

# PRIVACY & INFORMATION SECURITY LAW BLOG

Global Privacy and Cybersecurity Law Updates and Analysis



## April 2016

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.

Recent posts on the Privacy and Information Security Law blog include:

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### Parliamentary Committee Approves Denham ICO Appointment

April 28, 2016

On April 27, 2016, the UK House of Commons Culture, Media and Sport Select Committee (the “Committee”) confirmed Elizabeth Denham’s appointment as Information Commissioner. Denham, currently the Privacy and Information Commissioner for British Columbia, Canada, was [announced](#) as the UK Government’s preferred choice on March 22, 2016. [Continue Reading...](#)

### OCR Settles Two Key HIPAA Privacy Rule Cases Involving X-Rays and Medical Reality TV Show

April 27, 2016

The U.S. Department of Health and Human Services’ Office for Civil Rights (“OCR”) recently [announced](#) resolution agreements with Raleigh Orthopaedic Clinic, P.A., (“Raleigh Orthopaedic”) and New York-Presbyterian Hospital (“NYP”) for HIPAA Privacy Rule violations. [Continue Reading...](#)

### Amended Nebraska Data Breach Notification Law Adds Regulator Notification Requirement

April 25, 2016

On April 13, 2016, Nebraska Governor Pete Ricketts signed into law [LB 835](#) (the “Bill”), which among other things, adds a regulator notification requirement and broadens the definition of “personal information” in the state’s data breach notification statute, Neb. Rev. Stat. §§ 87-802 to 87-804. The amendments take effect on July 20, 2016. [Continue Reading...](#)

## **Lisa Sotto Featured in SC Magazine Article – Ready to Rumble: Apple v. FBI**

**April 21, 2016**

In a recent [article](#) published by *SC Magazine*, [Lisa Sotto](#), head of Hunton & Williams LLP's Global Privacy and Cybersecurity practice, provides commentary on the recent case, *Apple v. FBI*. The article analyzes privacy versus security, and Sotto tells *SC Magazine*, “[the case] should never have escalated to this, privacy should have been addressed” at the onset of the investigation. Sotto says the government should have “worked with tech companies to craft policies and processes” before an issue of this magnitude arose. The article provides details on the case and discusses differentiators that set the case apart from similar issues in the past, and also provides insight into legislation that could regulate privacy and security matters in the future. Many believe Congress should step in, including Sotto who says, “The courts can’t keep doing it on a piecemeal basis.”

[Read](#) the full article.

## **FTC Releases Interactive Tool for Mobile Health Apps**

**April 21, 2016**

The Federal Trade Commission recently released an [interactive tool](#) for mobile health apps. The tool was developed in conjunction with several other federal agencies, including the Department of Health and Human Services’ Office for Civil Rights, the Office of the National Coordinator for Health Information Technology, and the Food and Drug Administration. [Continue Reading...](#)

## **CNIL and GPEN Analyze Impact of Connected Devices on Privacy During Internet Sweep**

**April 19, 2016**

On April 12, 2016, the French Data Protection Authority (“CNIL”) [announced](#) that it will participate in a coordinated online audit to analyze the impact of everyday connected devices on privacy. The audit will be coordinated by the Global Privacy Enforcement Network (“GPEN”), a global network of approximately 50 data protection authorities (“DPAs”) from around the world. [Continue reading...](#)

## **CIPL and AvePoint Launch Survey to Benchmark Global Readiness for the EU GDPR**

**April 19, 2016**

With the recent adoption of the EU General Data Protection Regulation (“GDPR”) and the significant changes it will require from organizations, AvePoint has joined forces with the [Centre for Information Policy Leadership](#) (“CIPL”), a global privacy policy think tank at Hunton & Williams LLP, to [launch](#) the first global survey to benchmark organizations’ readiness for the GDPR. [Continue reading...](#)

## **If a Data Breach Occurs and Nobody Accesses Customer Data, Does it Constitute “Publication”?**

**April 15, 2016**

As reported on the [Hunton Insurance Recovery Blog](#), data breach claims involving customer data can present an ever-increasing risk for companies across all industries. A recent case illustrates efforts to recover the costs associated with such claims. A panel of the Fourth Circuit confirmed that general liability policies can afford coverage for cyber-related liabilities, and ruled that an insurer had to pay attorneys’ fees to defend the policyholder in class action litigation in [Travelers Indemnity Company v. Portal Healthcare Solutions, No. 14-1944](#). [Syed Ahmad](#), a partner in the Hunton & Williams LLP insurance practice, was quoted in a Law360 [article](#) concerning the importance of this decision. [Continue reading...](#)

## **EU General Data Protection Regulation Finally Adopted**

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**April 14, 2016**

On April 14, 2016, after four years of drafting and negotiations, the long awaited EU General Data Protection Regulation (“GDPR”) has been [adopted](#) at the EU level. Following the EU Parliament’s Committee on Civil Liberties, Justice and Home Affairs’ [vote](#) earlier this week and the EU Parliament in plenary session, the GDPR is now officially EU law and will directly apply in all EU countries, replacing EU and national data protection legislation. [Continue Reading...](#)

**Article 29 Working Party Releases Opinion on EU-U.S. Privacy Shield  
April 13, 2016**

On April 13, 2016, the Article 29 Working Party (the “Working Party”) published its [Opinion](#) on the EU-U.S. Privacy Shield (the “[Privacy Shield](#)”) draft adequacy decision. The Privacy Shield was created to replace the previous Safe Harbor framework invalidated by the Court of Justice of the European Union (“CJEU”) in the [Schrems](#) decision. The Working Party also published a [Working Document](#) on the justification for interferences with the fundamental rights to privacy and data protection through surveillance measures when transferring personal data (European Essential Guarantees). [Continue Reading...](#)

**European Commission Launches Public Consultation on e-Privacy Directive  
April 13, 2016**

On April 11, 2016, the European Commission [launched](#) a public consultation to evaluate and review [Directive 2002/58/EC](#) on the processing of personal data and the protection of privacy in the electronic communications sector, also known as the e-Privacy Directive.

Technological advances and the advent of the EU General Data Protection Regulation (“GDPR”) have prompted the European Commission to review the e-Privacy Directive, which was last updated in 2009. [Continue Reading...](#)

**Hunton Releases 2016 EU General Data Protection Regulation Guide for In-House Lawyers  
April 12, 2016**

After much debate, the final version of the EU General Data Protection Regulation (“GDPR”) is expected to be adopted by the European Parliament this week and to take effect in early 2018. The GDPR will significantly change EU data protection law in several areas, affecting all businesses in the energy, financial, health care, real estate, manufacturing, retail, technology and transportation industries, among others. To assist in-house lawyers and privacy professionals with understanding the new GDPR and planning ahead for implementation, Hunton & Williams’ Privacy and Cybersecurity practice lawyers have released [The EU General Data Protection Regulation, a Guide for In-House Lawyers](#) covering these strategic areas. [Continue Reading...](#)

**Hunton & Williams Launches Cyber and Physical Security Task Force  
April 8, 2016**

*Team helps companies devise legal strategies to enhance security and mitigate threat risk.*

On April 4, 2016, Hunton & Williams LLP announced the formation of a Cyber and Physical Security Task Force to assist companies in minimizing the risks and consequences of a serious security incident. The task force is being led by global privacy and cybersecurity head [Lisa Sotto](#), cybersecurity partner [Paul](#)

[Tiao](#), and energy partner [Kevin Jones](#), and includes lawyers from a wide range of practice groups within the firm. [Continue Reading...](#)

### **FTC Releases OECD's Recommendation on Consumer Protection in E-Commerce April 7, 2016**

On April 6, 2016, the Federal Trade Commission [formally welcomed](#) the updated [Recommendation on Consumer Protection in E-commerce](#) (the "Recommendation") issued by the Organization for Economic Cooperation and Development ("OECD") on March 24, 2016, endorsing the Recommendation's broadened scope and increased consumer protections that "are designed to strengthen consumers' trust in the expanding electronic marketplace." [Continue Reading...](#)

### **Data Protection Law Passes Turkish Parliament April 6, 2016**

On March 24, 2016, the Grand National Assembly of Turkey approved the Law on Personal Data Protection, which is Turkey's first comprehensive data protection legislation. The law will become effective once it is ratified by Turkey's President and published in the Official Gazette of the Republic of Turkey. [Continue Reading...](#)

### **Amended Tennessee Breach Notification Law Tightens Timing Requirement April 1, 2016**

On March 24, 2016, Tennessee Governor Bill Haslam signed into law [S.B. 2005](#), as amended by [Amendment No. 1 to S.B. 2005](#) (the "Bill"), which makes a number of changes to the state's data breach notification statute, Tenn. Code § 47-18-2107. The amendments take effect on July 1, 2016. [Continue Reading...](#)



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