PRIVACY AND INFORMATION SECURITY LAW BLOG
GLOBAL PRIVACY AND CYBERSECURITY LAW UPDATES AND ANALYSIS

January 2014

This Client Alert is a monthly update on privacy and cybersecurity developments as posted on Hunton & Williams' Privacy and Information Security Law Blog. If you would like to receive email alerts when new posts are published, please visit our blog and enter your email address in the subscribe field.

Recent posts on the Privacy and Information Security Law blog include:

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Increased Focus on Cyber Insurance Post-Target Breach
January 31, 2014

Recent media attention focused on the security breach that affected millions of Target customers has increased interest in cyber insurance to cover the financial losses associated with these types of events. As insurers aggressively market insurance products to protect against cyber risks, it's important to note differences in the language carriers have chosen to include in their policy forms. Contrary to reasonable expectations and marketing brochures, policy clauses concerning timing, and conditions requiring due diligence, might be used by an aggressive insurer to undermine the transfer of risk. In an article published in *Law360*, a Hunton & Williams Insurance Litigation & Counseling partner examines whether the Target breach would be covered by one carrier's form.

Download a copy of the full article.

NSA Appoints Chief Privacy Officer
January 30, 2014

On January 29, 2014, the National Security Agency ("NSA") announced that Rebecca Richards has been appointed to serve as the NSA's new Civil Liberties and Privacy Officer. Ms. Richards, who previously worked as the Senior Director for Privacy Compliance at the Department of Homeland Security, will advise the NSA Director on civil liberties and privacy issues and implement reforms in those areas. Continue reading…

Federal German Court Rules on Credit Scoring and Data Subject Access Rights
January 29, 2014

On January 28, 2014, the Federal Court of Justice of Germany clarified the scope of a data subject's right of access to personal data in the context of credit scoring. Germany's Federal Data Protection Act contains detailed and expansive provisions on the right of access where personal data are processed and shared to determine a data subject's future behavior. Continue reading…

PCLOB Report Concludes NSA's Bulk Collection of Customer Phone Records Is Unlawful
January 24, 2014

On January 23, 2014, the Privacy and Civil Liberties Oversight Board ("PCLOB") released a report (the "Report") concluding that the National Security Agency ("NSA") does not have a valid legal basis for its bulk telephone records collection program. The NSA's bulk collection of consumer telephone records has been under increased scrutiny since Edward Snowden leaked information about the program in June 2013, and recently has faced legal challenges. According to the Report, the NSA's program exceeded its statutory parameters. Continue reading…

New Independent Commission on Internet Governance Launched
January 11, 2014

On January 22, 2014, at the World Economic Forum in Davos-Klosters, Switzerland, Sweden's Minister for Foreign Affairs Carl Bildt announced the creation of a new independent commission that will examine the future of Internet governance. The Global Commission on Internet Governance (the "Commission") is being launched by think tanks Chatham House and The Centre for International Governance Innovation ("CIGI"). The Commission will be chaired by Bildt, Sweden's former Prime Minister, and supported by expert members representing business, government, academia and civil society. In announcing the initiative, Bildt stated that "[n]et freedom is as fundamental as freedom of information and freedom of speech in our societies." Continue reading…

Hunton Global Privacy Update – January 2014
January 22, 2014

On January 21, 2014, Hunton & Williams' Global Privacy and Cybersecurity practice group hosted the latest webcast in its Hunton Global Privacy Update series. The program highlighted some of the key privacy developments that companies will encounter in 2014, including cybersecurity issues in the U.S., California's Do Not Track legislation, Safe Harbor, the EU General Data Protection Regulation and the CNIL's new cookie guidance. Continue reading…

The Class Action Hurricane: Where Is the Storm Heading?
January 22, 2014

It appears as though 2014 will be a banner year for class actions, including numerous cases concerning privacy and cybersecurity issues. In an article published in *Law360*, two Hunton & Williams litigation

partners summarize recent case law and statistics related to class actions and offer predictions for the year ahead.

Download a copy of the full article.

FTC Announces Settlement with Twelve Companies Falsely Claiming Compliance with the Safe Harbor Framework
January 21, 2014

On January 21, 2014, the Federal Trade Commission announced settlements with twelve companies that allegedly falsely claimed that they complied with the U.S.-EU Safe Harbor Framework. The settlements stem from allegations that the companies violated Section 5 of the FTC Act by falsely representing that they held current Safe Harbor certifications despite having allowed their certifications to expire. The companies involved represent a variety of industries, ranging from technology and accounting to consumer products and National Football League teams. Continue reading…

Department of Commerce Highlights the Benefits, Oversight and Enforcement of the Safe Harbor Frameworks
January 21, 2014

In January 2014, the Department of Commerce's International Trade Administration ("ITA") posted a Key Points document to provide additional information about the benefits, oversight and enforcement of the U.S.-European Union and U.S.-Swiss Safe Harbor Frameworks. The Key Points document supplements information about the Safe Harbor Frameworks already available on the Department of Commerce website. For example, in the Key Points, the ITA notes that:

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FTC Announces 3.5 Million Dollar Settlement for Alleged FCRA Violations
January 21, 2014

On January 16, 2014, the Federal Trade Commission announced a settlement with TeleCheck Services, Inc., and its affiliated debt-collection entity, TRS Recovery Services, Inc. (collectively, "TeleCheck"). The settlement stems from allegations that TeleCheck violated various provisions of the Fair Credit Reporting Act ("FCRA"). According to the press release, the settlement is "part of a broader initiative to target the practices of data brokers, which often compile, maintain, and sell sensitive consumer information" and is similar to an FTC settlement with a different company in August 2013. Continue reading…

President Obama Calls for Major Changes in National Security Surveillance Programs
January 17, 2014

In a major speech delivered at the U.S. Department of Justice on January 17, 2014, President Obama addressed the call for reforms to government surveillance programs following disclosures regarding National Security Agency ("NSA") activities leaked by Edward Snowden since June of last year. The President discussed the need to advance national security while strengthening protections for privacy and civil liberties, improving transparency in intelligence programs, engaging in continual oversight and rebuilding trust among foreign leaders and citizens. He outlined several areas of reform:

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Ukraine Adopts New Data Protection Regulations
January 16, 2014

As reported by *Bloomberg BNA*, on January 13, 2014, Ukrainian Parliament Commissioner for Human Rights Valeriya Lutkovska (the "Ombudsman") announced the adoption of new data protection regulations. The Ombudsman became the new data protection authority in Ukraine as of January 1, 2014, when amendments to abolish the previous data protection authority became effective. As we previously reported, Ukraine first passed personal data protection legislation in June 2010. Continue reading…

FTC Settles with Apple for Kids' In-App Purchases
January 16, 2014

On January 15, 2014, the Federal Trade Commission announced a proposed settlement with Apple Inc. stemming from allegations that the company billed consumers for mobile app charges incurred by children without their parents' consent. Specifically, the FTC's complaint alleges that Apple violated the FTC Act by not informing account holders that, for a 15-minute window after entering their password to approve a single in-app purchase, their children could make unlimited purchases without further action by the parent. Continue reading…

Senators Renew Efforts to Pass Data Privacy Legislation
January 13, 2014

On January 8, 2014, Senator Patrick Leahy (D-VT), Chair of the U.S. Senate Judiciary Committee, reintroduced the Personal Data Privacy and Security Act of 2014, comprehensive information security legislation that would establish a national standard for data breach notification and require businesses to safeguard customers' sensitive personal information from cyber threats. The bill also would establish criminal penalties for individuals who intentionally or willfully conceal a security breach involving personal data when the incident causes economic damage to consumers. Continue reading…

FTC Approves COPPA Parental Consent Mechanism Proposal
January 10, 2014

On December 23, 2013, the Federal Trade Commission announced that it accepted a proposed mechanism, submitted by Imperium, LLC ("Imperium"), to obtain verifiable parental consent in accordance with the Children's Online Privacy Protection Rule (the "COPPA Rule") that came into effect July 1, 2013. Continue reading…

Privacy and Data Security: The Future of the U.S.-EU Safe Harbor
January 9, 2014

The EU-U.S. Safe Harbor Framework is an important cross-border data transfer mechanism that enables certified organizations to move personal data from the European Union to the United States in compliance with European data protection laws. Recently, however, the Safe Harbor's future has been thrown into doubt. In an article published on October 30, 2013 by *Practical Law*, Lisa J. Sotto, partner and head of the Global Privacy and Cybersecurity practice at Hunton & Williams LLP, partner Bridget Treacy and associate Naomi McBride, examine the Safe Harbor Framework and its future viability in light of criticism from the European Commission and some EU data protection authorities, which intensified in the past year following disclosures regarding the U.S. government's surveillance programs.

Download a PDF copy of the article.

FTC Reaches Settlement with Accretive Health
January 3, 2014

On December 31, 2013, the Federal Trade Commission announced that Accretive Health, Inc. ("Accretive") has agreed to settle charges that the company's inadequate data security measures unfairly exposed sensitive consumer information to the risk of theft or misuse. Accretive experienced a breach in July 2011 that involved the protected health information of more than 23,000 patients. Continue reading…

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