

## February 2013

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### Ramirez to Be Named FTC Chair February 28, 2013

On February 28, 2013, a White House official confirmed that President Obama will nominate [Edith Ramirez](#) as Chair of the Federal Trade Commission. Ramirez, who has served as an FTC Commissioner since April 2010, will replace outgoing Chairman Jon Leibowitz, who [announced](#) his departure earlier this month.

Prior to being nominated to the FTC in 2010, Ramirez worked as an attorney in private practice, focusing on litigation and antitrust issues. Ramirez has been an active participant in the Asia-Pacific Economic Cooperation Data Privacy Subgroup and the development of the [APEC Cross-Border Privacy Rules system](#).

Ramirez's appointment, which is subject to Senate approval, will open a Commissioner spot on the FTC. It is unclear at this time who President Obama may nominate to fill her former position.

## **NIST Issues RFI for Framework for Reducing Cyber Risks February 27, 2013**

On February 26, 2013, the National Institute of Standards and Technology (“NIST”) issued a [Request for Information](#) (“RFI”) to gather comments regarding the development of a framework to reduce cybersecurity risks to critical infrastructure. As we [previously reported](#), the Obama Administration’s executive order, [Improving Critical Infrastructure Cybersecurity](#) (the “Executive Order”), released on February 12, 2013, directs NIST to coordinate development of this framework. Under the Executive Order, NIST is charged with collaborating with industry partners and identifying existing international standards and practices that have proven effective. [Continue reading...](#)

## **FTC Settles Charges in First Case Against Mobile Device Manufacturer February 27, 2013**

On February 22, 2013, the Federal Trade Commission [announced](#) that it had settled charges against HTC America, Inc. (“HTC”) alleging that the mobile device manufacturer “failed to take reasonable steps to secure the software it developed for its smartphones and tablet computers, introducing security flaws that placed sensitive information about millions of consumers at risk.” This settlement marks the FTC’s first case against a mobile device manufacturer. [Continue reading...](#)

## **Hunton Webinar Examines Obama Cybersecurity Executive Order February 22, 2013**

On February 20, 2013, Hunton & Williams LLP hosted a [webinar](#) on cybersecurity risks and the Obama Administration’s [recently-issued Executive Order](#) on cybersecurity issues related to critical infrastructure. The webinar, entitled “[The Cybersecurity Executive Order: Understanding Its Impact on Your Business](#),” covered issues such as the current threat landscape, U.S. and EU regulatory initiatives related to cybersecurity, and guidelines to help businesses prevent and manage cyber events. [Continue reading...](#)

## **Observations on the Cybersecurity Executive Order and Presidential Policy Directive February 19, 2013**

The Executive Order, “[Improving Critical Infrastructure Cybersecurity](#),” and the Presidential Policy Directive (“PPD”), “[Critical Infrastructure Security and Resilience](#),” signed by President Obama on February 12, 2013, raise the stakes in the national debate over cybersecurity requirements and seem likely, if not designed, to provoke a legislative response. Industry has good reason to pay attention. [Continue reading...](#)

## **Obama Signs Presidential Policy Directive on Critical Infrastructure Security and Resilience February 14, 2013**

On February 12, 2013, in conjunction with the release of an [executive order on Improving Critical Infrastructure Cybersecurity](#) (the “Executive Order”), President Obama signed a [Presidential Policy Directive on Critical Infrastructure Security and Resilience](#) (“PPD-21” or “PPD”). The PPD revokes the 2003 Homeland Security Presidential Directive-7 (issued by President George W. Bush as an initiative under the former Office of Homeland Security and the Homeland Security Council) to adjust to the new risk environment and make the nation’s critical infrastructure more resilient. The PPD expands upon the work that has been accomplished to date for the physical security of critical infrastructure and lays a foundation for the implementation of the Executive Order to protect critical infrastructure cybersecurity. [Continue reading...](#)

### **FTC Study Reports on Inaccuracies in Consumer Credit Reports February 13, 2013**

On February 11, 2013, the Federal Trade Commission [announced](#) that a congressionally-mandated [study](#) of the U.S. credit reporting industry found that 26 percent of consumers identified at least one error that might affect their credit score. The study reported that 5 percent of consumers had errors on their credit reports that could result in less favorable terms for loans and insurance. [Continue reading...](#)

### **Obama Administration Releases Highly Anticipated Cybersecurity Executive Order February 12, 2013**

Today, the Obama Administration [released](#) an executive order, Improving Critical Infrastructure Cybersecurity (the “Executive Order”), which is focused primarily on government actions to support critical infrastructure owners and operators in protecting their systems and networks from cyber threats. The Executive Order requires administrative agencies with cybersecurity responsibilities to (1) share information in the near-term with the private sector within the scope of their current authority and to develop processes to address cyber risks; and (2) review and report to the President on the sufficiency of their current cyber authorities. The requirements to review and report to the President likely will serve to pressure Congress to pass more comprehensive legislation that should, inter alia, address issues that an executive order cannot, such as the provision of liability protection, incentives for compliance, and regulatory authority to compel compliance. [Continue reading...](#)

### **Mexico Issues Cookie and Web Beacon Rules and Privacy Notice Requirements February 12, 2013**

On January 17, 2013, Mexico’s Ministry of Economy published its [Lineamientos del Aviso de Privacidad](#) (in Spanish) (“Privacy Notice Guidelines” or “Guidelines”), which it prepared in collaboration with the Mexican data protection authority. The Guidelines introduce heightened notice and opt-out requirements for the use of cookies, web beacons and similar technology, and they impose extensive requirements on the content and delivery of privacy notices generally (with respect to all personal data, not just data collected via cookies and other automated means). The Guidelines will take effect in mid-April. [Continue reading...](#)

## **European Commission Launches Cybersecurity Strategy and Draft Directive on Network and Information Security** **February 8, 2013**

On February 7, 2013, the European Commission, together with the High Representative of the Union for Foreign Affairs and Security Policy, launched their [cybersecurity strategy](#) for the European Union (“Strategy”). As part of this Strategy, the European Commission also proposed a draft [directive on measures to ensure a common level of network and information security](#) (“NIS”) across the EU (the “Directive”). [Continue reading...](#)

## **German Federal Office for Information Security Issues Guidance on Consumerization and BYOD** **February 7, 2013**

On February 4, 2013, the German Federal Office for Information Security (*Bundesamt für Sicherheit in der Informationstechnik* or “BSI”) published a [paper](#) (in German) providing an overview of the information technology risks inherent in consumerization and bring your own device (“BYOD”) strategies. The Paper responds to what the BSI views as a growing trend of employees making personal use of employer IT systems as well as using their personal IT devices for work purposes. [Continue reading...](#)

## **UK Court Rules Criminal Records Checks System Breaches Human Rights** **February 6, 2013**

On January 29, 2013, the UK Court of Appeal ruled that the UK criminal records disclosure regime is disproportionate and incompatible with the [UK Human Rights Act 1998](#) (the “Act”). The landmark [judgment](#) focused on the case of an appellant named “T,” who had received two “cautions” for stealing two bicycles when he was 11 years old. After a number of years, the appellant had to disclose these cautions twice in connection with required criminal records checks: first, at the age of 17, when he applied for a part-time job at a local football club, and again when he applied for a college course. [Continue reading...](#)

## **Singapore’s Personal Data Protection Commission Publishes Consultation Paper** **February 6, 2013**

On February 5, 2013, Singapore’s new data protection agency, the [Personal Data Protection Commission](#), [published](#) its first [consultation paper](#) (the “Paper”) articulating proposals for a data protection regulation. The Paper outlines the Commission’s positions on three key issues: (1) requests for access and correction; (2) transfer of personal data outside of Singapore; and (3) individuals who may act for others under the Personal Data Protection Act (“PDPA”). The PDPA was passed by the [Singapore Parliament in October 2012](#) and became law in January 2013. [Continue reading...](#)

## **California Ruling Finds Song-Beverly Act Does Not Apply to Online Transactions** **February 5, 2013**

On February 4, 2013, the Supreme Court of California examined whether Section 1747.08 of the [Song-Beverly Credit Card Act](#) (“Song-Beverly”) prohibits an online retailer from requesting or requiring personal identification information from a customer as a condition to accepting a credit card as payment for an electronically downloadable product. In a split decision, the majority of the court [ruled](#) that Song-Beverly does not apply to online purchases in which the product is downloaded electronically. [Continue reading...](#)

### **Kmart Settles FCRA Class Action for \$3 Million February 5, 2013**

On January 25, 2013, Kmart Corporation (“Kmart”) agreed to a [\\$3 million settlement](#) stemming from allegations that it violated the Fair Credit Reporting Act (“FCRA”) when using background checks to make employment decisions. The FCRA addresses adverse actions taken against consumers based on information in consumer reports and includes numerous requirements relating to the use of such reports in the employment context. [Continue reading...](#)

### **FTC Issues Staff Report on Mobile Privacy Disclosures and Announces Settlement with Social Networking Service for Mobile App Privacy Violations February 1, 2013**

On February 1, 2013, the Federal Trade Commission [issued](#) a new report entitled [Mobile Privacy Disclosures: Building Trust Through Transparency](#). The report makes recommendations “for the major participants in the mobile ecosystem as they work to improve mobile privacy disclosures,” offering specific recommendations for mobile platforms, app developers, advertising networks and other third parties operating in this space. The FTC’s report also makes mention of the Department of Commerce’s National Telecommunications and Information Administration’s efforts to engage in a [multistakeholder process](#) to develop an industry code of conduct for mobile apps. [Continue reading...](#)



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