PRIVACY & INFORMATION SECURITY LAW BLOG
Global Privacy and Cybersecurity Law Updates and Analysis

November 2016

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:

HHS Announces HIPAA Settlement with UMass
November 30, 2016

On November 22, 2016, the Department of Health and Human Services ("HHS") announced a $650,000 settlement with University of Massachusetts Amherst ("UMass"), resulting from alleged violations of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") Privacy and Security Rules. Continue Reading…

France Adopts Class Action Regime for Data Protection Violations
November 30, 2016

On November 19, 2016, the French government enacted a bill creating a legal basis for class actions against data controllers and processors resulting from data protection violations. The bill, which aims to facilitate access to justice for French citizens, establishes a general class action regime and includes specific provisions regarding data protection violations. These provisions go beyond the class action provisions already in place for consumers by adding, within the context of the French Data Protection Act of 1978 ("*Loi Informatique et Libertés*"), a right to class actions for data protection violations regardless of industry sector. Continue Reading…

UK Information Commissioner Confirms Forthcoming Regulatory Guidance on GDPR
November 29, 2016

On November 21, 2016, against the backdrop of the EU General Data Protection Regulation ("GDPR") and Brexit, UK Information Commissioner Elizabeth Denham delivered a keynote speech at the Annual

Conference of the National Association of Data Protection and Freedom of Information Officers. During the address, Denham discussed the UK ICO's ongoing preparations for the GDPR, reiterating the government's position that the GDPR will be implemented in the UK. Continue Reading…

Merkel Calls for Balanced Approach to Data Protection Regulation
November 28, 2016

Recently, German Chancellor Angela Merkel spoke at Germany's 10th National IT Summit, and called for EU Member States to take a pragmatic approach to the application of EU data protection laws. Chancellor Merkel warned that a restrictive interpretation of data protection laws risks undermining the development of big data projects in the EU. Continue Reading…

Dutch Court Decides WhatsApp Data Protection Case
November 28, 2016

On November 23, 2016, Bloomberg BNA reported that the Hague Administrative Court in the Netherlands upheld a decision by the Dutch Data Protection Authority that WhatsApp was in breach of the Dutch Data Protection Act (the "Act") on account of its alleged failure to identify a representative within the country responsible for compliance with the Act, despite the processing of personal data of Dutch WhatsApp users on Dutch smartphones. WhatsApp reportedly faces a fine of €10,000 per day up to a maximum of €1 million.

U.S. and APEC Leaders Reaffirm Implementation of the APEC CBPR
November 21, 2016

On November 20, 2016, the heads of state of the 21 member economies of the Asia-Pacific Economic Cooperation ("APEC") forum reaffirmed the APEC Cross-Border Privacy Rules ("CBPR") system in their Leaders' Declaration at the APEC Leaders' Meeting in Lima, Peru as follows: "We recall the APEC Leaders 2011 Honolulu Declaration and recognize the importance of implementing the APEC Cross-Border Privacy Rules System, a voluntary mechanism whose participants seek to increase the number of economies, companies, and accountability agents that participate in the CBPR system." The fact that the CBPR system is mentioned in the Leaders' Declaration reflects its priority status on the APEC agenda. Continue Reading…

CIPL Issues White Paper on the DPO's Role under the GDPR
November 21, 2016

On November 17, 2016, the Centre for Information Policy Leadership ("CIPL") at Hunton & Williams LLP issued a white paper on Ensuring the Effectiveness and Strategic Role of the Data Protection Officer under the General Data Protection Regulation (the "White Paper"). The White Paper sets forth guidance and recommendations concerning the interpretation and implementation of the GDPR's provisions relating to the role of the Data Protection Officer ("DPO"). Continue Reading…

UK Parliament Approves Investigatory Powers Bill
November 17, 2016

On November 16, 2016, the UK Investigatory Powers Bill (the "Bill") was approved by the UK House of Lords. Following ratification of the Bill by Royal Assent, which is expected before the end of 2016, the Bill will officially become law in the UK. The draft of the Bill has sparked controversy, as it will hand significant and wide-ranging powers to state surveillance agencies, and has been strongly criticized by some privacy and human rights advocacy groups. Continue Reading…

FINRA Fines Brokerage Firm $650,000 After Cyber Attack
November 17, 2016

On November 14, 2016, Lincoln Financial Securities Corp. ("LFS"), a subsidiary of Lincoln Financial Group, entered into a settlement (the "Settlement") with the Financial Industry Regulatory Authority ("FINRA"), requiring LFS to pay a $650,000 fine and implement stronger cybersecurity protocols following a 2012 hack into its cloud-based server. Continue Reading…

NIST Issues Guidance on Cybersecurity for Internet-Connected Devices
November 16, 2016

On November 14, 2016, the National Institute of Standards and Technology ("NIST") published guidance on cybersecurity for internet-connected devices, Systems Security Engineering: Considerations for A Multidisciplinary Approach in the Engineering of Trustworthy Secure Systems (the "Guidance"). Citing "the continuing frequency, intensity, and adverse consequences of cyber-attacks," the Guidance "addresses the engineering-driven perspective and actions necessary to develop more defensible and survivable systems." Continue Reading…

Russia Set to Block Access to LinkedIn
November 15, 2016

On November 10, 2016, the Court of Appeal for Moscow's Taginsky District upheld an August 2016 decision by the district's lower court that LinkedIn had violated Russian data protection laws. Access to the professional networking site is now set to be blocked across Russia. Continue Reading…

Adobe Settles Multistate Data Breach Enforcement Action
November 14, 2016

On November 7, 2016, Adobe Systems Inc. ("Adobe") entered into an assurance of voluntary compliance ("AVC") with 15 state Attorneys General to settle allegations that the company lacked proper measures to protect its systems from a 2013 cyber attack that resulted in the theft of the personal information of millions of customers. Under the terms of the AVC, Adobe must pay $1 million to the Attorneys General and implement new data security policies and practices. Continue Reading…

Tesco Bank Hack Illustrates Need for Robust Cyber Insurance
November 11, 2016

As reported on the Insurance Recovery blog, earlier this week, retailer Tesco Plc's ("Tesco") banking branch reported that £2.5 million (approximately $3 million) had been stolen from 9,000 customer bank accounts over the weekend in what cyber experts said was the first mass hacking of accounts at a western bank. The reported loss still is being investigated by UK authorities, but is believed to have occurred through the bank's online banking system. Continue Reading…

CIPL and AvePoint Release Global GDPR Readiness Report
November 10, 2016

On November 9, 2016, the Centre for Information Policy Leadership ("CIPL") at Hunton & Williams LLP and AvePoint released the results of a joint global survey launched in May 2016 concerning organizational preparedness for implementing the EU General Data Protection Regulation ("GDPR"). The GDPR replaces Directive 95/46/EC and will become applicable in May 2018. Continue Reading…

FinCEN Issues Advisory on SAR Reporting Obligations Involving Cyber Crime
November 9, 2016

On October 25, 2016, the United States Department of Treasury's Financial Crimes Enforcement Network ("FinCEN") issued an advisory entitled Advisory to Financial Institutions on Cyber-Events and Cyber-Enabled Crime (the "Advisory"), to help financial institutions understand how to fulfill their Bank Secrecy Act obligations with regard to cyber events and cyber-enabled crime. Implementing this new guidance will require increased collaboration between AML and cybersecurity or IT departments in large institutions, and may create challenges for smaller banks that are more likely to outsource their cybersecurity functions. Continue Reading…

Final Cybersecurity Law Enacted in China
November 8, 2016

On November 7, 2016, the Standing Committee of the National People's Congress of China enacted the final Cybersecurity Law after it held its third reading of the draft Cybersecurity Law on October 31, 2016. The first draft of the Cybersecurity Law was published for comment more than a year ago, followed by the second draft in July this year. The final Cybersecurity Law will apply from June 1, 2017. Continue Reading…

FTC Announces Settlement Over Illegal Telemarketing Calls
November 3, 2016

On November 1, 2016, the FTC announced that a group of entities known as the Consumer Education Group ("CEG") settled FTC charges that, between late 2013 and 2015, it made millions of telemarketing calls, including pre-recorded robocalls, to consumers on the national Do Not Call ("DNC") Registry, in violation of the Telemarketing Sales Rule ("TSR"). Continue Reading…

UK High Court Rules Parliamentary Approval Required to Commence UK Exit from EU
November 3, 2016

On November 3, 2016, the High Court of England and Wales handed down its judgment in the case of *R (on the application of Santos) v. Secretary of State for Exiting the European Union* [2016] EWHC 2768 (Admin). This high-profile and closely followed case concerns the process that must be followed to trigger Britain's exit from the European Union. In particular, the question before the court was whether the Prime Minister can wield her executive powers to trigger the exit or if she needs Parliamentary approval before doing so. In reaching its decision, the Court ruled in favor of the claimants, meaning that the Prime Minister does not have the power to trigger Britain's exit from the European Union, but instead must first obtain Parliamentary approval. Continue Reading…

CIPL Hosts Workshop on Transparency and Risk Assessment
November 1, 2016

On October 20, 2016, the Centre for Information Policy Leadership ("CIPL") at Hunton & Williams LLP hosted a side workshop at the International Conference of Data Protection & Privacy Commissioners focused on transparency and risk assessment, entitled "The Role of Risk Assessment and Transparency in Enabling Organizational Accountability in the Digital Economy." The workshop was led by Bojana Bellamy, CIPL's President, and featured contributions from many leaders in the field, including the UK ICO, Belgium and Hong Kong's Privacy Commissioners, and counsel and privacy officers from several multinational companies. Continue Reading…

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