

PRIVACY AND INFORMATION SECURITY LAW BLOG

GLOBAL PRIVACY AND CYBERSECURITY LAW UPDATES AND ANALYSIS

March 2014

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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Leak of Grid Vulnerabilities Creates National Security Risks

March 31, 2014

The recent leak of an internal memo to the former Chair of the Federal Energy Regulatory Commission, which was widely reported by national news media, has created a national security setback for the United States. Many are concerned that the disclosure may provide terrorists and other bad actors a roadmap for causing a prolonged nationwide blackout. Perhaps more importantly, the leak undermines the relationship of trust between industry and government agencies that the parties have been working for years to establish; a relationship that is vital to developing a stronger security posture for the electrical grid and in other critical infrastructure sectors. In an [article](#) published in Intelligent Utility Update, Hunton & Williams partner [Paul M. Tiao](#) discusses the effects of the leak on national security and on the relationship between the energy industry and the government. [Continue reading...](#)

Article 29 Working Party Issues Opinion on Personal Data Breach Notification March 28, 2014

On March 25, 2014, the Article 29 Working Party adopted [Opinion 03/2014](#) (the “Opinion”) providing guidance on whether individuals should be notified in case of a data breach.

The Opinion goes beyond considering the notification obligations contained in the [e-Privacy Directive 2002/58/EC](#), which requires telecommunications service providers to notify the competent national authority of all data breaches. The Directive also requires notification (without undue delay) to the affected individuals when the data breach is likely to adversely affect the personal data or privacy of individuals, unless the service provider has satisfactorily demonstrated that it has implemented appropriate technological safeguards that render the relevant data unintelligible to unauthorized parties and that these measures were applied to the data concerned by the security breach. [Continue reading...](#)

FTC Settles with Fandango and Credit Karma over Mobile App Security Failures March 28, 2014

On March 28, 2014, the Federal Trade Commission [announced](#) proposed settlements with Fandango and Credit Karma stemming from allegations that the companies misrepresented the security of their mobile apps and failed to secure consumers’ sensitive personal information transmitted using their mobile apps. [Continue reading...](#)

Australian Data Breach Notification Bill Re-Introduced March 28, 2014

On March 20, 2014, [Australia’s Privacy Amendment \(Privacy Alerts\) Bill 2014](#) was [re-introduced in the Senate](#) for a first read. The bill, which was subject to a [second reading debate](#) on March 27, 2014, originally was introduced on May 29, 2013, but it lapsed on November 12, 2013 at the end of the session. [Continue reading...](#)

Hunton Global Privacy Update – March 2014 March 20, 2014

On March 18, 2014, Hunton & Williams’ [Global Privacy and Cybersecurity practice group](#) hosted the latest webcast in its [Hunton Global Privacy Update](#) series. The program focused on some of the recent developments in privacy, including observations from the [International Association of Privacy Professionals’ Global Privacy Summit](#) in Washington, D.C., earlier this month, the National Institute of Standards and Technology final [Cybersecurity Framework](#) and the Article 29 Working Party’s recent [Opinion](#) on Binding Corporate Rules and Cross-Border Privacy Rules. [Continue reading...](#)

HHS Announces Pre-Audit HIPAA Surveys March 19, 2014

The Department of Health and Human Services’ Office for Civil Rights (“OCR”) recently announced that it intends to survey up to 1,200 covered entities and business associates to determine their suitability for a more fulsome HIPAA compliance audit. In a [notice](#) published in the Federal Register, OCR stated that the survey will collect information such as “number of patient visits or insured lives, use of electronic information, revenue, and business locations” to assess the organizations’ “size, complexity and fitness” for an audit. [Continue reading...](#)

Brazil Removes Local Data Storage Requirement from Internet Bill March 19, 2014

On March 18, 2014, Brazilian lawmakers announced the withdrawal of a provision in pending legislation that would have required Internet companies to store Brazilian users' data within the country. [Continue reading...](#)

New French Law Authorizes the CNIL to Conduct Online Inspections March 18, 2014

On March 18, 2014, a [new French consumer law](#) (Law No. 2014-344) was published in the *Journal Officiel de la République Française*. The new law strengthens the investigative powers of the French Data Protection Authority (the "CNIL") by giving the CNIL the ability to conduct online inspections. [Continue reading...](#)

FTC Acts on Several Industry COPPA Proposals March 14, 2014

The Federal Trade Commission recently acted on three industry proposals in accordance with the new Children's Online Privacy Protection Rule (the "COPPA Rule") that [came into effect July 1, 2013](#). Specifically, the FTC determined that it was unnecessary to rule on a proposed parental consent mechanism, approved a proposed "safe harbor" program and is seeking public comment on a separate proposed "safe harbor" program. [Continue reading...](#)

European Parliament Adopts Network and Information Security Directive March 13, 2014

On March 13, 2014, the European Parliament [voted](#) to adopt the draft directive on measures to ensure a uniform level of network and information security ("NIS Directive"). The NIS Directive was proposed by the European Commission on February 7, 2013 as part of its [cybersecurity strategy](#) for the European Union. The NIS Directive aims to ensure a uniform level of cybersecurity across the EU. The European Parliament will next negotiate with the Council of the European Union to reach an agreement on the final text of the NIS Directive.

[View the European Commission's press release.](#)

European Parliament Adopts Draft General Data Protection Regulation; Calls for Suspension of Safe Harbor March 12, 2014

On March 12, 2014, the European Parliament formally [adopted](#) the compromise text of the proposed [EU General Data Protection Regulation](#) (the "Regulation"). The text now adopted by the Parliament is unchanged and had [already been approved](#) by the Parliament's Committee on Civil Liberties, Justice and Home Affairs in October of last year. The Parliament voted with 621 votes in favor, 10 against and 22 abstentions for the Regulation. [Continue reading...](#)

HHS Settles Potential HIPAA Violations with County Government

March 11, 2014

On March 7, 2014, the Department of Health and Human Services (“HHS”) [announced](#) a [resolution agreement](#) and \$215,000 settlement with Skagit County, Washington, following a security breach that affected approximately 1,600 individuals. [Continue reading...](#)

German DPAs Issue Guidelines on CCTV Use March 11, 2014

On March 10, 2014, the German Federal Commissioner for Data Protection and Freedom of Information and all 16 German state data protection authorities responsible for the private sector [issued guidelines on the use of closed-circuit television](#) (“CCTV”) by private companies. The guidelines provide information regarding the conditions under which CCTV may be used and outline the requirements for legal compliance. The guidelines feature:

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Former FTC Counsel Markus Heyder Joins Centre for Information Policy Leadership at Hunton March 11, 2014

The [Centre for Information Policy Leadership](#) at Hunton & Williams LLP (the “Centre”) [announces](#) Markus B. Heyder, International Consumer Protection Counsel at the U.S. Federal Trade Commission, will be joining as Vice President and Senior Policy Counselor, effective March 17, 2014. In this role, Heyder will work on policy development, research and publishing activities at the Centre, and will develop and maintain relationships with policy and regulatory authorities in North America, Asia and Latin America, among other tasks. He will be resident in the firm’s Washington, D.C. office. [Continue reading...](#)

U.S. FTC and UK ICO Sign Memorandum of Understanding March 7, 2014

On March 6, 2014, the U.S. Federal Trade Commission (“FTC”) and UK Information Commissioner’s Office (“ICO”) [signed](#) a [memorandum of understanding](#) (“MOU”) to promote increased cooperation and information sharing between the two enforcement agencies. [Continue reading...](#)

Article 29 Working Party Issues Opinion on BCR and APEC CBPR Requirements March 7, 2014

On March 6, 2014 the Article 29 Working Party (the “Working Party”) published a comprehensive Opinion: [Opinion 02/2014 on a referential for requirements for Binding Corporate Rules submitted to national Data Protection Authorities in the EU and Cross-Border Privacy Rules submitted to APEC CBPR Accountability Agents](#). This blog post provides an overview of the Opinion. [Continue reading...](#)

OCR Releases HIPAA Privacy Rule Guidance on Mental Health Disclosures

March 7, 2014

The Department of Health and Human Services' Office for Civil Rights ("OCR") recently released [guidance](#) about the use and disclosure of mental health information. The guidance, entitled "HIPAA Privacy Rule and Sharing Information Related to Mental Health," contains thirteen questions and answers that address the following topics:

[Continue reading...](#)

French Data Protection Authority Issues New Guidelines on E-Commerce and Direct Marketing March 5, 2014

On March 5, 2014, the French Data Protection Authority (the "CNIL") issued [new guidelines](#) in the form of five practical information sheets that address online purchases, direct marketing, contests and sweepstakes, and consumer tracking (the "Guidelines"). [Continue reading...](#)

UK ICO Publishes Updated Code of Practice on Privacy Impact Assessments March 3, 2014

On February 25, 2014, the UK Information Commissioner's Office ("ICO") [published](#) an [updated code of practice](#) on conducting privacy impact assessments ("PIAs") (the "Code"). The updated Code takes into account the ICO's [consultation](#) and [research project](#) on the conduct of PIAs, and reflects the increased use of PIAs in practice. [Continue reading...](#)



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