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## The Business of Privacy

Fred H. Cate Indiana University Maurer School of Law, fcate@indiana.edu

Christopher Kuner Brussels Privacy Hub

**Christopher Millard** Cloud Legal Project

Dan Jerker B. Svantesson **Bond University** 

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## **Editorial**

# The business of privacy

Christopher Kuner\*, Fred H. Cate\*\*, Christopher Millard\*\*, and Dan Jerker B. Svantesson\*\*\*

Over the last decade, privacy has become big business. Company executives hobnob with data protection regulators at conferences held all over the world; associations of privacy officers are experiencing exponential growth in membership; data protection has become a money-maker for consultancies and law firms (as well as for academics who provide consulting services); and lobbyists engage policy-makers in an effort to influence data protection and privacy regulation. In the past, data protection was seen mainly as a cost factor, but now it is increasingly becoming a way to make money, and to ensure the continued trust of customers, employees, and business partners.

The economic importance of data processing makes it natural that the business of privacy would expand as well. Viewing privacy as a business opportunity can result in increased attention and resources being devoted to its protection. In recent years, governments and regulators have emphasized that respect for data protection and privacy should be seen as a way to strengthen confidence in online commerce, and have encouraged the growth of the professional side of privacy; indeed, there is evidence that viewing privacy as a business enabler can itself be a powerful factor to encourage respect for regulation. All of this has led more and more companies to take steps to protect privacy as a way to strengthen their brands and enhance customer confidence through measures such as appointing internal privacy compliance officers and taking the impact of business decisions on privacy into account before they are implemented, developments that are all to the good.

At the same time, these developments raise questions. Most countries with data protection laws regard privacy as a fundamental right, and viewing the protection of a fundamental right as a money-making opportunity may seem distasteful. The number and cost of conferences and seminars covering privacy issues often seems excessive (not to mention the environmental

implications of privacy experts travelling all over the world to attend them). The increasing number of professional firms offering consulting or legal services may have contributed to the emerging view of privacy compliance as a complex and costly exercise. And many small- and medium-sized companies struggle to afford the high cost of the privacy compliance industry, with the result that many simply ignore compliance altogether.

It would be hypocritical for the editors to paint the 'privacy industry' in too negative a light, since each of us is involved in it in one way or another. On the contrary, we believe that creating economic incentives is one of the most effective ways to further privacy and data protection, and that the growth of privacy as a business area holds the potential to motivate compliance with privacy regulation and individual expectations not just as a matter of law, but for pragmatic economic reasons as well.

We see nothing wrong per se with making money from data protection and privacy, as long as the monetary rewards are kept in proportion to the reasons that privacy is protected in the first place. Data protection is not purely a money-making activity like investment banking, but exists to protect fundamental values cherished by societies around the world. This means that everyone involved in the business of data privacy should ask not just how to make it more profitable for themselves, but also how they can use it to give something back to society. Making such contributions need not be a grandiose endeavour, and can include things such as writing articles to explain complicated legal issues to a wider audience; teaching data privacy law to students; and engaging in pro bono activities on behalf of individuals and small organizations. Indeed, we regard IDPL as a forum for discussing important issues of data protection and privacy law, and thus as a way to give something back to what we regard as one of the most fascinating and important areas of law.

<sup>\*</sup> Editor-in-Chief

<sup>\*\*</sup> Editor

A number of important questions remain. For instance, could greater use not be made of the Internet to reduce the cost of travelling to and attending expensive conferences for those who cannot afford to do so (this question seems especially relevant given that data protection regulators who often speak at such events are plagued by a lack of resources)? Should regulators not adopt uniform rules regarding disclosure of meetings with companies and lobbyists? Could duplicative conferences and workshops not be avoided? Could some amount of expensive consulting services and attendance at conferences not be provided at low or no cost to academics and individuals? In the on-going debates about reforming data protection and privacy regula-

tion, is too much attention being paid to the concerns of large multinationals, and too little to those of smaller companies? And why does the 'privacy industry' (including governments and regulators) not produce simplified compliance solutions, usable on a wide scale, that might provide more effective protection for individuals whose rights are at stake while reducing the expense of compliance? These questions need to be raised more often, which they no doubt will be in coming years as the business of privacy continues to grow.

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