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# Privacy & Security Crash Course: What Am I Allowed to Do With My Data?

June 9, 2015

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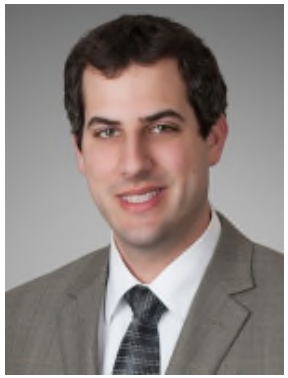


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# What do data restrictions look like in the USA?


- Sectoral approach
  - Healthcare: HIPAA
  - Financial/Banking: GLB Act, FCRA
  - Consumers: FTC Act
  - Children: COPPA

- Contrast: EU – standardized approach
  - Data Protection Directive
  - "Safe Harbor" for US companies

# What do I need to do before I collect data?


- As appropriate, publish a Privacy Policy
  - FTC requirement for websites collecting data
  - Do not change Privacy Policy without adequate notice
- Healthcare Notice of Privacy Practices required by HIPAA
- Financial Notice of Privacy Practices required by GLB Act

# What types of data need special treatment?


- Payment card data
- Other financial data
- Social Security numbers
- Health information
- “Sensitive” health information
- Movie rental data

# What if I want to involve a third party?


- Implement appropriate protections in your agreements for data sharing
- GLB: confidentiality of information clauses
- HIPAA: Business Associate Agreements
  - Special provisions required for aggregation and de-identification

# Third parties: contract provisions


- Safeguards
- Breach notification
- Remediation
- Insurance/indemnification
- Oversight/auditing
- Termination
- State law obligations

# What do I think about as a vendor?


- Compliance obligations
  - New laws to consider
- Breach obligations
  - Speed of notification
  - Accountability for response
- Indemnification/Insurance
- Data use rights wanted or needed
  - Special requirements: aggregation, de-identification

# What rights do data subjects have?


- COPPA: parents can see information about child, delete and correct
- GLB: opt out of disclosures
- HIPAA: access, corrections, accounting of disclosures

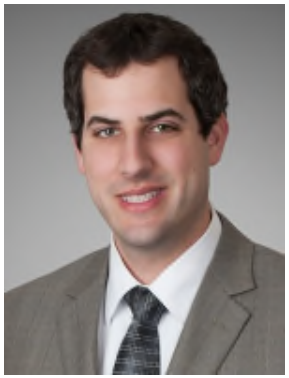
# What security do I need?


- FTC: Behavioral Advertising Principles
  - "Reasonable" security
- FTC: Red Flags Rule
  - "Reasonable" policies and procedures
  - Program to detect and address red flags
- GLB: Safeguards Rule
  - Must have formal information security plan
- HIPAA: Security Rule
  - Specific policies are mandated
  - Some safeguards are required and others are addressable

# How do I dispose of data I no longer need?


- FTC Disposal Rule: flexible standards
  - Physical information: burn, pulverize, or shred
  - Electronic information: erase media such that information cannot be read or reconstructed
- HIPAA: similar requirements for secure disposal

# Questions?

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# Upcoming Webinars

## Privacy & Security Crash Course Series


- Privacy & Security Crash Course: How Do I Do a Risk Assessment?
  June 16, 2015 at 2:00pm – 2:15pm EDT
  Adam C. Solander

- Privacy & Security Crash Course: How Do I Execute a Risk Mitigation Plan?
  June 23, 2015 at 2:00pm – 2:15pm EDT
  Brandon C. Ge

- Privacy & Security Crash Course: Recap – Your Questions Get Answered
  June 30, 2015 at 2:00pm – 2:15pm EDT
  People: Patricia M. Wagner

**To register, please visit:** http://www.ebglaw.com/events/

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# Thank you.