



AGENDA

November 29, 2012

Fueled by the Internet and global trade, transactions between businesses and consumers increasingly cross national boundaries. Governments, international organizations, business interests, civil society groups, standards organizations, and self-regulatory bodies are turning to cross-border codes of conduct to supplement traditional legal regimes. Some or all of the following elements characterize these code-based systems: multi-stakeholder engagement, consensus-based rulemaking and decisions, accessibility, non-exclusiveness, standards, impartiality, transparency, capacity building, efficiency, accountability, consistency, enforceability, government oversight, and periodic re-evaluation. This forum will examine these systems in a variety of cross-border contexts, focusing on the legal and policy implications for the global consumer.

8:30 Registration

9:00 Introductory Remarks

Commissioner Edith Ramirez
Federal Trade Commission

9:10 Panel

The Rise of Cross-Border Codes of Conduct

Why have cross-border codes of conduct arisen? How do they fit with more traditional approaches to regulation? What are the core elements of effective and legitimate cross-border codes? What can we learn from systems that have some, but not all, of the elements mentioned above?

MODERATOR:

Stacy Feuer
Assistant Director for International Consumer Protection
Federal Trade Commission

PANELISTS:

Sungjoon Cho
Professor
Chicago-Kent College of Law

Joseph N. Mariano
President
Direct Selling Association

Robin Simpson
Senior Policy Adviser
Consumers International

Mary K. Engle
Associate Director for Advertising Practices
Bureau of Consumer Protection
Federal Trade Commission

David Zaring
Assistant Professor
University of Pennsylvania



10:25 Speaker

Antitrust Implications of Cross-Border Codes

How might cross-border code systems dampen innovation or create barriers to entry? How can stakeholders mitigate these problems at the design and implementation phases? How does the cross-border context affect competition concerns?

William E. Kovacic

Professor

George Washington University Law School

Former Chairman

Federal Trade Commission

10:45 Break

11:00 Case Study

APEC's Cross-Border Privacy Rules (CBPR) System

The APEC CPBR is a new, multi-layered system built on an enforceable privacy code of conduct. Participating businesses submit their corporate privacy policies and practices for review and certification by third parties, and are subject to ongoing compliance monitoring and supervision as well as government enforcement. How does APEC's CBPR system protect consumers' personal information in cross-border data flows? What roles do the major stakeholders – industry, civil society, government, and consumers – play at each stage?

MODERATOR:

Markus Heyder

Counsel for International Consumer Protection

Federal Trade Commission

PANELISTS:

Paula J. Bruening

Vice President

Global Policy Centre for Information

Policy Leadership

Hunton & Williams LLP

Daniele Chatelois

Chair

APEC Data Privacy Subgroup

Senior Policy Advisor

Digital Policy Branch

Industry Canada

Joshua Harris

Vice Chair

APEC Data Privacy Subgroup

Chair

APEC's CBPR Joint Oversight Panel

Associate Director

Office of Technology and E-Commerce

U.S. Department of Commerce

Frances J. Henderson

National Director

Privacy Initiatives

Council of Better Business Bureaus

Melissa Higuera Pérez

Director for Privacy Policies and Agreements

Federal Institute of Access to Public

Information and Data Protection of Mexico

Saira Nayak

Director of Policy

TRUSTe

Scott Taylor

Chief Privacy Officer

Hewlett-Packard Co.

12:15 Lunch

1:30 Case Study

OECD Guidelines for Multinational Enterprises (MNE)

The OECD MNE Guidelines provide guidance for corporations on responsible business in several areas, including human rights, employment, the environment, competition, and consumer interest. Observance of the Guidelines by businesses is voluntary and legally unenforceable; however, there are governmental National Contact Points (NCPs) that address complaints and encourage compliance. What types of consumer issues have the NCPs addressed? How does the non-binding nature of the Guidelines impact the ability of interested parties to settle their issues? What lessons are there from other multi-stakeholder initiatives on corporate social responsibility?

MODERATOR:

Peter Avery

Secretariat

OECD Committee on Consumer Policy

PANELISTS:

Clifford Henry

Member

Stakeholder Advisory Board to the U.S. NCP

Associate Director

Corporate Sustainable Development

Proctor & Gamble

Jonathan Kaufman

Member

Stakeholder Advisory Board to the U.S. NCP

Staff Attorney

EarthRights International

Thea Mei Lee

Vice Chairwoman

U.S. State Department Advisory Committee on

International Economic Policy

Deputy Chief of Staff

AFL-CIO

Gwenann Manseau

Senior Attorney

Office of the Chief Counsel for International

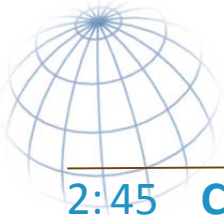
Commerce

U.S. Department of Commerce

Alan K. Yu

U.S. NCP for the OECD Guidelines

U.S. Department of State



2:45

Case Study

Toy Safety and Food Safety

U.S. agencies increasingly use a mixture of enforcement and policy tools to achieve their consumer protection objectives in areas that involve global supply chains, such as food and product safety. To what extent do the Consumer Products Safety Improvement Act (CPSIA) (2008) and the Food Safety Modernization Act (FSMA) (2011) sanction the use of third-party standards and codes to certify compliance with U.S. consumer safety laws? What criteria should the CPSC and the FDA use to recognize bodies that accredit third-party auditors and laboratories that certify compliance with U.S. law? What lessons are there for other areas of consumer protection?

MODERATOR:

Scott Cooper

Vice President

Government Relations and Public Policy
American National Standards Institute

PANELISTS:

Charlotte Christin

Senior Policy Advisor

Office of Policy
U.S. Food and Drug Administration

Caroline Smith DeWaal

Food Safety Director

Center for Science in the Public Interest

Alan P. Kaufman

Senior Vice President

Technical Affairs
Toy Industry Association, Inc.

Richard W. O'Brien

Director

Office of Int'l Programs and
Intergovernmental Affairs
U.S. Consumer Products Safety Commission

Joseph A. Scimeca, PhD

Vice President

Global Regulatory and Scientific Affairs
Corporate Food Safety and Regulatory Affairs
Cargill, Inc.

4:00

Break

4:15 Panel

Best Practices and Metrics

Which of the elements discussed in the forum determine the legitimacy and effectiveness of cross-border codes of conduct? Are certain indicators more important than others? What role does enforceability play? Is there a systematic way to measure and compare code-based systems? What are the core best practices?

MODERATOR:

Keith Fentonmiller

Senior Attorney

Division of Advertising Practices

Bureau of Consumer Protection

Federal Trade Commission

PANELISTS:

Anne Meuwese

Professor

Tilburg University Law School

Sheila A. Millar

Vice-Chair

Commission on Marketing and Advertising

International Chamber of Commerce

Partner

Keller and Heckman

C. Lee Peeler

President and CEO

National Advertising Review Council

Executive Vice President

National Advertising Self-Regulation

Council of Better Business Bureaus

Robin Simpson

Senior Policy Adviser

Consumers International

Norma Tregurtha

Senior Policy Manager

ISEAL Alliance

5:30 Closing Remarks

Hui Ling Goh

Counsel for International Consumer Protection

Federal Trade Commission

