

Cybersecurity and Data Privacy Regulation and Enforcement

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Obligatory disclaimer

The views expressed today are those of the speakers, and not necessarily the views of the organizations they represent.

Outline

- Jurisdiction and common practices
- Hypotheticals
- Resources

FTC: Overview

“The FTC has long been the cop on this particular beat: over the past two decades, we have brought hundreds of cases, conducted about 70 workshops, and issued about 50 reports to help protect consumer privacy. Our work over the last year demonstrates the FTC’s approach to consumer privacy: vigorous enforcement with every tool we have.... [T]he FTC has done a remarkable amount to protect consumers’ privacy with the tools and resources at its disposal. But we must do more. We need to continue evaluating privacy risks as they evolve.”

—Prepared Opening Remarks of Chairman Joseph J. Simons, “Hearings on Competition and Consumer Protection in the 21st Century: The FTC’s Approach to Consumer Privacy,” April 9, 2019

FTC: Overview

“We have aggressively pursued privacy and data security cases ... [f]or example, we recently brought cases against two companies whose allegedly lax security practices resulted in the breach of 8 million consumers’ data. And in March, the FTC announced a record \$5.7 million civil penalty as part of its settlement with video social networking app Musical.ly for collecting children’s personal information online without first obtaining parental consent.”

—Prepared Remarks of Chairman Joseph J. Simons, Hearing on “Oversight of the Federal Trade Commission: Strengthening Protections for American’s Privacy and Data Security,” Committee on Energy and Commerce, Subcommittee on Consumer Protection and Commerce, May 8, 2019

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FTC: Legal authority

“Our primary legal authority in this space is Section 5 of the FTC Act, which prohibits deceptive or unfair commercial practices. But Section 5 is an imperfect tool. For example, Section 5 does not allow the Commission to seek civil penalties for first-time privacy violations. It does not allow us to reach non-profits and common carriers, even when their practices have serious implications for consumer privacy and data security.”

—Prepared Remarks of Chairman Joseph J. Simons, Hearing on “Oversight of the Federal Trade Commission: Strengthening Protections for American’s Privacy and Data Security,” Committee on Energy and Commerce, Subcommittee on Consumer Protection and Commerce, May 8, 2019

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