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# US Privacy Laws and Concepts

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# Agenda

- A Brief History of Privacy in US
- US Approach
- US Legislative and Regulatory Frameworks
- Legislative/Regulatory Proposals
- Breaches in the News
- New and Social Media
- Next Steps

# Quiz

- What is privacy?
  - Right to be left alone
  - A fundamental human right
  - A concept which the invention of the Internet renders difficult to enforce
  - All of the above

# History of Privacy in US

- Privacy in US: fear of intrusion, esp. by the government, into private business
- 1890: Warren/Brandeis
- 1947: National Security Act
- 1960s/1970s: Watergate and Nixon
- 1980s/1990s: Invention and widespread adoption of the microcomputer
- 2000s/Today: terabytes and petabytes

# Quiz

- The US approach to privacy can be characterized as:
  - Unenforced
  - Sectoral
  - 100% effective
  - Nonexistent

# Question

- In which industry does your company perform?
  - Financial services
  - Health care
  - Government contracting
  - Web-based services
  - Other

# US Approach

- US approach is sectoral, not comprehensive.
- Privacy laws exist in the following sectors:
  - Financial
  - Health Care
  - Government
  - Children
  - State-Based
  - Prevention of Annoyance



# Question

- Are you/your team familiar with the laws mentioned before that relate to your industry?
  - Yes
  - No

# US Approach

- Privacy in the US v. Privacy Elsewhere
  - In US, privacy is regulated by sector, not as an overarching concept or fundamental human right
  - Compare with:
    - Canada: Privacy by Design, PIPEDA
    - EU: Article 29 Working Party, Data Protection Administrators
    - APEC: Data Commissioners
    - And the list goes on...

# US Approach

- The US sectoral approach has pros and cons.
  - If you represent a business in domestic industry, you know exactly what your requirements are.
  - However, if you are Jane Citizen, or you work in a multinational company, you may be in the dark.

# Question

- Does your company operate in the United States *and* other countries?
  - Yes
  - No

# US Approach

- Fair Information Practice Principles (FIPPs)
  - Notice
  - Choice
  - Access
  - Security
  - Enforcement
- Very much like what the rest of the world uses

# US Legislative/Regulatory Frameworks

- Section 5 of the FTC Act
  - Unfair or Deceptive Acts or Practices
- State Security Breach Notification Laws
  - California
  - Massachusetts
  - Nevada
  - Texas

# Legislative/Regulatory Proposals

- FTC Privacy Framework (2010)
  - Privacy by Design
- Department of Commerce Green Paper (2010)
- Proposed Federal Laws
- NIST SP 800-53 Draft Appendix J (Privacy)
  - FIPPs

# Breaches in the News

- Geolocation (iPhone, Android)
- Google Street View
- Sony
- Facebook
- Epsilon
- News Corporation
- Chase



# Question

- Did you as an individual consumer receive notice from any company that your e-mail address had been compromised as a result of the Epsilon hack?
  - Yes
  - No
  - I don't recall

# Question

- Does your company use social media?
  - Yes
  - No
- Does your privacy policy/your company's privacy practices encompass your social media use?
  - Yes
  - No

# New and Social Media

- Consider the web and social media in your privacy practices
  - “On the web” v. “Free for anyone to use”
  - Customer information
    - “Privacy is dead – get over it” v. EU “Right to be forgotten”
- If it’s posted by a customer on a third-party site, but it’s about your company, who is responsible?

# Next Steps

- Corporate Privacy Concept
  - Online
  - On paper
  - In the cloud
- Privacy Policy
  - Including person who is accountable
- Privacy Understanding
- Know Your Customer

# Question

- Does your company have a written Privacy Policy?
  - Yes, on our website
  - Yes, which we provide to customers in multiple formats
  - Yes, some other answer
  - No

# Question

- If you operate in the United States and other countries, is your privacy policy jurisdiction-specific?
  - Yes
  - No



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