



Press release

Embargo: Friday, 8 June 2012, 12.00pm

## Strict conditions imposed on Google

**Bern, 8 June 2012 – Following an earlier decision by the Federal Administrative Court, the Federal Supreme Court has also ruled in the case of Google Street View and upheld the position of the Federal Data Protection and Information Commissioner (FDPIC) Hanspeter Thür in all essential respects. The Court finds that foreign companies are also subject to Swiss law and thus subject to FDPIC supervision, and imposes strict conditions on Google.**

In its judgment of 31 May 2012 regarding Google Street View, the Federal Supreme Court imposed strict conditions on Google and by clarifying a number of key legal points has strengthened data protection in Switzerland. It finds that Swiss law is also applicable to foreign companies if there is a close link to Switzerland and that Street View consequently falls under the jurisdiction of the FDPIC. The Supreme Court also finds that Google does indeed process personal data with regard to images in its online Street View service and that by publishing not or inadequately blurred images it violates a person's right to his or her own image and privacy.

The Federal Supreme Court emphasises that individuals should not feel as if they are under constant surveillance and imposes on Google, in accordance with the demands of the FDPIC, the following conditions:

The Federal Supreme Court requires that images of sensitive facilities, particularly women's refuges, nursing homes, prisons, schools, courts and hospitals in Street View *must be rendered entirely anonymous prior to publication on the internet*. The Supreme Court stipulates that in addition to faces, other identifying characteristics such as skin colour, clothing, aids of physically disabled persons etc. should no longer be identifiable. This means that in such cases it will no longer be sufficient to blur faces and that images will have to be processed manually.

The FDPIC had criticised the fact that the elevated cameras afforded views into private areas such as enclosed yards and gardens. The Court shares this view and states that *images of private areas not open to view to an ordinary passer-by are not to be published without the consent of the persons concerned*. The Court will grant a transition period of three years to correct the relevant images, while newly published images will have to comply with these requirements.



In addition, Google must provide *better information*. The company must improve its online notices regarding the right to correction and also accept complaints sent by post. Furthermore, Google must also provide at least a week's advance notice of where it plans to record images, and announce a week before publication the localities that are going to be published online. This information must not only be published on the internet, but also appear in the local media.

With regard to the demand of the FDPIC for all faces on Street View to be blurred, the Court stated that the maximum permissible error rate *must be no higher than one per cent*, on condition that Google continually improves its software with the aim of further reducing this error rate. Google will be required to document these improvements for the FDPIC on an ongoing basis.

The FDPIC is extremely satisfied with the judgment because it confirms its interpretation of the law in the essential points and because the Supreme Court has underlined that high demands are to be made with regard to rendering individuals anonymous for the purpose of internet publication.

The FDPIC will be available to discuss the decision and answer journalists' questions at the Au Premier restaurant (Alcina room) on 1<sup>st</sup> floor of Zurich main station at midday on Friday, 8 June.