

August 2012

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Philippines President Aquino Signs Data Protection Legislation August 24, 2012

On August 15, 2012, Philippines President Benigno S. Aquino III signed the [Data Privacy Act of 2012](#) passed [earlier this year](#) by the Philippine Senate and House of Representatives. Concerns about the creation of the National Privacy Commission and the criminal penalties associated with the Act delayed final enactment. [Continue reading...](#)

Minnesota Attorney General Announces \$2.5 Million Settlement with Accretive Health August 24, 2012

On July 31, 2012, Minnesota Attorney General Lori Swanson [announced](#) a \$2.5 million settlement with Accretive Health, Inc. ("Accretive") for violations of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and its implementing regulations, and various Minnesota debt collection and consumer protection laws. As [we previously reported](#) in January 2012, Accretive, which acted as a business associate to two Minnesota hospital systems, experienced a breach in July 2011 that involved the protected health information of more than 23,000 patients. [Continue reading...](#)

Far-Reaching Implications of Recent FCRA Enforcement Actions August 23, 2012

On August 8, 2012, the Federal Trade Commission settled with [HireRight Solutions, Inc.](#) ("HireRight") for failure to comply with certain Fair Credit Reporting Act ("FCRA") requirements. At first blush, the case may appear to be a simple FCRA matter – the FTC alleged that HireRight functioned as a consumer

reporting agency when providing employment screening services to companies, but then failed to take steps to assure the accuracy of those reports and prevented consumers from dispute inaccurate information. Despite initial appearances, however, the case has broader geopolitical implications. [Continue reading...](#)

Webcast on Data Privacy in the Global Era August 20, 2012

On July 24, 2012, [Lisa J. Sotto](#), partner and head of the Global Privacy and Data Security Practice at Hunton & Williams LLP, gave a presentation on “Data Privacy in the Global Era” to the Western Independent Bankers Service Corporation. Sotto discussed U.S., EU and other international privacy laws, with a focus on two specific areas of interest, cloud computing and vendor management. [Listen to the webcast now.](#)

California Court Denies Hulu’s Motion to Dismiss in Video Privacy Protection Act Case August 20, 2012

On August 10, 2012, a federal district court in California [denied](#) Hulu’s motion to dismiss the remaining claim in a putative class action suit alleging that the online streaming video provider transmitted users’ personal information to third parties in violation of the Video Privacy Protection Act (“VPPA”). The VPPA prohibits a “video tape service provider” from transmitting personally identifiable information of “consumers,” except in certain, limited circumstances. According to the [complaint](#), Hulu allegedly allowed KISSmetrics, a data analytics company, to [place tracking codes](#) on the plaintiffs’ computers that re-spawned previously-deleted cookies, and shared Hulu users’ video viewing choices and “personally identifiable information” with third parties, including online ad networks, metrics companies and social media networks. [Continue reading...](#)

NLRB Finds that Requesting Confidentiality in an On-Going Workplace Investigation Violates NLRA August 10, 2012

As reported in the [Hunton Employment & Labor Perspectives Blog](#):

The National Labor Relations Board (“NLRB”) has again asserted its willingness to encroach upon employers’ long standing legitimate employment policies in a non-unionized workforce. In [Banner Health System](#), 358 NLRB No. 93 (July 30, 2012), the Board held that a blanket policy prohibiting an employee from discussing an ongoing investigation violates section 8(a)(1) of the National Labor Relations Act. [Continue reading...](#)

FTC Approves Facebook Privacy Settlement August 10, 2012

On August 10, 2012, the Federal Trade Commission [announced](#) that it has accepted the final settlement with Facebook which resolves allegations “that Facebook deceived consumers by telling them they could keep their information on Facebook private, and then repeatedly allowing it to be shared and made public.” As we [previously reported](#), the settlement requires Facebook to (1) not misrepresent how it maintains the privacy or security of users’ personal information; (2) obtain users’ “affirmative express consent” before sharing their information with any third party that “materially exceeds the restrictions imposed by a user’s privacy setting(s);” (3) implement procedures to prevent a third party from accessing users’ information no later than 30 days after the user has deleted such information or terminated his or

her account; (4) establish, implement and maintain a comprehensive privacy program; and (5) obtain initial and biennial assessments and reports regarding its privacy practices for the next 20 years. The final order was approved by a 3-1-1 vote by the Commissioners. Commissioner J. Thomas Rosch issued a [dissenting statement](#) questioning whether the settlement was “in the interest of the public” or covered “all representations made in the Facebook environment.”

FTC Fines Employee Background Screening Company \$2.6 Million for Alleged FCRA Violations August 10, 2012

On August 8, 2012, the Federal Trade Commission [announced](#) a settlement agreement with employment screening company [HireRight Solutions, Inc.](#) (“HireRight”). In its first enforcement action against an employment background screening company for Fair Credit Reporting Act (“FCRA”) violations, the FTC alleged that HireRight functioned as a consumer reporting agency, but failed to comply with certain FCRA requirements. The proposed [consent order](#) imposes a \$2.6 million penalty on HireRight and requires the company to remedy the alleged FCRA violations, create and retain certain records and submit reports to demonstrate compliance. [Continue reading...](#)

CFPB Indicates Intent to Regulate Service Providers to Financial Institutions August 8, 2012

Earlier this year, the Consumer Financial Protection Bureau (“CFPB”) published a [Bulletin](#) signaling its intent to regulate and exercise enforcement authority over service providers to financial institutions. Pursuant to Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act and its implementing regulation, Regulation P, the CFPB has authority over certain large banks, credit unions and other consumer financial services companies. The Bulletin notes that the CFPB’s goal is to ensure compliance with “[f]ederal consumer financial law,” which includes the Gramm-Leach-Bliley Act and its implementing regulations, the Privacy Rule and the Safeguards Rule. [Continue reading...](#)

Divergent Results for Class Action Text Message Spam Suits August 8, 2012

In recent months we have seen a dismissal and two settlements in class action suits alleging violations of the Telephone Consumer Protection Act (“TCPA”) by companies that used text messaging as part of advertising campaigns. The TCPA is a federal privacy law that imposes restrictions on telephone solicitations, including telemarketing calls and text messages. [Continue reading...](#)

FTC Seeks Comments on Additional Proposed Revisions to COPPA Rule August 2, 2012

On August 1, 2012, the Federal Trade Commission [announced](#) that it is seeking public comments on [additional proposed modifications](#) to the Children’s Online Privacy Protection Rule (“COPPA Rule” or “Rule”). According to the FTC, the second-round revisions modify certain COPPA Rule definitions to “clarify the Rule’s scope and strengthen its protections for the online collection, use, or disclosure of children’s personal information.” The FTC developed these new definitions after reviewing the 350 public comments submitted in response to the Commission’s [September 2011](#) proposal to amend the Rule. [Continue reading...](#)



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