The Global Changing Privacy Landscape

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Exploring the Changing Privacy Landscape and Impending Regulations
Norton Rose, 2 May 2012
At a Glance

Since November 2010...

- Accelerating global regulatory developments
  - Asia Pacific
  - Europe
  - USA

- Accelerating technological developments
  - Do not track & Big data
  - Facial recognition & location technology

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Australia

Still moving, but at a glacial pace:

- Exposure Draft provisions and Senate Committee reports for the APPs and credit reporting
- Cyber White Paper 2012
- National trusted identities framework

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Asia-Pacific

- New Zealand:
  - Credit reporting privacy code — April 2012
  - Review of Privacy Act — Law Commission’s recommendations

- APEC: finalisation of the Cross-Border Privacy Rules system

- South-East Asia: a flurry of activity in many jurisdictions, adoption of privacy laws

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### Asia

<table>
<thead>
<tr>
<th>Country</th>
<th>Law</th>
<th>In Force</th>
<th>Coverage</th>
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<tbody>
<tr>
<td>Taiwan</td>
<td>Personal Data Protection Act, 2010</td>
<td>No, sometime in 2012</td>
<td>Public and private sectors</td>
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<tr>
<td>Malaysia</td>
<td>Personal Data Protection Act, 2010</td>
<td>No, sometime in 2012</td>
<td>Private sector, in commercial transactions</td>
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<td>Vietnam</td>
<td>Law on Protection of Consumer’s Rights, 2011</td>
<td>Yes</td>
<td>Private sector, in commercial transactions</td>
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<td>South Korea</td>
<td>Personal Data Protection Act, 2011</td>
<td>Yes</td>
<td>Public and private sectors</td>
</tr>
<tr>
<td>Singapore</td>
<td>Personal Data Protection Bill to be introduced in 2012</td>
<td>No</td>
<td>Private sector</td>
</tr>
<tr>
<td>Philippines</td>
<td>Data Privacy Act, 2011</td>
<td>No, sometime in 2012</td>
<td>Public and private sectors</td>
</tr>
<tr>
<td>India</td>
<td>Information Technology Act, 2000 and IT Rules, 2011</td>
<td>Yes</td>
<td>Private sector</td>
</tr>
</tbody>
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European Union

**Draft Regulation** for the protection of individuals and their personal data

- One law for the entire EU
- Substantial changes:
  - Consent
  - Extraterritorial application
  - Accountability of processors
  - Significant penalties
  - Mandatory privacy officers
  - The right ‘to be forgotten’
  - Data breach notification
  - The right of ‘portability’

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United States

**Blueprint** for protecting consumer data privacy and promoting innovation in the digital economy

- Consumer Privacy Bill of Rights
- Development of opt-in, enforceable Codes of Conduct for companies

Federal Trade Commission’s report on protecting consumer privacy

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Other Privacy Challenges and Developments

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Currently, standard practice for individuals’ online activities to be tracked for later use

- Digital Advertising Alliance to develop a browser-based Do Not Track system in 2012
- World Wide Web Consortium (W3C) exploring meaning of “do not track” — counterpoint to Digital Advertising Alliance proposal
Big Data

Big Data: the extrapolation and exploitation of voluminous, often unstructured data sets

- 90% of the data in the world was created in the last 2 years (IBM, Bringing smarter computing to big data, 2011)

Privacy implications — piecing together profiles of individuals from the underlying data

- Can be used in a variety of innovative and surprising ways

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Facial Recognition

A serious privacy issue due to growing sophistication of software, ubiquity of cameras, surveillance and tremendous quantities of uploaded images (Facebook, YouTube)

- Dynamic message displays — advertising
- Changes in expectation of privacy — anyone can identify you — we are all ‘celebrities’

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Location Technology

Has become mainstream through the proliferation of mobile technology, such as smartphones

- Active ‘checking in’
- Passive ‘location aware’ services

Privacy implications — when our whereabouts are knowable (and predictable), so are many of our interests and behaviours
Location Technology

Forbes, *Girls Around Me App Is a Reminder To Be Aware What You Share:*

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Conclusion

The global privacy landscape is more dynamic and fraught than ever before

- Privacy laws accelerating and far-reaching
- New technologies with real privacy risks

Taking advantage of the opportunities will mean respecting the privacy of personal information and building trust with individuals

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Questions?

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