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

March 2012

This Client Alert is a monthly update on privacy and information management 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:

- Article 29 Working Party Opines on Proposed EU Data Protection Law Reform Package
- RockYou Settles FTC Charges Related to Data Breach, COPPA Violations
- Massachusetts Attorney General Announces $15,000 Settlement with Property Management Firm
- FTC Privacy Report Emphasizes Privacy by Design, Individual Control and Transparency
- German DPAs Issue Resolutions and Address a Wide Range of Topics at Annual Conference
- EU-U.S. Interoperability Not Ready for Prime Time
- Philippines Passes Omnibus Data Protection Law
- ICC Issues Policy Statement on Issues Related to Cross-Border Law Enforcement Access to Company Data
- NTIA Extends Deadline for Comments on Developing Consumer Data Privacy Codes of Conduct HHS Settles First Breach Notification Rule Case for $1.5 Million
- HHS Settles First Breach Notification Rule Case for $1.5 Million
- Sotto Discusses White House Administration's Consumer Privacy Bill of Rights
- CBI for the Cloud
- German Federal Constitutional Court Restricts Access to User Data for Law Enforcement Purposes

---

Article 29 Working Party Opines on Proposed EU Data Protection Law Reform Package
March 30, 2012

On March 23, 2012, the Article 29 Working Party (the "Working Party") adopted an Opinion on the European Commission's data protection law reform proposals, including the draft Regulation that is of particular importance for businesses. The Working Party's Opinion serves as the national data protection authorities' contribution to the legislative process before the European Parliament and the European Council. Continue reading…

RockYou Settles FTC Charges Related to Data Breach, COPPA Violations
March 28, 2012

On March 27, 2012, the Federal Trade Commission announced a proposed settlement order with RockYou, Inc. ("RockYou"), a publisher and developer of applications used on popular social media sites. The FTC alleged that RockYou failed to protect the personal information of 32 million of its users, and violated multiple provisions of the FTC's Children's Online Privacy Protection Act ("COPPA") Rule when it collected information from approximately 179,000 children. Continue reading…

Massachusetts Attorney General Announces $15,000 Settlement with Property Management Firm
March 27, 2012

On March 21, 2012, Massachusetts Attorney General Martha Coakley announced that Maloney Properties Inc. ("MPI"), a property management firm, executed an Assurance of Discontinuance and agreed to pay $15,000 in civil penalties following an October 2011 theft of an unencrypted company-issued laptop. The laptop contained personal information of more than 600 Massachusetts residents and was left in an employee's car overnight. MPI has indicated that it has no evidence of unauthorized access to or use of the personal information in connection with this breach. Continue reading…

FTC Privacy Report Emphasizes Privacy by Design, Individual Control and Transparency
March 26, 2012

On March 26, 2012, the Federal Trade Commission issued a new privacy report entitled "Protecting Consumer Privacy in an Era of Rapid Change: A Proposed Framework for Businesses and Policymakers." The report charts a path forward for companies to act in the interest of protecting consumer privacy.

In his introductory remarks, FTC Chairman Jon Leibowitz indicated his support for Do Not Track stating, "Simply put, your computer is your property; no one has the right to put anything on it that you don't want." In later comments he predicted that if effective Do Not Track mechanisms are not available by the end of this year, the new Congress likely would introduce a legislative solution. Continue reading…

German DPAs Issue Resolutions and Address a Wide Range of Topics at Annual Conference
March 23, 2012

On March 22, 2012, the 83rd Conference of the German Data Protection Commissioners came to an end in Potsdam. The attendees indicated their general support for the European Commission's proposed reform package aimed at modernizing and harmonizing data protection laws in the EU, but insist that Member States should have the authority to implement more stringent data protection measures for the area of public administration. Continue reading…

EU-U.S. Interoperability Not Ready for Prime Time
March 23, 2012

On March 19, 2012, the European Commission hosted this year's Safe Harbor Conference in Washington, D.C., to address the transfer of data from Europe to the United States. Although it appears the Safe Harbor framework will remain unchanged for the time being, it seems unlikely the United States will be considered adequate, or even interoperable, with the EU for purposes of cross-border data transfers. Continue reading…

Philippines Passes Omnibus Data Protection Law
March 22, 2012

On March 20, 2012, the Senate of the Philippines unanimously approved the omnibus Data Privacy Act of 2011, also known as "An Act Protecting Individual Personal Information in Information and Communications Systems in the Government and the Private Sector, Creating for This Purpose a National Data Protection Commission, and for Other Purposes" (S.B. 2965). Once signed into law, the legislation will impose a privacy regime modeled on the EU Data Protection Directive. It features

significant notice, consent and data breach notification requirements, and it imposes direct obligations on both data controllers and data processors. The law will create a National Privacy Commission with authority to monitor compliance and recommend to the Department of Justice the imposition of penalties for noncompliance, including imprisonment and fines.

Although the bill does not contain cross-border data transfer restrictions, the law will apply to certain foreign processing of personal information about Philippine residents. In an apparent effort to protect the domestic outsourcing industry, however, the law will not apply to "personal information originally collected from residents of foreign jurisdictions in accordance with the laws of those foreign jurisdictions, including any applicable data privacy laws, which is being processed in the Philippines."

ICC Issues Policy Statement on Issues Related to Cross-Border Law Enforcement Access to Company Data
March 22, 2012

On March 20, 2012, the International Chamber of Commerce (the "ICC") released a policy statement entitled "Cross-border law enforcement access to company data – current issues under data protection and privacy law." The text of the ICC press release quoting Hunton & Williams Brussels partner Christopher Kuner, Chair of the ICC Task Force on Protection of Personal Data and Privacy, is reproduced below. Continue reading…

NTIA Extends Deadline for Comments on Developing Consumer Data Privacy Codes of Conduct
March 21, 2012

On March 21, 2012, the U.S. Department of Commerce's National Telecommunications and Information Administration announced a one-week extension to the deadline for responses to their March 2 request for public comments on the multistakeholder process to develop consumer data privacy codes of conduct. Comments are now due on Monday, April 2, 2012. The request for comments relates to both the topics and processes that will inform the creation of binding codes of conduct as discussed in the Obama Administration's February release of a framework for a Consumer Privacy Bill of Rights.

The Centre for Information Policy Leadership at Hunton & Williams will be submitting comments.

HHS Settles First Breach Notification Rule Case for $1.5 Million
March 14, 2012

On March 13, 2012, the Department of Health and Human Services ("HHS") announced that it had settled the first case related to the HITECH Act Breach Notification Rule. BlueCross Blue Shield of Tennessee ("BCBS Tennessee") agreed to pay $1.5 million to settle potential HIPAA violations related to the October 2009 theft of 57 unencrypted hard drives containing protected health information ("PHI") from a network data closet at a leased facility leased in Chattanooga, Tennessee. Continue reading…

Sotto Discusses White House Administration's Consumer Privacy Bill of Rights
March 8, 2012

On February 24, 2012, Eric Chabrow of *BankInfoSecurity* interviewed Lisa J. Sotto, partner and head of the Global Privacy and Data Security practice at Hunton & Williams LLP. Discussing the need for a Consumer Privacy Bill of Rights, Sotto briefly outlined the strengths and weaknesses of the proposed bill, and its potential impact on businesses.

Read the interview or listen to the podcast, which can be streamed or downloaded as an MP3 on the BankInfoSecurity website.

CBI for the Cloud
March 7, 2012

A growing number of companies are implementing cloud computing solutions to lower IT costs and increase efficiency. Although cloud technology offers an array of advantages, organizations that rely on the cloud must compensate for the corresponding increase in risk associated with outsourcing business operations to a third party. A recent article authored by Hunton & Williams Insurance Litigation & Counseling partner Lon Berk discusses the ways in which business interruptions caused by cloud service provider failures may be covered by contingent business interruption insurance, or CBI.

Read CBI for the Cloud.

German Federal Constitutional Court Restricts Access to User Data for Law Enforcement Purposes
March 1, 2012

On February 24, 2012, the German Federal Constitutional Court (*Bundesverfassungsgericht*) ruled that certain provisions in the Federal Telecommunications Act concerning the disclosure of telecom user data to law enforcement agencies violate the German constitution. The Court held that strict conditions apply when law enforcement authorities and intelligence agencies ask telecommunications service providers (which may include hospitals and hotels) to turn over certain user data, i.e. passwords and PIN codes. Continue reading…


Visit our award-winning Privacy and Information Security Law Blog at www.huntonprivacyblog for global privacy and information security law updates and analysis.