

Federal Trade Commission
Hearings on
Protecting Consumers in the Next Tech-ade

Security and Privacy Challenges in the Coming Tech-ade

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1. Security and Privacy Issues

2. Security and Privacy Obstacles



Security and Privacy Issues



Security and Privacy Issues

- Changing Fraud/Security Threats
 - More sophisticated ways of obtaining data from individuals (e.g., phishing, spear-phishing)
 - More organized exploits of stolen data (e.g., by organized crime)
 - Synthetic identity theft and the use of wholly fabricated or aggregated identities



Security and Privacy Issues

- Changing Fraud/Security Threats
- Location Information
 - Cell phones
 - RFID tags
 - Automotive applications
 - The issue is not just location information but how to deal with privacy issues (especially if based on notice and choice) in contexts where there is no screen, no contract, and potentially no contact with information users



Security and Privacy Issues

- Changing Fraud/Security Threats
- Location Information
- Information Aggregation
 - Vital to verifying consumer identity, accurately matching data with people, target marketing, and other valuable activities
 - Yet controversial today, especially because of lack of notice and relationship
 - Will only grow more important in the future



Security and Privacy Issues

- Changing Fraud/Security Threats
- Location Information
- Information Aggregation
- Global Data Flows/Outsourcing
 - We currently use national (or even state or local) law to deal with global information flows
 - At the heart of many current disputes (e.g., Article 25 of the EU Data Protection Directive, British Columbia ban on public sector outsourcing to other countries, etc.)
 - Political debate over outsourcing to India and elsewhere



Security and Privacy Issues

- Changing Fraud/Security Threats
- Location Information
- Information Aggregation
- Global Data Flows/Outsourcing
- National Security/Law Enforcement
 - Post 9/11, widespread erosion of fundamental privacy rights
 - There is no effective legal restraint on public sector accessing private-sector data
 - Perhaps the most critical privacy issue



Security and Privacy Issues

- Changing Fraud/Security Threats
- Location Information
- Information Aggregation
- Global Data Flows/Outsourcing
- National Security/Law Enforcement
- Accountability/Transparency
 - Cross-cutting issue that has been part of most existing privacy and security controversies, but that we seem no closer to resolving
 - Whatever the rules, how do we ensure accountability?



Security and Privacy Obstacles



Security and Privacy Obstacles

- Focus on Individuals as Potential Victims in Fighting Fraud
 - Most of our current “solutions” focus on individuals (e.g., free credit reports, dispute resolution procedures, fraud alerts)
 - Individuals aren’t taking advantage of these
 - Synthetic identity theft won’t be identified by these tools



Security and Privacy Obstacles

- Focus on Individuals as Potential Victims in Fighting Fraud
- Focus on Notice and Choice to Protect Privacy
 - Notice and choice has been a failure in the United States
 - They aren't likely to work any better in the future, especially in the face of new technologies that make information collection and sharing easier, essential, and more invisible
 - Inconsistent with other consumer protections (e.g., you can't consent to be defrauded)



Security and Privacy Obstacles

- Focus on Individuals as Potential Victims in Fighting Fraud
- Focus on Notice and Choice to Protect Privacy
- Incomplete/Incoherent Framework of Privacy Laws
 - Widely varying laws, applying different rules to the same data, overseen by different agencies
 - Will make even less sense as technological and other developments make the collection and use of data more integrated and seamless to consumers
 - Often inconsistent with consumer values and expectations, e.g., Supreme Court's rulings that 4th Amendment does not apply to personal data held by private companies



Security and Privacy Obstacles

- Focus on Individuals as Potential Victims in Fighting Fraud
- Focus on Notice and Choice to Protect Privacy
- Incomplete/Incoherent Framework of Privacy Laws
- Shifting Privacy Norms
 - We are getting used to less privacy and security, especially in the public sector
 - Once given up, hard to reclaim
 - Privacy and security must always be considered in the context of other values and consumer desires (e.g., convenience, safety, affordability, etc.)

