

# PRIVACY AND INFORMATION SECURITY LAW BLOG

GLOBAL PRIVACY AND CYBERSECURITY LAW UPDATES AND ANALYSIS

## November 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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### European Commission Recommends Changes to Safe Harbor November 27, 2013

On November 27, 2013, the European Commission [published](#) an analysis of the EU-U.S. Safe Harbor Framework, as well as other EU-U.S. data transfer agreements. The analysis includes the following documents:

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### GAO Report Highlights Gaps in U.S. Privacy Laws November 27, 2013

On November 15, 2013, the U.S. Government Accountability Office (“GAO”) [released a report](#) (the “Report”) finding that the current federal statutory privacy scheme contains “gaps” and “does not fully reflect” the Fair Information Practice Principles (“FIPPs”). The Report focused primarily on companies that

gather and resell consumer personal information, and on the use of consumer personal information for marketing purposes. [Continue reading...](#)

### **Brazil Moves Forward with Internet and Data Protection Bills November 21, 2013**

Brazilian lawmakers, including José Eduardo Cardozo, the Minister of Justice of Brazil, and Ideli Salvatti, the Secretariat of Institutional Relations, [held several consensus-building meetings](#) with party leaders over the past two weeks to reach a voting agreement on the [Marco Civil da Internet](#) (“Marco Civil”), a draft bill introduced in the Brazilian Congress in 2011. The goal of the bill is to establish the country’s first set of Internet regulations, including requirements regarding personal data protection and net neutrality. Disputes over what should be included in the legislation have delayed a vote on the measure. A vote is now expected within weeks. [Continue reading...](#)

### **Mexico Issues Data Security Guidelines November 21, 2013**

As reported by [Bloomberg BNA](#), Mexico’s Federal Institute for Access to Information and Data Protection (“IFAI”) recently issued data security guidelines that implement the security provisions of the [Federal Law for the Protection of Personal Data Held by Private Parties](#) (*Reglamento de la Ley Federal de Protección de Datos Personales en Posesión de los Particulares*). [Continue reading...](#)

### **Supreme Court of Canada Declares Alberta PIPA Invalid November 21, 2013**

On November 15, 2013, the Supreme Court of Canada [declared](#) the Alberta Personal Information Protection Act (“PIPA”) invalid because the legislation interfered with the right to freedom of expression in the labor context under Section 2(b) of the Canadian Charter of Rights and Freedoms (the “Canadian Charter”). The case arose in the context of a labor union representing employees of a casino in Alberta. During a lawful strike, the union recorded and photographed individuals crossing the union’s picket line near the main entrance of the casino. The union had posted a sign that the images of persons crossing the picket line might be placed on a website. A number of individuals who were recorded crossing the picket line filed complaints under PIPA with the Alberta Information and Privacy Commissioner, who appointed an adjudicator to determine whether the union had contravened PIPA by collecting and disclosing personal information about individuals without their consent. Under PIPA, organizations cannot collect, use or disclose personal information without the individual’s consent, unless an exception applies. [Continue reading...](#)

### **Background Check Companies Settle FCRA Allegations November 20, 2013**

On November 12, 2013, two companies (the “Defendants”) that provide consumer background reports to third parties, including criminal record checks agreed to an [\\$18.6 million settlement](#) stemming from allegations that they violated the Fair Credit Reporting Act (“FCRA”) when providing these reports to prospective employers. [Continue reading...](#)

### **Luxembourg DPA Will Not Investigate Microsoft or Skype over Involvement in the PRISM Program November 20, 2013**

The Luxembourg data protection authority (*Commission nationale pour la protection des données*, “CNPD”) has stated that it will not investigate complaints relating to the alleged involvement of Microsoft Luxembourg (“Microsoft”) and Skype Software S.a.r.l. and Skype Communications S.a.r.l. (collectively, “Skype”) in the PRISM surveillance program. The PRISM surveillance program involves the transfer of EU citizens’ data to the U.S. National Security Agency (the “NSA”). [Continue reading...](#)

### **Hunton Global Privacy Update – November 2013** **November 20, 2013**

On November 19, 2013, Hunton & Williams’ [Global Privacy and Cybersecurity practice group](#) hosted the second webcast in its [Hunton Global Privacy Update](#) series. The program focused on the latest updates regarding the EU General Data Protection Regulation (“Proposed Regulation”), including a discussion of the European Parliament’s recent approval of its [Compromise Text](#) for the Proposed Regulation. [Continue reading...](#)

### **China Insurance Regulatory Agency Promulgates New Rule Protecting Personal Data of Life Insurance Customers** **November 20, 2013**

On November 4, 2013, the China Insurance Regulatory Commission, which is the Chinese regulatory and administrative authority for the insurance sector, issued the [Interim Measures for the Management of the Authenticity of Information of Life Insurance Customers](#) (the “Measures”). The Measures require life insurance companies and their agents to ensure the authenticity of personal data of life insurance policy holders. To help achieve this objective, the Measures impose rules for the collection, recording, management and use of the personal data of policy holders. [Continue reading...](#)

### **FTC Workshop on The Internet of Things** **November 19, 2013**

On November 19, 2013, the Federal Trade Commission held a workshop in Washington, D.C. to discuss [The Internet of Things: Privacy & Security in a Connected World](#). FTC Chair Edith Ramirez and FTC Senior Attorney Karen Jagielski provided the opening remarks. Chairwoman Ramirez raised three key issues for workshop participants to consider:

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### **Malaysian Data Protection Law Takes Effect** **November 19, 2013**

On November 14, 2013, the Minister of the Malaysian Communications and Multimedia Commission (the “Minister”) announced that Malaysia’s Personal Data Protection Act 2010 (the “Act”) would be going into effect as of November 15, marking the end of years of [postponements](#). The following features of the law are of particular significance:

[Continue reading...](#)

### **FTC Denies COPPA Parental Consent Mechanism Proposal** **November 14, 2013**

On November 13, 2013, the Federal Trade Commission [announced](#) that it denied a [proposal submitted by AssertID, Inc.](#) for a mechanism to obtain verifiable parental consent in accordance with the new Children's Online Privacy Protection Rule (the "COPPA Rule") that came into [effect July 1, 2013](#). [Continue reading...](#)

### **German DPA Publishes Recommendations for Mobile Payment Systems November 13, 2013**

On November 4, 2013, the data protection authority ("DPA") of the German state of Rhineland-Palatinate [announced](#) two sets of recommendations for mobile payment systems, including contactless payments. The recommendations were prepared in conjunction with the state consumer protection agency, the Ministry of Justice for Rhineland-Palatinate, the mobile payment industry and research organizations. [Continue reading...](#)

### **Texas AG Argues EEOC Guidance on Criminal Background Checks Violates State Sovereignty November 12, 2013**

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

In a lawsuit filed in the United States District Court for the Northern District of Texas on November 4, 2013, Texas Attorney General Greg Abbott sought injunctive and declaratory relief against the Equal Employment Opportunity Commission ("EEOC") on the grounds that the agency's April 2012 Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions "purports to preempt the State's sovereign power to enact and abide by state-law hiring practices." In particular, the complaint argues against the EEOC's prohibition against blanket "no felons" hiring policies. The Texas AG's [complaint](#) highlights key failures and shortcomings of the EEOC's recent investigative actions, and provides detailed examples of the "real world" effect of the guidance on the state's hiring decisions. [Continue reading...](#)

### **South Korea to Issue Privacy Compliance Certifications November 7, 2013**

On October 27, 2013, the [South Korean Ministry of Security and Public Administration indicated](#) that the government will issue certifications to private and public organizations that meet certain requirements of the [Personal Information Protection Act](#). According to *The Korea Times*, organizations will be able to apply for the certification with the National Information Society Agency ("NISA") beginning on November 28, 2013. The number of requirements that an organization will be assessed against will depend on the size of the organization. *The Korea Times* reports that NISA "will take a close look at the firms' privacy protection policies and what kinds of efforts they have in place to prevent leaks of private information of their clients." Once issued, the certification will be valid for three years and renewable.

### **ICO Privacy Notice Code Review November 7, 2013**

As we [reported](#) on October 8, 2013, the Information Commissioner's Office ("ICO") has [announced](#) it is reviewing its [Privacy Notices Code of Practice](#) (the "Code") to assess whether it should be updated. In anticipation of the November 30<sup>th</sup> closing date for comments on the Code, today the ICO's Head of Policy Delivery [posted a request for feedback](#) on the ICO's blog. [Continue reading...](#)

### **Kazakhstan Enacts Data Privacy Law**

## November 5, 2013

On November 26, 2013, Kazakhstan's new data privacy law, [On Personal Data and Their Protection](#), will come into effect. The law was passed on May 21, 2013. Kazakhstan is the second country in Central Asia to enact a data privacy law, joining the Kyrgyz Republic, which passed the [Law on Personal Data](#) in 2008. [Continue reading...](#)



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