

PRIVACY AND INFORMATION SECURITY LAW BLOG

GLOBAL PRIVACY AND CYBERSECURITY LAW UPDATES AND ANALYSIS

October 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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China Passes Amendment to Consumer Protection Law October 28, 2013

On October 25, 2013, the Standing Committee of the National People's Congress of the People's Republic of China [passed](#) an amendment to the P.R.C. Law on the Protection of Consumer Rights and Interests (the "Amendment"). The Amendment, which was adopted after three readings and will take effect on March 15, 2014, adds provisions designed to respond to the recent boom in online shopping and focuses on improving protections in the area of consumer rights and interests by:

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FTC Settles Spying Case Against Rent-to-Own Retailer October 24, 2013

On October 22, 2013, the Federal Trade Commission [announced](#) a proposed [settlement](#) with Aaron's, Inc. ("Aaron's") stemming from allegations that it knowingly assisted its franchisees in spying on consumers. Specifically, the FTC alleged that Aaron's facilitated its franchisees' installation and use of software on computers rented to consumers that surreptitiously tracked consumers' locations, took photographs of consumers in their homes, and recorded consumers' keystrokes in order to capture login

credentials for email, financial and social media accounts. The FTC had previously settled [similar allegations](#) against Aaron's and several other companies. [Continue reading...](#)

NIST Issues Preliminary Cybersecurity Framework October 23, 2013

On October 22, 2013, the National Institute of Standards and Technology ("NIST") issued the [Preliminary Cybersecurity Framework](#) (the "Preliminary Framework"), as required under Section 7 of the Obama Administration's February 2013 executive order, [Improving Critical Infrastructure Cybersecurity](#) (the "Executive Order"). The Preliminary Framework includes standards, procedures and processes for reducing cyber risks to critical infrastructure. It will be published in the Federal Register within a few days for public comment. Under the Executive Order, NIST is required to issue a final version of the Framework in February 2014. NIST is planning to host a public workshop on the Preliminary Framework in mid-November to give industry and other groups an opportunity to provide their views on this document. [Continue reading...](#)

European Parliament Approves Compromise Text on Regulation October 21, 2013

On October 21, 2013, the European Parliament [approved](#) its Compromise Text of the proposed [EU General Data Protection Regulation](#) (the "Proposed Regulation"). The approval follows months of negotiations between the various parliamentary committees. The European Parliament's Committee on Civil Liberties, Justice and Home Affairs ("LIBE") has been in charge of working toward an agreement on the Compromise Text in the European Parliament. [Continue reading...](#)

Indian Privacy Law in the Works October 21, 2013

On October 19, 2013, the [Center for Internet and Society](#) ("CIS"), the [Federation of Indian Chambers of Commerce and Industry](#), and the [Data Security Council of India](#) held a [Privacy Roundtable in New Delhi](#), the last in a series of roundtables that began in April 2013. The events were designed to elicit comments on a draft [Privacy Protection Bill](#), proposed legislation for a privacy and personal data protection regime in India. The law would regulate the collection and use of personal data in India, as well as surveillance and interception of communications. [Continue reading...](#)

California Governor Vetoes Electronic Communications Privacy Bill October 18, 2013

On October 12, 2013, California Governor Jerry Brown [vetoed](#) an electronic communications privacy bill. The bill, [SB 467](#), would have compelled law enforcement to obtain a search warrant before seeking to access any email or other electronic communication maintained by service providers. The bill went beyond the scope of the federal Electronic Communications Privacy Act, which obligates law enforcement to obtain search warrants only for electronic communications that are unopened or stored by service providers for fewer than 180 days. The California bill was very similar to a [bill signed into law in Texas](#) earlier in 2013 that required law enforcement agencies to obtain warrants before accessing customer electronic data held by email service providers. [Continue reading...](#)

Revised FCC Telephone and Text Marketing Rules Become Effective October 16, 2013 October 15, 2013

On October 16, 2013, the Federal Communications Commission's [revisions to its Telephone Consumer Protection Act rules](#) go into effect. As [we previously reported](#), the revisions require that businesses obtain "express written consent" prior to advertising or telemarketing through (1) autodialed calls or text messages, or prerecorded calls to consumers' mobile numbers, and (2) prerecorded calls to consumers' residential lines. In addition, the FCC's revisions eliminate the exemption that allowed businesses to place prerecorded advertising or telemarketing calls to a consumer's residential phone line if the business had a pre-existing business relationship with the consumer. [Continue reading...](#)

Insurance Policy's Statutory Rights Exclusion Does Not Apply to Data Breach Claims October 15, 2013

On October 7, 2013, the United States District Court for the Central District of California [held](#) that a general liability insurance policy covered data breach claims alleging violations of California patients' right to medical privacy. *Hartford Casualty Insurance Co. v. Corcino & Associates*, CV 13-03728-GAF (C.D. Cal. Oct. 7, 2013). The court rejected the insurer's argument that coverage was negated by an exclusion for liabilities resulting from a violation of rights created by state or federal acts. The decision also rejected an attempt commonly made by insurers to exclude coverage for statutory penalties.

Read the [client alert with full coverage of the ruling](#).

Article 29 Working Party Issues Guidance on Obtaining Cookie Consent October 14, 2013

On October 2, 2013, the Article 29 Working Party (the "Working Party") issued a [Working Document](#) providing guidance on how to obtain consent for the use of cookies and similar technologies in compliance with EU legal requirements ("Working Document"). [Continue reading...](#)

Council of the EU Considers "One-Stop-Shop" Mechanism for Data Protection Regulation – EDPS Opines on Safe Harbor Issues October 11, 2013

At its meeting on October 7, 2013, the Council of the European Union voiced support for the "one-stop-shop" mechanism in the draft [General Data Protection Regulation](#) (the "Regulation"). The "one-stop-shop" mechanism allocates responsibility for overseeing data processing activities in multiple EU Member States to the data protection authority of the EU Member State where the data controller or processor has its main establishment. At the Council meeting, a majority of the EU Member States indicated that the responsible data protection authority should have exclusive decision powers with regard to enforcement actions, but acknowledged that the "local" DPAs should be involved in the decision making process as well. The Council emphasized the need for further exploration of the European Data Protection Board's role in ensuring consistent application of EU data protection rules. [Continue reading...](#)

Belgium Transposes Data Retention Directive October 9, 2013

On October 8, 2013, a [Royal Decree](#) was published completing the transposition of the [EU Data Retention Directive 2006/24/EC](#) (the "Data Retention Directive") into Belgian law. The Royal Decree was adopted on September 19, 2013. [Continue reading...](#)

German DPAs Address a Wide Range of Topics at Annual Conference and Adopt Resolutions October 9, 2013

On October 2, 2013, the 86th Conference of the German Data Protection Commissioners concluded in Bremen. This biannual conference provides a private forum for the 16 German state data protection authorities (“DPAs”) and the Federal Commissioner for Data Protection and Freedom of Information, Peter Schaar, to share their views on current issues, discuss relevant cases and adopt Resolutions aimed at harmonizing how data protection law is applied across Germany. [Continue reading...](#)

Review of UK ICO Privacy Notices Code of Practice October 8, 2013

In its October 2013 e-newsletter, the UK Information Commissioner’s Office (“ICO”) [announced](#) that it is reviewing its [Privacy Notices Code of Practice](#) (the “Code”) to assess whether it should be updated. The Code, last updated in December 2010 and issued under Section 51 of the [UK Data Protection Act 1998](#) (the “DPA”), is designed to assist organizations “to collect and use information appropriately by drafting clear and genuinely informative privacy notices.” [Continue reading...](#)

Centre Reports on 35th International Conference of Data Protection and Privacy Commissioners October 7, 2013

On October 4, 2013, [The Centre for Information Policy Leadership’s](#) Senior Policy Advisor [Fred Cate reported](#) on the [35th International Conference of Data Protection and Privacy Commissioners](#) which concluded on September 24 in Warsaw, Poland. The report indicates that four main issues dominated the Conference: (1) challenges presented by technologies such as mobile apps and online profiling, (2) multinational interoperability and enforcement, (3) pending EU data protection regulation and alternatives, and (4) repercussions of NSA surveillance activities.

Read the [Centre’s full report on the Conference](#).

Hunton Hosts Department of Commerce Data Privacy Speakers October 4, 2013

On September 30, 2013, Hunton & Williams LLP [hosted](#) representatives from the U.S. Department of Commerce for a timely discussion of the Safe Harbor Framework, the Asia-Pacific Economic Cooperation (“APEC”) Cross-Border Privacy Rules System (“CBPRs”), and the [Transatlantic Trade and Investment Partnership](#) (“TTIP”) negotiations. The panel also addressed the development of privacy codes of conduct and privacy legislation being developed by the Department of Commerce. [Continue reading...](#)



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