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Privacy Law

ALERT

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Update from International Association of Privacy Professionals (IAPP) Global Privacy Summit

At this week's International Association of Privacy Professionals (IAPP) Global Privacy Summit, the FTC and the White House made several important announcements.

FTC Commissioner Julie Brill stated that the FTC privacy priorities are mobile, the so-called "Internet of Things," data security, and data brokers.

Commissioner Brill announced that the FTC should be issuing a report soon related to its study of the practices of nine data brokers. In addition, she indicated that the Consumer Privacy Bill of Rights needs to be more focused on the collection of Big Data and she wants to work with the White House to make any necessary changes to it.

Commissioner Brill also stated that she expects that the FTC will issue a report from its recent workshop on the Internet of Things. When asked whether the FTC has jurisdiction over the Internet of Things she stated that the question is not whether the FTC has jurisdiction but how the FTC will exercise that jurisdiction. We should expect that the report will focus on how to give consumers notice of the collection of their personal information through the Internet of Things. Commissioner Brill stated that was her biggest concern since many of the products in the Internet of Things have no interface mechanism with consumers.

Echoing the statements of the Attorney General and the FTC over the past week, Commissioner Brill again emphasized the need for federal data breach legislation. What is she looking for in new federal legislation? First, she emphasized the trigger for notification must be robust enough to protect consumers. Second, she stated that any preemption of state laws should not strip state AGs of the ability to enforce a new federal data breach law.

Commissioner Brill also stated that there is a need for a federal data security law. Because of the inherent difficulties for businesses to comply with multiple state data security laws, she believes that an argument for a preemption clause in a data security law is much more "salient."

After the announcement of 15 settlements related to companies fraudulently claiming that they complied with the EU safe harbor, Commissioner Brill indicated that similar enforcements will continue. Commissioner Brill expects that future enforcements may include not only companies that fraudulently claim to be covered by the safe harbor but also companies that do not comply with the safe harbor regulations.

Yesterday, the White House gave a preview of the [ninety day study on Big Data](#) due on April 17. Combined with the statements of Commissioner Brill that the Consumer Privacy Bill of Rights needs to be more focused on Big Data, it appears that the White House may be setting the stage to update the Consumer Privacy Bill of Rights.

At the conference, the White House also shed some light on the new [Cybersecurity Framework](#). According to White House representatives, the White House hopes that the new Cybersecurity Framework will be used on a much broader basis - not just by critical infrastructure. The Framework is intended to apply also to vendors of critical infrastructure and government. The White House said this Framework may be "best practices" for the critical infrastructure at this time, but the White House hopes for it to grow into "common practices" for even non-critical infrastructure companies. If one of the several data security

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bills which places the responsibility of creating data security regulations on the FTC passes Congress, the White House's Cybersecurity Framework may be the basis of new regulations.

We will provide summaries of the White House and FTC reports when they are published.

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Advanced Media and Technology Department

KENNETH A. ADLER	KADLER@LOEB.COM	212.407.4284
AMIR AZARAN	AAZARAN@LOEB.COM	312.464.3330
IVY KAGAN BIERMAN	IBIERMAN@LOEB.COM	310.282.2327
CHRISTIAN D. CARBONE	CCARBONE@LOEB.COM	212.407.4852
TAMARA CARMICHAEL	TCARMICHAEL@LOEB.COM	212.407.4225
MARC CHAMLIN	MCHAMLIN@LOEB.COM	212.407.4855
MARGARET CHARENDOFF	MCHARENDOFF@LOEB.COM	212.407.4069
CRAIG A. EMANUEL	CEMANUEL@LOEB.COM	310.282.2262
KENNETH R. FLORIN	KFLORIN@LOEB.COM	212.407.4966
DANIEL D. FROHLING	DFROHLING@LOEB.COM	312.464.3122
NOREEN P. GOSSSELIN	NGOSSELIN@LOEB.COM	312.464.3179
DAVID W. GRACE	DGRACE@LOEB.COM	310.282.2108
THOMAS A. GUIDA	TGUIDA@LOEB.COM	212.407.4011
NATHAN J. HOLE	NHOLE@LOEB.COM	312.464.3110
MELANIE J. HOWARD	MHOWARD@LOEB.COM	310.282.2143
THOMAS P. JIRGAL	TJIRGAL@LOEB.COM	312.464.3150
IEUAN JOLLY	IJOLLY@LOEB.COM	212.407.4810
LIVIA M. KISER	LKISER@LOEB.COM	312.464.3170
JULIE E. LAND	JLAND@LOEB.COM	312.464.3161
JESSICA B. LEE	JBLEE@LOEB.COM	212.407.4073
DAVID G. MALLEN	DMALLEN@LOEB.COM	212.407.4286
MICHAEL MALLOW	MMALLOW@LOEB.COM	310.282.2287
KATHERINE MASON	KMASON@LOEB.COM	212.407.4898

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DOUGLAS N. MASTERS	DMASTERS@LOEB.COM	312.464.3144
NERISSA COYLE MCGINN	NMCGINN@LOEB.COM	312.464.3130
ANNE KENNEDY MCGUIRE	AMCGUIRE@LOEB.COM	212.407.4143
DANIEL G. MURPHY	DMURPHY@LOEB.COM	310.282.2215
BRIAN NIXON	BNIXON@LOEB.COM	202.618.5013
ANGELA PROVENCIO	APROVENCIO@LOEB.COM	312.464.3123
CHRISTINE M. REILLY	CREILLY@LOEB.COM	310.282.2361
KELI M. ROGERS-LOPEZ	KROGERS-LOPEZ@LOEB.COM	310.282.2306
SETH A. ROSE	SROSE@LOEB.COM	312.464.3177
ROBERT MICHAEL SANCHEZ	RSANCHEZ@LOEB.COM	212.407.4173
T.J. SAUNDERS	TSAUNDERS@LOEB.COM	312.464.3174
ALISON POLLOCK SCHWARTZ	ASCHWARTZ@LOEB.COM	312.464.3169
BARRY I. SLOTNICK	BSLOTNICK@LOEB.COM	212.407.4162
REGAN A. SMITH	RASMITH@LOEB.COM	312.464.3137
BRIAN R. SOCOLOW	BSOCOLOW@LOEB.COM	212.407.4872
WALTER STEIMEL, JR.	WSTEIMEL@LOEB.COM	202.618.5015
AKIBA STERN	ASTERN@LOEB.COM	212.407.4235
JAMES D. TAYLOR	JTAYLOR@LOEB.COM	212.407.4895
MICHAEL A. THURMAN	MTHURMAN@LOEB.COM	310.282.2122
JILL WESTMORELAND	JWESTMORELAND@LOEB.COM	212.407.4019
DEBRA A. WHITE	DWHITE@LOEB.COM	212.407.4216
MICHAEL P. ZWEIG	MZWEIG@LOEB.COM	212.407.4960