

# PRIVACY AND INFORMATION SECURITY LAW BLOG

GLOBAL PRIVACY AND CYBERSECURITY LAW UPDATES AND ANALYSIS

## December 2013

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.

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### Recent Data Breach Events in China December 31, 2013

In recent months, the Chinese government has devoted attention to the protection of personal information with, as we previously reported, the promulgation of a number of new data protection regulations. This focus is also illustrated by recent actions related to crimes involving personal information. [Continue reading...](#)

## **State Post Bureau of China Releases Draft Normative Rules Involving Personal Information Protection for Public Comment** **December 20, 2013**

On November 27, 2013, the State Post Bureau of the People's Republic of China (the "SPBC") released five draft normative rules for solicitation of public comment. Three of these rules, respectively entitled Provisions on the Management of the Security of Personal Information of Postal and Delivery Service Users (the "Draft Provisions"), Provisions on the Reporting and Handling of Security Information in the Postal Sector (the "Reporting and Handling Provisions"), and Provisions on the Management of Undeliverable Express Mail Items (the "Management Provisions") contain significant requirements regarding the protection of personal information. The deadline for submitting comments on the rules is December 27, 2013. [Continue reading...](#)

## **Federal District Judge Ruling Casts Cloud Over NSA Data Collection** **December 19, 2013**

On December 16, 2013, the United States District Court for the District of Columbia [granted a preliminary injunction](#) barring the federal government from collecting and analyzing metadata related to two consumers' mobile phone accounts. The court held that the two individual plaintiffs were entitled to a preliminary injunction because they had standing to challenge the government's data collection practices and were substantially likely to succeed on the merits of their claim. The court has stayed issuance of the injunction pending appeal to the D.C. Circuit Court. [Continue reading...](#)

## **White House Publishes Report on Government Surveillance Programs** **December 19, 2013**

On December 18, 2013, the White House [published](#) a [report](#) recommending reforms to the federal government's wide-ranging surveillance programs. The voluminous report, entitled "Liberty and Security in a Changing World," was authored by The Review Group on Intelligence and Communications Technologies, an advisory panel that includes experts in national security, intelligence gathering and civil liberties. [Continue reading...](#)

## **French Data Protection Authority Issues Guidance on Cookie Consent and Expiration** **December 18, 2013**

On December 16, 2013, the French Data Protection Authority ("CNIL") released a [set of practical FAQs](#) (plus technical tools and relevant source code) providing guidance on how to obtain consent for the use of cookies and similar technologies in compliance with EU and French data protection requirements (the "CNIL's Guidance"). Article 5.3 of the [revised e-Privacy Directive 2002/58/EC](#) imposes an obligation to obtain prior consent before placing or accessing cookies and similar technologies on web users' devices. Article 32-II of the [French Data Protection Act](#) transposes this obligation into French law. [Continue reading...](#)

## **State "Ban the Box" Legislation Gains Momentum** **December 16, 2013**

As reported in the [Hunton Employment & Labor Perspectives Blog](#), the "ban the box" movement continues to sweep through state legislatures. "Ban the box" laws, which vary in terms of scope and detail, generally prohibit employers from requesting information about job applicants' criminal histories. Recent legislation in two states applies "ban the box" prohibitions to private employers in those states:

- On December 1, 2013, a new North Carolina law went into effect that prohibits employers from inquiring about job applicants' arrests, charges or convictions that have been expunged. This prohibition applies to requests for information on applications and during interviews with applicants.
- On January 1, 2014, a new Minnesota law goes into effect that prohibits employers from inquiring into, requiring disclosure of or considering the criminal record or criminal history of an applicant until the applicant has been selected for an interview or, if there is no interview, until after a conditional offer of employment has been made.

Employers should review their applications and hiring practices to ensure compliance with the new laws, and verify that managers involved in the hiring process understand when, and to what extent, they are permitted to inquire about applicants' criminal histories.

[Read the full post on the Hunton Employment & Labor Blog.](#)

### **EU Court of Justice Advocate-General Finds Data Retention Directive Incompatible with Charter of Fundamental Rights December 13, 2013**

On December 12, 2013, Advocate-General Cruz Villalón of the Court of Justice of the European Union (“CJEU”) issued his [Opinion](#) on the compatibility of the [EU Data Retention Directive 2006/24/EC](#) (the “Data Retention Directive”) with the [Charter of Fundamental Rights of the European Union](#) (the “EU Charter”). [Continue reading...](#)

### **Fred Cate of the Centre Submits Comments to NIST on Preliminary Cybersecurity Framework December 13, 2013**

On December 12, 2013, [Fred H. Cate](#), Senior Policy Advisor in the [Centre for Information Policy Leadership](#) at Hunton & Williams LLP (the “Centre”), submitted [comments](#) in response to the National Institute of Standards and Technology’s (“NIST’s”) Preliminary Cybersecurity Framework (the “Preliminary Framework”). On October 22, NIST [issued the Preliminary Framework](#), as required by the Obama Administration’s February 2013 executive order, [Improving Critical Infrastructure Cybersecurity](#) (“Executive Order”), and solicited comments on the Framework. The Preliminary Framework includes standards, methodologies, procedures and processes that align policy, business and technological approaches to address cyber risks. [Continue reading...](#)

### **Hunton Publishes Final Paper in its Series of Executive Briefings on the Proposed EU Data Protection Regulation December 12, 2013**

As [we previously reported](#), on October 21, 2013, the European Parliament approved its [Compromise Text](#) of the proposed EU General Data Protection Regulation (the “Proposed Regulation”). Hunton & Williams has now published an [analysis](#) of these proposals. [Continue reading...](#)

### **People’s Bank of China Issues Administrative Measures for Credit Reference Agencies December 12, 2013**

On November 15, 2013, the People’s Bank of China (the “PBOC”) issued its Administrative Measures for Credit Reference Agencies (the “Measures”) – eight months after the Administrative Regulations on the Credit Information Collection Sector (the “Regulations”) became effective on March 15, 2013. The

Measures, which will take effect on December 20, 2013, were formulated to enhance the supervision and regulation of credit reference agencies and to promote positive developments in the credit information services sector. [Continue reading...](#)

### **FTC Announces Seminars on Mobile Device Tracking, Predictive Scoring and Consumer-Generated Health Data December 11, 2013**

On December 2, 2013, the Federal Trade Commission [announced](#) that it will host a series of seminars to examine the privacy implications of three new areas of technology used to track, market to and analyze consumers: mobile device tracking, predictive scoring and consumer-generated health data. The seminars will address (1) businesses tracking consumers using signals from the consumers' mobile devices, (2) the use of predictive scoring to determine consumers' access to products and offers, and (3) consumer-generated information provided to non-HIPAA covered websites and apps. The FTC stated that the intention of the seminars is to bring attention to new trends in big data and their impact on consumer privacy. [Continue reading...](#)

### **China's Supreme People's Court Releases Provisions on the Online Issuance of Judgment Documents by People's Courts December 11, 2013**

On November 21, 2013, the Supreme People's Court of China passed the [Provisions on the Online Issuance of Judgment Documents by People's Courts](#) (the "Provisions"), which will take effect on January 1, 2014. The Provisions replace earlier rules (of the same title) enacted by the Supreme People's Court on November 8, 2010, and generally focus on improved implementation of the principles of standardizing the online issuance of judgment documents, promoting judicial justice and enhancing the public credibility of the judiciary. [Continue reading...](#)

### **FTC Settles Charges with Flashlight Mobile App Developer December 9, 2013**

On December 5, 2013, the Federal Trade Commission [announced](#) a proposed [settlement](#) with mobile app developer Goldenshores Technologies, LLC ("Goldenshores") following allegations that Goldenshores' privacy policy for its popular Brightest Flashlight Free app deceived consumers regarding how the app collects information, including geolocation information, and how that information may be shared with third parties. Brightest Flashlight Free, developed for the Android operating system, allows its users to use their cell phones as flashlights. [Continue reading...](#)

### **New UK Cybersecurity Standard in the Works December 6, 2013**

On November 28, 2013, the UK government published a [paper](#) in response to its [March 2013 consultation on cybersecurity standards](#) ("Response Paper"), and announced that it will create a new cybersecurity standard. The original consultation concluded in October 2013. [Continue reading...](#)

### **Law360 Features Lisa Sotto in Female Powerbrokers Series December 5, 2013**

On December 5, 2013, [Lisa J. Sotto](#), partner and head of the Global Privacy and Cybersecurity practice at Hunton & Williams LLP, was featured in Law360's "[Female Powerbrokers](#)" Q&A series. The series

focuses on female lawyers and their personal experiences as they have grown into leadership positions within their respective firms. Here is an excerpt from Sotto's interview: [Continue reading...](#)

### **Strickling Discusses U.S. Commitment to Consumer Privacy Protection December 5, 2013**

On December 3, 2013, Lawrence Strickling, Department of Commerce Assistant Secretary for Communications and Information, spoke at the American European Community Association Conference in Brussels on [Data Protection: The Challenges and Opportunities for Individuals and Businesses](#). Strickling discussed the Obama Administration's commitment to "preserving the dynamism and openness of the Internet, enhancing the free flow of information, and strengthening our Internet economy." He addressed the issues surrounding U.S. surveillance operations and the [European Commission's recent report](#) on Safe Harbor. Strickling also provided a progress report on improvements to consumer privacy protection since the White House released its [Consumer Privacy Bill of Rights](#) in February 2012, including an update on the National Telecommunications and Information Administration's ("NTIA's") [multistakeholder process to develop industry codes of conduct](#). [Continue reading...](#)

### **NTIA Announces New Multistakeholder Process on the Commercial Use of Facial Recognition Technology December 4, 2013**

On December 3, 2013, the U.S. Department of Commerce's National Telecommunications and Information Administration ("NTIA") [announced](#) a new multistakeholder process to develop a code of conduct regarding the commercial use of facial recognition technology. The first meeting is [set for February 6, 2014](#) in Washington, D.C., and will provide stakeholders with background on the privacy issues associated with facial recognition technology, including how facial recognition technology currently is being used by businesses and how it may be used in the near future. The February meeting is open to all interested stakeholders and will be available for viewing via webcast. Additional meetings are planned for the spring and summer of 2014. [Continue reading...](#)

### **Another California-Based Mobile App Developer Settles with New Jersey AG's Office Over Child Privacy Violation Allegations December 3, 2013**

On November 22, 2013, New Jersey's Acting Attorney General [announced](#) that the State had entered into a [settlement agreement](#) with Dokogeo, Inc. ("Dokogeo"), a California-based company that makes mobile device applications, regarding allegations that one of the company's mobile apps violated the Children's Online Privacy Protection Act of 1998 ("COPPA"), the recently [amended Children's Online Privacy Protection Rule](#) (the "Rule") and the New Jersey Consumer Fraud Act. [Continue reading...](#)



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