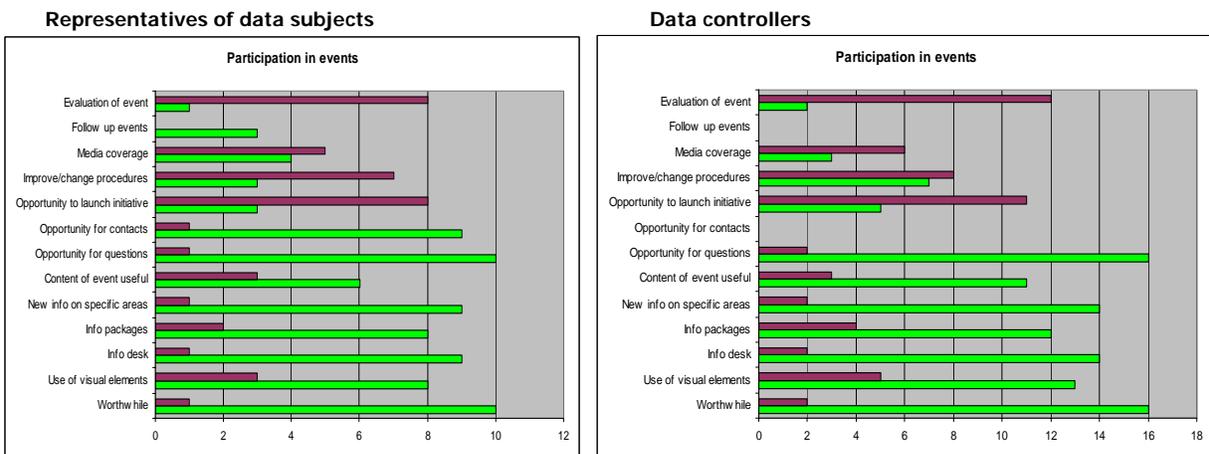
Note: *Green colour represents "Yes" answers. Red colour represents "No" answers.*

Qualitative answers to the perception of events in which representatives of data subjects and representatives of data controllers participate offer useful insight into the best aspects of these events as well as aspects that have been missed out. These are summarised in the box below.


Qualitative assessment of events

Best aspects:

↑ Provision of specific information and "lively" presentations on key personal data protection issues

↑ Discussion on several practical issues

↑ The opportunity to make contacts, especially with the DPSAs

↑ The opportunity to meet other participants

↑ Bringing sensitive issues to the public agenda, e.g. the provisions of the law on personal data protection

Aspects missed out:

↓ A discussion panel with non-data protection officials, like for instance police officials

↓ Not all questions were answered

↓ More media coverage on round tables on issues like personal data online

↓ Follow-up of the event

↓ Clearer justifications on the links between promotional outputs and their costs and the implications this may have for target groups of promotional activities

↓ Events could lead to regular meetings to monitor the work of data controllers

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The opinions in the box clearly indicate that events are a useful source for contacts, especially with DPSAs, therefore pointing out the high potential of events for increasing interaction between DPSAs and target groups (thus contributing to impact). Events are also positively assessed as a means to discuss key issues and obtain information on persona data protection. On the other hand, aspects like better focus (through targeted discussions/panels) and offering more answers to key questions could certainly be improved. Furthermore, events can offer value added to the design and implementation of promotional means if they are adequately promoted/covered in the media and if they include follow-up actions. Evaluation questionnaires and/or subsequent follow-up meetings could facilitate this.

Given the generally poorer assessments in the survey of representatives of data subjects as opposed to data controllers and experts, it is not surprising that the former do not see any **improvement now in comparison to the past in terms of improved knowledge**. On the contrary, for data controllers there is a clear improvement in the interaction between them and DPSAs. Experts value the proactive work of DPSA heads, the media exposure and the publicity of enforcement measures as reasons for increased interaction between all target groups and DPSAs. However, everybody recognises there is increased concern today among citizens about personal data protection issues. The contrast here with interview findings where DPSAs claim increased interaction has been explored during the validation workshop whose findings are presented below.

There is also a sharp difference between the perceptions of representatives of data subjects and data controllers on the **numbers of requests and complaints** received today in comparison to the past. The majority of data controllers claim an increase while 95% of the representatives of data subjects either claim no increase or have no knowledge about this issue. The increase in the number of complaints and requests has been assessed in this evaluation as an indication of increased awareness. The validity of this assumption and the sharp contrasts in the perceptions of these two target groups were brought into the validation workshop and reworked there to reach final conclusions. (see below section 5.4).

Figure 8 – Increase in the number of requests and complaints

Representatives of data subjects

Representatives of data controllers
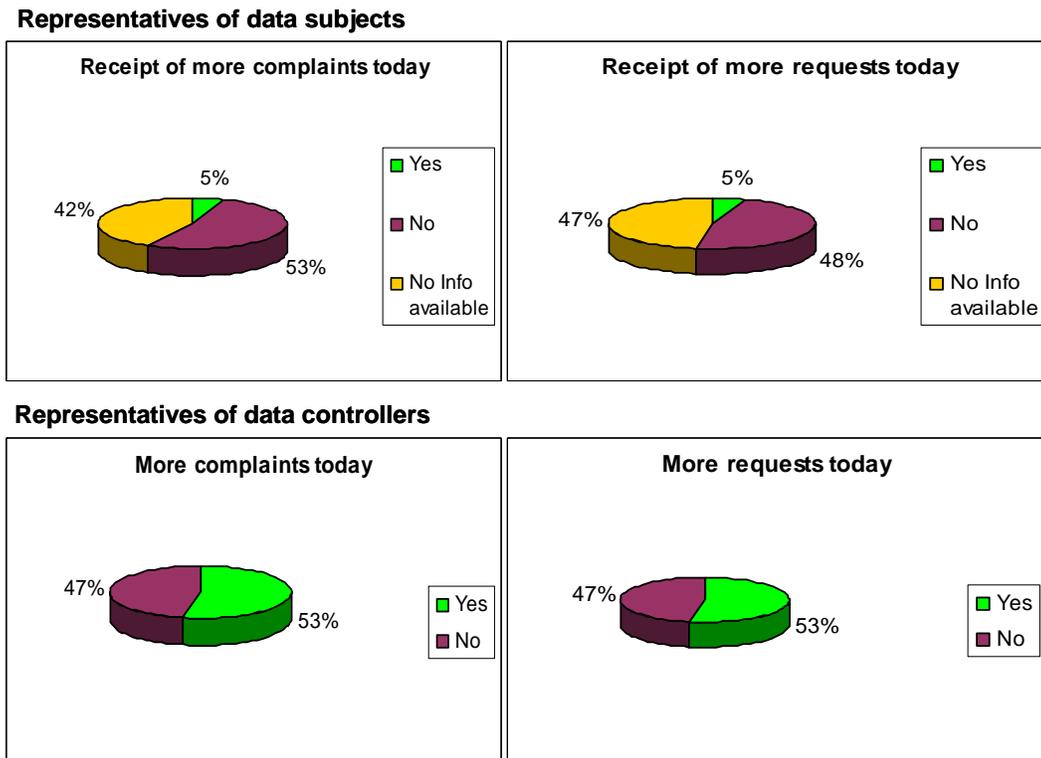
In their qualitative responses, surveyed organisations/experts generally agree on some of the most effective methods for informing the public on data protection issues, namely targeting the education sector (trainings, presentations at schools, etc), the use of the internet and websites with more interactive and audiovisual material, targeted training at certain sectors (e.g. public authorities), the use of the media as a key communication channel and generally more publicity and audits.

5.4   Validation of all findings

The findings from all the above three sources were brought together and discussed in the validation workshop where representatives of four DPSAs and evaluation experts participated. The non attendance of three of the seven selected DPSAs was covered by the presence of evaluation experts covering these countries. The specific objectives of the workshop were:

1. To discuss the trends in terms of awareness raising identified during interviews;

2. To confirm typology and target groups of awareness raising activities;

3. To present and discuss key elements of good practice amongst promotional activities (without pin pointing any specific country, just elements of good practice);

4. To confirm the findings on the impact of awareness raising activities,

5. To discuss ideas of how good practice can be disseminated/shared among Member States;

6. To discuss challenges, difficulties and solutions for the future (for increasing awareness among data subjects and data controllers on personal data protection);

7. To identify any additional recommendations relevant to the evaluation that were not identified during the interviews.

The workshop was organized around two key parts:

a) The first part of the workshop focused on presentation of the purpose of the evaluation, methodology and timetable and the main draft key findings and trends. The field work through interviews, promotional means review and survey brought together an overview of key issues and useful analyses of the promotional efforts aiming at increased awareness, undertaken by the seven national DPSAs. The interview work undertaken though showed that for some of the DPSAs' representatives it was difficult to distinguish in their answers to specific evaluation questions between aspects relevant to different evaluation criteria (e.g. effectiveness, utility, impact). Similarly, perceptions of target groups in the survey contradict each other. This part was therefore aimed at presenting the findings and contradictions both in terms of facts and interpretations. The discussion with DPSAs would therefore provide a very good opportunity to clarify whether the comparisons and findings made by evaluators are based on the same understanding DPSA representatives have.

b) The second part of the workshop picked up and exchanged spontaneously about identified challenges, difficulties and solutions that workshop participants faced when 'servicing' data subjects and data controllers. Thematic discussions here dealt with two distinct themes, namely promotional activities/products and interaction with target groups.

Main results of the workshop are presented below.

Concerning the <u>methodology</u> used for the evaluation:

1. The evaluation was structured around a set of nine criteria[5]. The discussion with DPSAs enabled us to identify the overlap of certain categories due to different perceptions among DPSAs and also due to the lack of formal mechanisms to assess their own activities which make the distinction between categories like effectiveness and impact or relevance and utility seem very difficult to achieve. We have therefore reformulated the categories in the presentation of the conclusions (see Section 6 below).

Concerning <u>outputs</u> of promotional activities and their <u>effectiveness</u>:

2. There are various good examples from different countries that can serve as guidance for others. For instance, in Slovakia, we may distinguish: (a) cooperation with non profit organisations can be effective in reaching target groups or (b) competitions for children can help raise their awareness on internet and mobile communication. In Sweden, (a) various campaigns aimed at teenagers or (b) Personal Data Representatives who act as intermediaries for awareness raising. The examples from Slovakia and Sweden are presented in more detail in the box below.

Examples of good practice from Slovakia and Sweden stressed during the validation workshop

<u>Slovakia</u>

(a) The DPSA in Slovakia cooperates with non-profit organisations on specific personal data protection topics. Such NGOs are chosen for the work they conduct on addressing threats and risks of violation of privacy or misuse of personal data of citizens. Target groups addressed through this cooperation comprise children, teenagers, parents, teachers and the general public. As non-profit organisations are close to target groups, they offer an effective channel for reaching them.

(b) The DPSA supports competitions for children organised in schools. Students compete under the guidance of experts/teachers who are trained in topics such as risks on the internet and mobile communications. They focus their attention on solving practical problems and addressing situations about how to defeat potential threats and violations of the right to privacy of personal data occurring through the use of internet and mobile communications. An example of threats posed by the internet and mobile communications is anonymous bullying of teenagers/children. Such incidents may have extremely serious consequences on the private lives and well being of victims (there have even been cases of suicides as a result of this). Competitions in schools aim to support these vulnerable groups improve their awareness on how to avoid and, should the case arise, respond/act in such situations.

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[5] These evaluation criteria comprise effectiveness (in terms of outputs and in terms of results), efficiency, relevance, impact, complementarity, utility, sustainability and value added. For a detailed description of each of these criteria, see Annex D, DPSA Interview Guidelines.

Sweden

(a) Various campaigns aimed at teenagers and their use of the Internet. E.g. in 2006 the Swedish Data Inspection Board joined forces with Lunar Storm, Sweden's number one virtual community, to inform teenagers about what may happen when providing personal data on the Internet. The campaign was held at different teenage events across the country by letting the visitors of the events listen to audio tapes that were played in bathrooms. The visitors could listen to different stories on what exactly they had experienced and whether they had been abused on the web. During the campaign the Data Inspection Board also held a banner on the web site of Lunar Storm that directed visitors to the web site of the Data Inspection Board. The number of visitors to the website of the Data Inspection Board increased remarkably during this campaign and it has also proven useful to reach parents who look for information regarding teenage usage of the Internet.

(b) Personal Data Representatives are either nominated personally or by the organisation/company they work for. Usually they are lawyers who nominate themselves and who represent multiple organisations/companies, i.e. there are 3500 representatives representing 6000 organisations in Sweden. The Data Inspection Board emphasized the work of the representatives and pointed out that this model gives i) the Data Inspection Board indirect contact with and a chance to influence the general public through yearly seminars/workshops that are solely held for the representatives and ii) feedback from the general public through the representatives.

(c) The Call Centre of the Data Inspection Board in Sweden has multiple functions. It is the means to direct the general public, industry and the public sector in the right direction for general and more topic specific information regarding data protection. There are two lawyers in the call centre and each query needs to be responded to within three working days otherwise an enquiry into the matter will be opened. This call centre is the direct contact point for all queries regardless of whether they come from the general public, industry and/or the public sector, including the Personal Data Protection Representatives. The latter also have a direct contact person at the Data Inspection Board; however, the call centre has proven to be a powerful tool in filtering and addressing queries for this group, too.

(d) Website was renewed in early 2008 and is one of the most powerful tools according to the Director of Communications at the Inspection Board. It hosts both general and legislative information regarding Data Protection. It is also a reference point in all publications, at seminars and cooperation opportunities the Inspection Board commits itself to. On the website further contact details to other authorities, such as the police, can also be found. All publications are also available for free of charge download and/or order. In general, the website is easily found and information is clearly presented and written in a reader-friendly manner; hence, its users may be representatives from industry, the private sector and/or the general public.

3. A key issue that makes it difficult for some of the outputs to be produced is the lack of funds (a general issue for practically all DPSAs present at the workshop). They therefore emphasised the critical use of the media as a means to raise awareness. Some countries have also established help lines or call lines which are a very effective tool following publications in the media. When there is a personal data violation issue in the media, these help/call lines receive lots of phone calls and therefore have a potential for raising awareness. However, these are rather "reactive" ways of raising awareness as help/call

lines rely on the break out of "scandals" or similar "media attractive" events so as to operate as promotional tools.

<u>Pertinence to needs</u> of target groups:

4. There are two main channels for ensuring promotional activities meet needs of target groups: (a) events where data subjects and controllers participate and (b) prompt response to requests/questions etc, for instance Slovenia's motto is "never leave a complaint on the desk" while in France they are committed to answer within 72 hours.

<u>Awareness raising</u> as a <u>result</u> of promotional activities:

5. The workshop confirmed that there is no comparable picture among DPSAs as they use different means to different degrees to measure increased awareness. They all claim to carry out some form of opinion polling which they then publish in their annual reports. But there is no common methodology used for such investigation of awareness raising. This is a key issue picked up in the recommendations (Section 7), i.e. suggesting a common methodology that will allow comparisons both between MS and between different years within a Member State. The Eurobarometer is an example of using a coherent methodology based on standardised questionnaires but something more permanent is probably needed. DPSAs present in the workshop seemed to support the idea of a common methodology for measuring awareness raising. An idea suggested at the workshop was to offer advice in the context of the Article 29 Working Party on carrying out a yearly opinion poll. Constraints to this were also highlighted by some DSPAs as qualitative surveys are too expensive.

6. Using the number of complaints as an indicator for increased awareness may not reflect the real picture: in some cases, DPSAs claim the <u>increase</u> in complaints shows increased awareness; in other cases, the <u>decrease</u> in the number of complaints also shows increased awareness (i.e. people are more aware of their rights, therefore they protect themselves more, therefore there are less reasons to complain). This further supports the arguments above for a coherent methodology for measuring awareness.

<u>Efficiency</u>:

7. Efficiency is a very difficult issue. Key difficulties for assessing efficiency stem from: (a) some Member States have a budget assigned to promotional activities while others do not; (b) similarly with staff, some have staff dedicated exclusively to promotional activities while others do not; (c) what is meant by promotional activities also differs; (d) in some countries they can charge a fee for seminars which they then reinvest in say paying the people who deliver the seminar, while in others DPSAs are prevented by law to charge fees (e.g. in Sweden they can charge fees, in France or Slovakia they cannot).

8. There are no cases where DPSAs measure the efficiency of promotional activities. As a general rule they develop activities they can afford without, however, making a formal efficiency assessment. This confirms certain comments heard during interviews like "we are too busy to inform people and answer requests; we give priority to this rather than assessing the cost effectiveness of our activities".

9. In conclusion, therefore, there are two key issues to be addressed in the future in relation to efficiency: (a) budgetary restrictions (stemming mostly from the fact that most DPSAs rely mainly on public funding and cannot receive any private funds) limit promotional activities to the relatively "cheaper" ones, while the media is extensively used but more in a reactive than proactive way (i.e. they do not publish advertisements in the media but rely on what is published. The exceptions are those cases where data protection officials have close/personal links with the media and can have an influence on what is published in an informal way); (b) resource, time and financial constraints imply that DPSAs focus on "implementation" rather than "design". They therefore seem to implement the faster, easier and cheaper promotional activities instead of designing effective activities based on prior diagnosis of what works best. It is not surprising that websites and the media are regarded as most effective for raising awareness. While the media makes sense, we have doubts as to whether the website is the most effective (although it may be cost effective) in producing results. We would argue that the few examples of more "direct" activities (e.g. events, like conferences, competitions, etc. or on site visits) are more effective and allow a focus on specific target groups. However, they may imply huge costs and availability of an "army" of data protection officials that is hardly feasible.

Regarding impact:

10. The difference between effectiveness and impact was discussed and agreed by all. More precisely, effectiveness looks at increased awareness as a result of promotional activities. While impact looks at increased interaction as a result of increased awareness. Having said that, it is very difficult to assess, again because DSPAs have no formal mechanisms in place to assess either increased awareness or increased interactions.

How can DPSAs ensure promotional activities actually meet the needs of target groups:

11. This is a different issue to taking needs into account. Promotional activities may be developed taking into account the needs but the issue here is whether they actually meet these needs once they are implemented, i.e. are they after all, useful for raising awareness?

12. DPSAs have no feedback generally on this as it implies too much work to assess. One suggestion came from France: they propose the hot line can be used to ask people who call what they think of (certain) promotional outputs.

13. The website can also be redesigned to allow a section for people to rate or give an opinion/comment on promotional outputs (this idea was supported by all present).

Findings from the <u>promotional means review</u>:

14. There were no comments on these findings

Findings from <u>stakeholder surveys</u>:

15. The general picture is that the opinion of data subjects is much worse than that of data controllers. The former tend to rate promotional outputs more negatively than the latter. We suggested this could be useful information for DPSAs to focus their activities on data subjects so as to increase their knowledge and improve their perceptions.

16. However, DPSAs rightly claim it is easier to inform data controllers as they are: (a) less numerous than data subjects; (b) can be reached indirectly through chambers of commerce for instance; (c) in some countries they have an obligation by law to notify the DPSA (in France for instance), they are therefore in closer contact with the DPSA. Data subjects are basically the whole population, reaching them is therefore a massive task. A way around this may be that DPSAs focus their efforts on addressing directly organisations that represent data subjects like NGOs, consumer organisations, etc. Our survey shows that even these organisations need more and better information on personal data protection issues.

<u>General discussion</u>:

17. The most striking issue dominating the discussion was the lack of budget. In some countries there is stipulation in the law that the DPSA must inform citizens. However, even where the law supports this, there is no budget. It seems to all boil down to budgetary constraints. A key issue that remains open is the extent to which DPSAs could find ways to raise awareness effectively without having to spend much. Our recommendations pick up this point, especially through the proposal of more cooperation at EU level that could help achieve economies of scale and therefore overall cost effectiveness in the design and delivery of promotional activities/outputs.

18. DPSAs are a rich source of ideas on how to become more effective. A couple of proposals are discussed below and are taken further in the recommendations section of this report (chapter 7).

i. One proposal is to choose target groups to focus on. Feedback from the interviews with DPSAs suggests that a focus on the education sector, for instance, would benefit children and young people as well as teachers. Existing campaigns targeted at schools have already proven to be effective means of raising awareness of students and teachers alike on personal data protection issues. The increasingly intensive use of the internet in schools for instance makes it imperative for users to know how to use

technology without jeopardising the privacy of their personal data. Other target groups to focus on may include the health or banking sectors where increasing amounts of personal information are processed; these are sectors where the violation of personal data has become the subject of media coverage over recent years. Furthermore, the stakeholder surveys reveal divergence in the views of representatives of data subjects and representatives of data controllers, the former rating promotional activities more negatively than the latter. As a consequence, focusing on representatives of data subjects such as NGOs or consumer associations may be another channel for reaching data subjects more effectively and providing them with the necessary information on personal data protection.

ii. Another proposal is to explore cooperation between DPSAs. There are already instances where DPSAs have cooperated for several reasons. A good example is the Nordic countries, that have been cooperating with each other for years. Romania and Slovakia also cooperate on certain data protection issues. Others DPSAs have used promotional outputs produced by others by adapting and translating them to fit their contexts. Furthermore, another proposal is related to the creation of a common tool/website, which could serve as a knowledge database for all DSPAs in Europe.

19. Finally, the revival of a forum like the London Initiative where DPSAs can cooperate for more effective communication activities appears to be an idea welcomed by DPSAs. Those present in the workshop regard such an initiative as a positive step towards more and better information available to target groups on personal data protection.

6   Conclusions on the Efficacy of the Promotional Means examined

This chapter presents the overall conclusions on the efficacy of promotional means developed and applied by DPSAs in order to raise awareness of personal data protection. Conclusions are presented by evaluation criterion, namely, effectiveness, impact, efficiency, relevance and utility, value added, complementarity and sustainability. Table 4 at the end of this chapter brings together all key findings from the three sources of information used for the in-depth examination of promotional means (interviews, review of promotional means and stakeholder surveys) and overall conclusions stemming from these findings. Overall conclusions also take into account the initial screening of relevant documentation and DPSA websites and the results of the validation workshop which discussed and clarified any inconsistencies and contradictions in the findings. The table is presented before we embark on recommendations (chapter 7) so as to show how the findings feed into conclusions, which in turn feed into the development of a number of key recommendations.

Conclusions on effectiveness (defined as an assessment of the initial effects that benefit the target group, such as increased awareness).

- DPSAs use a combination of promotional means for raising awareness on personal data protection. Potentially the most effective means are websites, the media, help or call lines and events such as targeted campaigns and conferences. These target data subjects, data controllers and also government departments and parliaments.

- Awareness raising activities are a constant part of the work of DPSAs even if they are not explicitly defined as such. Every time there is a phone call or request for advice, for instance, it is an opportunity for the DPSA to raise awareness on the topic under discussion. This is one of the reasons why measuring the proportion of promotional work in numeric terms is a very challenging exercise. This does not by any means imply there should be no effort to measure promotional activities and their impact as discussed in various points below.

- A key conclusion is that it is not the type of promotional output that contributes to effectiveness, but its quality, timing, focus and often its proactive or reactive character. The quality of outputs appears to be a criterion that target groups value as revealed by our survey. Likewise, DPSAs also stressed during interviews that they undertake continuous efforts to improve some of their most effective outputs, such as their websites and publications. Websites in particular are being made more user friendly with time by using simple and clear language and driving away from the more legalistic jargon that prevailed in the past. They also include specific sections aimed at teenagers where again the language is carefully thought of. The timing is critical when DPSAs act quickly following a new personal data violation scandal. The focus on specific topics (e.g. topics that have received lots of attention in the media) or target groups (e.g. young people) is

increasingly becoming necessary for outputs to be effective. Finally, the proactive attitude of DPSAs is not always easy to adopt as scandals may break out before anyone has had time to react (the pace of technological change is one cause for this and has been analysed in detail in the London Initiative, stressing in particular that "…the technological pace keeps accelerating while the legal pace remains particularly slow…"). However, DPSAs recognise the need to become more proactive in order to inform the public in advance of their data protection rights and therefore be better prepared to avoid violations to their privacy.

• DPSAs do not possess any formal mechanisms for assessing the effectiveness of their own promotional activities. Some undertake surveys on awareness raising whose results are then published in their annual reports. They comprise, however, surveys of a limited scope as they are quite costly to produce. Others have occasionally carried out surveys at different points in time (different years) and then compared the evolution of results. The most common mechanisms DPSAs use to assess their effectiveness are the number of website visits (often disaggregated to detailed categories), the number of complaints and requests or the number of phone calls received. There is data available on other aspects like participation of DPSA staff in events or on site inspections/investigations/visits (different DPSAs use different terms for this). However, this data is not used in a systematic way to inform DPSAs about the effectiveness of their promotional activities.

Conclusions on impact (defined as an assessment of the longer term effects, such as increased interaction between target groups and DPSAs)

• Just as for effectiveness, DPSAs have no formal mechanisms in place to measure the impact of their work in the Member States concerned either at national or at regional level. A proxy used in this study for assessing impact has been the number of requests, notifications and complaints (assuming they reflect increased interaction with the DPSA) and participation in conferences/seminars as an indication of increased interaction and dialogue with representatives of data controllers. However, the validation workshop confirmed an initial caveat with using the number of complaints as an indication of increased awareness or increased interaction (increased complaints by data subjects may also indicate lower awareness on how to protect themselves from personal data violations). This conclusion is picked up in particular in our recommendations.

• Measuring interactions between DPSAs and their stakeholders at regional, national and EU level is recognised by DPSAs as a useful aspect for assessing impact. Good examples can be found in countries like Sweden which has already developed an interaction matrix for the present as well as a future interaction scenario. Cooperation between DSPAs can build on such examples (see also recommendations on cooperation).

Conclusions on efficiency (defined as how economically the various inputs were converted into outputs, results and impacts at both the level of implementation (promotional activities) and the level of management (national supervisory authority)

- Efficiency is hard to measure as again there is no system for assessing the efficiency of promotional activities. In many cases, there is not even specific budget allocated to promotion so as to be able to assess how efficiently it is spent.

- Despite this, DPSAs were found to be able to cope satisfactorily with the activities they conduct for raising awareness. They do this either through dedicated departments to communication or through promotional work undertaken by all staff as required. There is, however, significant scope for improvement, as budgets for promotional activities are either small or not specifically defined for these purposes.

- DPSAs are independent organisations and cannot (in most cases) rely on private funding. This restricts their capacity to obtain more resources for communication activities and focus on priorities like responding to complaints and dealing with urgent personal data protection violation issues.

- Having said that, experience allows DPSAs to claim there are no activities that have not justified their cost in terms of time, human resources and money. They claim to be doing their best with resources available and the quality of their outputs largely confirms this.

Conclusions on relevance and utility (definition merged to "assessment of the extent to which promotional activities correspond to the needs of target groups and to existing legislation")

- DPSAs design their activities taking into account various sources of feedback on target group needs: requests and complaints, advice sought, questions asked, feedback from site visits or participation in conferences, etc. The media is also used extensively as a key source of information on what it is that promotion should focus on.

- The media expresses very frequently an interest in the work of DPSAs, in some cases almost daily. Whenever a new law is published or a new violation case erupts, the media is at the forefront and contacts DPSAs for information and feedback. It is less common for DPSAs to contact the media in a proactive manner but they make intensive use of it with every opportunity as it is a channel without any cost involved (DPSAs do not use the media for publishing advertisements on account of high costs).

- DPSA activities for the promotion of persona data protection are often stipulated by law and therefore reflect provisions made in Data Protection Acts or similar. For instance, awareness raising activities are relevant to what is stipulated in the EU Directive in relation for instance to the supervisory authority's effective powers of intervention. In

many cases there is a statutory underpinning of DPSA promotional activities in national legislation.[6]

<u>Conclusions in value added</u> (defined as the extent to which awareness raising is the best way of promoting the protection of personal data)

• Although awareness raising is regarded as the best way for promoting the protection of personal data, DPSAs are keen to focus their future activities on certain sectors such as the education sector (a recommendation related to this is provided below).

<u>Conclusions on complementarity</u> (defined as the coherence of national-level promotional activities with other national/EU interventions to raise the target groups' awareness in the field of data protection)

• DPSAs cooperate in the context of the Article 29 Working Party. Its aims include the provision of expert opinion from Member State level to the Commission on questions of data protection and the promotion of the uniform application of the general principles of the Data Protection Directives in all Member States through co-operation between data protection supervisory authorities. It is an independent EU advisory body on data protection and privacy and is composed of representatives of DPSAs and the European Commission. The Article 29 Working Party is one of the cooperation instruments between DPSAs.

• All sources of information, including both DPSAs interviewed and target groups surveyed, converge in the view that common issues and concerns about personal data protection at EU level warrant more frequent, formal and systematic cooperation specifically related to promotional activities. Such cooperation between DPSAs should aim at exploring the most effective means used for awareness raising and adapting/transferring those means from one country to another, thus achieving maximum complementarity of actions across Member States. The European Commission could play a role in facilitating the coordination of cooperation between all 27 DPSAs.

<u>Conclusions on sustainability</u> (defined as the extent to which certain promotional activities are likely to last in the longer term)

• There are several factors which, combined, can contribute to the sustainability of promotional activities. They comprise frequent updates/maintenance of the promotional means, low cost involved in updates/maintenance, high quality of the outputs of promotional activities, and the capacity to have a direct and immediate effect on target groups. Promotional means that were found to combine certain of the above factors include websites, contacts with the media and certain publications.

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[6] The second Interim report gives examples from the UK, Romania and Germany by presenting extracts from their national data protection legislation.

- We would also argue that the most effective promotional means (identified in the course of this evaluation study to be websites, the media, call/help lines, targeted campaigns and seminars/conferences) are the ones with the highest scope for sustainability. DPSAs should have an interest in maintaining, updating and improving those activities that are most successful in raising awareness on personal data protection issues. Exploring the factors that are required to make these activities sustainable is therefore a key task that DPSAs can undertake if they are to reach out to citizens, raise awareness and suggest privacy enhancing solutions.

Table 4 – Summary of key findings by source and overall conclusions

		Evaluation criteria						
		Effectiveness	**Relevance/Utility**	**Efficiency**	**Impact**	**Complementarity**	**Sustainability**	**Value Added**
Key findings from:	**Interviews**	Most effective promotional means: websites, media, help lines, targeted campaigns, seminars/conferences. Difficult to isolate the effect of promotional activities from other factors, such as media coverage or better informed citizens. DPSAs report increased awareness however there are no standard, common measurements to this end.	Media is the means mostly used to take into account the needs of target groups (relevance) and to assess whether promotional activities actually meet those needs (utility). Requests/complaints and on site visits are also sources of identification of target group needs. Promotional activities are relevant in relation to EU and national legislation.	Small proportion of total staff and budget dedicated to promotional activities. No standard mechanisms for measuring efficiency. The media is amongst the most efficient promotional means.	Increase in requests/ complaints indicates increased interaction between DPSA and the public. Increase in invitations of DPSAs to contribute to events/ publications indicates increased interaction between DPSA and representatives of data controllers. No formal mechanisms in place to measure and monitor impact.	Currently cooperation in the context of the Article 29 WP. Common issues and concerns at EU level suggest there is scope for closer cooperation between DPSAs.	Websites, contacts with media and some publications likely to be most sustainable due to low maintenance cost combined with significant effect on target groups.	Targeted actions (at schools, government), enforcement activities, multi-media means (videos, TV), marketing tools.
	Promotional means review	Quality of content of websites suggests they can be effective in raising awareness. Publications easy to find, can be obtained free of charge, up-to-date with appropriate, consumable length. Lack of readership surveys. Other promotional items help raise awareness using slogans or key messages.	Websites are generally functional for users. Navigation through them is easy. Design of websites is relevant to ordinary consumers. Multi-media applications not a common feature of websites. Publications: user friendly presentation addresses needs of target groups; professional design, layout of light character, logical and clear.		Average interactivity promoted through websites: easy to make requests/fill forms but limited interactive tools and forums.		Websites potentially sustainable as they communicate clearly what they have to offer. Publications good sustainability potential: communicate well the DPSA contact details, encourage the reader to contact the DPSA, consider the aspect of brand recognition. However, they do not follow a regular pattern.	

		Design of other promotional items relevant to ordinary consumers (professional graphical design, light, logical and clear layout, simple and clear captions).				Sustainability of other promotional items could be improved by displaying contact details of DPSAs and encouraging people to get in touch with them.	
Stakeholder surveys[7]	Data subjects generally aware of DPSAs but a small proportion contacts them. Data controllers perception on the availability of information better than that of data subjects. Quality of promotional outputs rated better by data controllers and experts and worse by data subjects. Multi-media applications considered poor by all surveyed. Promotional events assessed more positively by data controllers than by data subjects.	The evaluation of events by participants could help obtain the necessary feedback so as to tailor make them to the needs of different target groups.		Data controllers in closer contact with DPSAs than data subjects. For data subjects there is no improvement in interaction between them and DPSAs. For data controllers there is a clear improvement. Experts consider there has been improvement in interaction between DPSAs and target groups. Everyone recognises there is increased concern today about personal data protection. In their majority, data controllers claim an increase in requests/complaints, while data subjects claim no increase or do not know.	All data controllers and experts surveyed recognise there are issues regarding personal data protection common to all EU Member States.		Targeting the education sector, use of more interactive and audiovisual material, targeted training in certain sectors (e.g. pubic authorities), proactive use of the media.

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[7] By "data subjects" we refer to representatives of data subjects that were surveyed and by "data controllers" we refer to representatives of data controllers that were surveyed.

		Key factors for effectiveness:	Key factors for ensuring relevance to needs of target groups:	Key factors for efficiency:	Key factors for impact:	Key factors for complementarity:	Key factors for sustainability:	Value added activities:
Conclusions (validated in workshop)	**Overall Conclusions**	√ proactive not only reactive activities √ quality, timing and focus of promotional means √ intensification of the use of most effective means (media, help/call lines) √ activities with a direct and immediate character √ establishment of systematic measurements (taking into account methodological difficulties, for instance when using complaints as an indicator of awareness) √ focused target groups (either sectoral, e.g. education sector, or type of target group, e.g. representatives of data subjects whose opinions of promotional activities are worse than those of data controllers) √ capitalisation on each other's experiences (DPSA cooperation can improve effectiveness)	√ participation of target groups in events √ prompt response to requests/complaints √ feedback from the media √ direct feedback from target groups through DPSA call or help lines √ a website section where people can rate or give opinion on promotional outputs	√ establishment of measurements √ availability of resources (staff, budget) dedicated to promotion √ achievement of economies of scale through cooperation with other DPSAs (e.g. adapt and apply tools developed by others) √ outputs of high quality and impact justify their cost √ close links with the media in a proactive manner	√ activities that offer direct interface between DPSA and target groups √ establishment of systematic measurement of interaction between DPSAs and target groups √ capitalisation on existing experience (learn from how others measure impact) √ assessment of impact at different levels (regional, national, EU)	√ exploring cooperation between DPSAs √ building on existing cooperation	√ cost √ quality √ target group coverage √ regularity of production/issue	√ focus on certain sectors √ multi-media applications √ proactive use of media

7   Recommendations as to how to improve the efficacy of promotional activities aiming to raise awareness

We present a list of recommendations based upon the evaluation study and examples from the Member States studied. The recommendations are grouped into two main categories, namely those related to **promotional approaches**, **mechanisms and tools**, and those related to **promotional strategies**. Most of the recommendations are for action that could be taken by DPSAs and others in individual Member States, but some are matters for the EU Member States collectively.

Approaches, mechanisms and tools

1. Develop a more proactive and pragmatic approach

It is very difficult for DPSAs to follow up every complaint in a reactive mode, although DPSAs do their best to react as swiftly and as effectively as their resources will allow. The scandals and 'horror stories' about privacy invasions, surveillance, data breaches, etc. that erupt from time to time provide useful occasions for DPSAs to highlight data protection issues and to call for improvements in the public or private sector. But better data protection cannot wait for such incidents to happen, and requires a more proactive approach designed to raise awareness in a more thorough and consistent manner, in order to foster a "culture of privacy" which DPSAs know to be extremely important. Promotional activities that take the initiative, therefore, are very important. Undertaking them requires DPSAs to anticipate, and then to meet, the needs of the public in general and of particular sections of the public. In this connection, it is particularly important for DPSAs to develop, and to communicate to the public, their understanding of trends and developments in technology, business and the state that may pose new threats to privacy. Scenario-building may help here, just as, for example, the UK's Information Commissioner's "Surveillance Society" report[8] attempted to do by highlighting surveillance in everyday life ten years in the future. Developments in "ambient intelligence" and nanotechnology provide opportunities for proactive approaches that anticipate dangers that may be qualitatively different from those with which the public are familiar in today's technological environment, which include mobile telephone, online targeting advertising, etc. **We therefore recommend** greater concentration on proactive approaches, building on current good practice, and made available to the public through a variety of media. In doing this, DPSAs should avoid paternalistic modes of communication, but should engage the public in a variety of "citizens' enquiry" modes of dialogue and mutual learning. Relevant learned societies, NGOs, and professional bodies should be enlisted in this effort.

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[8] Surveillance Studies Network (2006), *A Report on the Surveillance Society*, http://www.ico.gov.uk/upload/documents/library/data_protection/practical_application/surveillance_society_full_repo rt_2006.pdf

2. <u>Make the best use of the power of the mass media</u>

Partly in connection with the above, the media may provide the means for helping to prevent unlawful and intrusive uses of personal data, perhaps especially for those sections of the population that are either unable or unwilling to engage in online modes of communication. Currently, DPSAs use the media mainly through press releases or occasional broadcasts, although in a reactive mode some DPSA members may appear on television or radio giving responses to incidents. Purchasing time on broadcast media or in newspapers is, however, very costly and the effects of such appearances may only be temporary, although valuable for particular purposes. In France, for instance, the DPSA runs a weekly radio programme that answers frequently asked questions. The topics and questions discussed there are then used for updating the FAQ section of the website. On the other hand, possibilities for the media to mount occasional investigative campaigns (e.g., concerning unlawful selling of personal data, intrusive visual surveillance, etc.) are available and could be further encouraged by and supported with information from DPSAs, perhaps in co-operation with civil society organisations. **We therefore recommend** that DPSAs explore possibilities for better utilisation of the mass media as part of a comprehensive and credible awareness-raising strategy, involving societies with relevant expertise, NGOs such as privacy advocates, and professional bodies.

3. <u>Target the education sector</u>

Although there is a need for general awareness-raising among the public, young people are increasingly engaged in activities that expose them to possible dangers to their privacy and to identity fraud without their understanding of what happens to their personal data, the risks involved, and the protections that are available. Social networking has brought these problems to light in recent years, but concerns go beyond such online activity and involve other forms of communication and interaction, for instance, the use of smart cards and biometrics in schools. These are controversial developments, and DPSAs are paying attention to them at the level of public policy and the development of technical infrastructures. However, there is a need for public engagement beyond the usual and often perfunctory routines of "public consultation" in which the advantages (e.g., convenience, enjoyment, etc.) of new developments are often highlighted and the dangers minimised. It should be possible for DPSAs to engage in, and to stimulate, awareness campaigns targeted at primary and secondary schools, and in further or higher education, in co-operation with groups and specialists in communicating with young people of different age-groups. The messages should be clear and simple, but not paternalistic, and should aim at interactive communication through a variety of face-to-face, print and electronic media. Some DPSAs already employ promotional techniques for young people, but **we recommend** that new avenues be explored for improving on current practice, including learning from good practice in other countries. For example Sweden has successfully run campaigns aimed at young people in order to secure navigation on the internet and based on delivering key messages

to teenagers using innovative means (such as events where teenagers could speak anonymously to a moderator on how their personal information had been violated on the internet). A further, relevant suggestion from France proposes that competitions in schools, a blog for young people on the web, awareness raising in schools and Facebook are examples of means that can be used to address the young more effectively.

Strategies

1. Develop self-assessment strategies

It is important that DPSAs co-operate in developing ways of assessing their own effectiveness, efficiency, impact and other outcomes, as a way of making strategic decisions about the allocation of financial and human resources, and about obtaining best value from awareness-raising approaches. There is currently a lack of such formal mechanisms, although certain indicators are found useful, such as website hits, the number of media appearances, surveys of attitudes, the number of complaints and cases, and others. These should be used more systematically, and there is room for creating greater comparability across Member States in the way activities are monitored and reported. However, too often these are measures of activity rather than of outcomes, and can therefore only stand proxy for actual indicators of effectiveness or impact. We realise that there are conceptual and practical difficulties in measuring the effectiveness of organisational activities, perhaps especially in a field such as privacy protection in which the "dependent variables" or categories of outcome are intangible. Nonetheless, **we recommend** that greater attention be paid to developing better, and conceptually better grounded, criteria for assessing the outcomes of DPSAs promotional work. Existing mechanisms, such as helplines, could assist in this by asking a few carefully-chosen feedback questions to callers. Outside organisations could make a useful contribution to the development of criteria and assessment strategies, and to identifying areas where exchange and co-operation would be useful for improving promotion in the future.

2. Increased cooperation with other public bodies involved in data protection incidents

In some countries, the different competences of public authorities divide the responsibility for improving public awareness of privacy and data protection. For example, in Sweden, most violations of information privacy are the responsibility of the DPSA, but it is the police who are responsible for reporting and investigating cases of Internet scams. Situations like this may affect a DPSA's choice of target group for promotional work and of the instruments to be used for it. In such cases it will be important to ensure that public bodies in charge, but external to the DPSA, report about their experience to the body responsible for improving **awareness** of data protection issues.

3. Promote greater co-operation across Member States

There is a recognised need for greater co-operation and co-ordination of data protection, including promotional activities, across Member States. Issues arising in one country are not likely to be greatly different from those in another, and threats to privacy do not respect national borders, despite differences in national legislation implementing the Data Protection Directive 95/46/EC that applies to all Member States. More intensive co-operation could allow DPSAs to adopt more effective campaigns based upon the sharing of experience and mutual learning about the best promotional strategies, tactics and mechanisms. In recent years, there have been calls for such co-operation and co-ordination among the DPSAs of the world through various mechanisms. The Montreux Declaration, adopted at the 27th International Conference of Data Protection and Privacy Commissioners in 2005, responded to the globalisation of information processing and the need for global approaches to data protection. Included in its resolutions was an agreement to co-ordinate supervisory activities and to exchange information across countries. The London Initiative, adopted at the 28th International Conference in 2006, was a major landmark, expressing the will to develop new communications strategies with the public and policy-makers (including awareness-raising), to assess their own efficiency and effectiveness, to take account of technological change, and to engage with other groups and stakeholders. DPSAs committed themselves to share ideas, tasks and approaches, to co-ordinate strategies and to work together to enhance the global visibility and impact of data protection. The London Initiative stands out in relation to the above declarations as it represents a new departure because of its focus on communications.

International co-operation was again explicitly called for at the 29th International Conference in Montreal in 2007, where a resolution encouraged DPSAs to raise awareness and to continue the sharing of tools, frameworks and experiences in evaluating effectiveness and efficiency that had taken place under the London Initiative. That Initiative had given rise to several workshops in 2007 on various topics, including one on communications.

We perceive, however, that the impetus to develop activities in the spirit of these recent resolutions and initiatives may have flagged recently, but that it is nevertheless important – at least as far as the EU Member States' DPSAs are concerned – to regain momentum in the face of future challenges to privacy. DPSAs are eager to compare and to learn from each others' experiences, for instance, with regard to the use of promotional videos. **We therefore recommend** that an evaluation should be made of the achievements and shortcomings of co-operative and co-ordinative activities since 2005, including their effect on awareness-raising strategies and outcomes, with a view to renewing and perhaps re-orienting action across Member States and their DPSAs, and to institutionalising these activities through appropriate organisational development. In this connection, possible roles for the Article 29 Working Party, established under Directive 95/46/EC, and for the European Data Protection Supervisor, could be explored.

We hope that the present Report may be seen as a demonstration that such international evaluations and comparisons of promotional experience are a worthwhile activity to be fostered at the European level, and that it may serve as a new point of departure for pan-European initiatives in the field of privacy and data protection.