Managing Global Data Privacy in the Cloud

A Report From
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The Privacy Projects
The Privacy Projects

- Dedicated to developing and contributing ‘evidence-based’ information to the ongoing dialogue for enhancing and improving personal information privacy and data protection
  - Independent non-profit
  - Board of noted experts in privacy and data protection
- www.theprivacyprojects.org
The Project – Cross-border Data Flows

• Examine the processes and controls implemented for cross border data flows
  – Six case studies from North American companies
  – Practices of companies actively seeking responsible data protection practices
• Six Confidential Case Studies
Six Case Studies

- Alpha Corp: pharmaceutical company
- Beta Corporation: marketing services company
- Gamma Corporation: diversified financial services company
- Delta Corporation: developer and provider of Internet-based software and online services
- Epsilon Corporation: provider of technology solutions and service for consumers, public sector and businesses
- Zeta Corporation: globally integrated enterprise that uses business insight and technology to assist public and private sector organizations
Scope of Study and its Limits

- Study is of companies that view themselves as “good apples”
- Idea is that their practices will inform policy debate about international data transfers
- Not an empirical sample of all companies that engage in int’l data transfers
- No audit of participants’ assertions
- All opinions or conclusions are my own
Are we working with outmoded regulatory paradigm?
Time Machine

• What was old paradigm for data transfers?

• How has it changed?
“Back When”
Examples of old paradigm in action

• Fiat and the CNIL (1989)
• Deutsche Bahn–Citibank and the Berlin Data Protection Commissioner (1995)
Prior Basis for Regulation

- Point-to-Point Transfers
  - Discrete, scheduled, occasional
- Proprietary transfer protocols
  - Tapes in boxes
  - Specialized communications lines
- Non-networked
- Centralized Databases
  - Segmented customer files
Major Changes

- The scale of data flows, individually and in the aggregate, has increased massively

- Multi-directional data flows with great use of cloud

- Processing involved in data flows has expanded to include highly complex and process-oriented steps implemented within systems of networks

- Oversight over data flows has evolved into a model of collaboration, professionalization, and resource commitments
Coase on “Make or Buy”

• Classic Essay, “The Nature of the Firm” (1937)
• “Make–or Buy”?
• Coase thought technology would tend to cause firms to grown
• Today, firms have greater flexibility than ever before in deciding on shape of work– how they will distribute processes and services with increased use of cloud
• Modern information flows play important role today in allowing novel business approaches
A Change in Scale

- Discrete Events
- Localized Content
- Point 2 Point
- Temporal

- Continuous Process
- Dynamic Needs
- Routing by Algorithm
- Ongoing
A Change in Processing

- Centralized Db’s
- Controller Sourced
- Discrete Actions
- Geographical Basis
- Networked Processes
- Sourcing Flexibility
- Distributed Computing
- Needs Basis
A Change in Management

- Primary Driver: IT
  - Low Investment
  - Vague Ownership
  - Ad Hoc Knowledge
- Primary Driver: Policy
  - High Investment
  - Privacy/Security Officers
  - Professional Certification
New Challenges – New Controls

- Data transfers are complex, involving numerous processes and parties
  - Consumer informed consent unsustainable
- Algorithms determine the path and destination for specific data types
  - ‘Controller’ and ‘processor’ definitions outdated
- Processing occurs in data centers AND on the network itself
  - ‘Personal information processing’ definition outdated
- Global networks interoperate with regional data sets
  - Database registrations cannot control or manage networked series of processes
Thank you!