Meeting The Challenges of Trans-Border Flows of Personal Information

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Cross-National Study of Canadian and U.S. Corporate Privacy Practices

The Study

Comparative study of Canadian and U.S. business privacy practices

Baseline measurement and trend analysis based on 8 privacy program categories such as:

- Privacy Management & Compliance
- Data security
- Privacy Policy
- Redress

Key Findings

Marked Difference Between Operations in The Two Countries in Most Areas

Tools and Approaches Used in Ontario

Legislative Framework and Commissioner Overview System

Affect Culture: Directors and Privacy

Promote Tools: AICPA/CICA Privacy Framework

Influence Design: PETS, RFID

Affect Operations: CMA and CRM , Short Notices

Advocate Privacy Standards: PETTEP, ISO

Support Collaboration and Sharing With Other National and International Data/Privacy Commissioners

AICPA/CICA Privacy Framework

- *Privacy Framework* Exposure Draft June 3, 2003
  http://www.aicpa.org/innovation/baas/ewp/privacy_framework
- Set of Generally Accepted Privacy Principles to which a Chartered Account can provide an independent attestation report
- Businesses could provide clients with assurance of compliance with privacy standards (e.g. EU Data Protection Directive, Safe Harbor, PIPEDA, GLB, HIPAA, Australian privacy requirements, etc.)

AICPA/CICA Privacy Framework

- Diagnostic tool designed jointly with IPC and CICA/AICPA
- Assists businesses in implementing effective privacy programs
- Solutions-based model for risk management
- Based on international information practices, privacy laws, regulations, and guidelines

Privacy Enhancing Technologies

PETs have been defined as :
"*a coherent system of Information and Communications Technology measures that protect privacy by eliminating or reducing personal data or by preventing unnecessary and/or undesired processing of personal data; all without losing the functionality of the data system*"

Radio Frequency Identification Tag (RFID)

- Definition:
  Small chips that can store data and in turn allow for the scanning of such data for efficient collection, use and storage of data
  Differs from bar codes: doesn't require direct line of sight for scanning
  If RFID tags retain characteristics of an identifiable individual or their activities, its contents can be considered "personal information".
  Currently undergoing debate about its commercial benefits v. privacy challenges
- IPC published about the privacy implications of RFID technology (February 2004)
- IPC co-authored Guidelines for using RFID tags in Ontario Public Libraries (June 2004)
- Concerns can be resolved through controlled configuration of the RFID system and surroundings while keeping up to date with any circumvention methods

PETTEP: The Beginnings

- Situation: Development and Use of Privacy Enhancing Technologies have not lived up to the promising scenario of the mid-1990's.
- Question: How can the IPC boost the development and use of Privacy Enhancing Technologies?

PETTEP: Goals

- Goals: Short Term to Long Term
  Develop Testing Criteria for Labs
  Implement Pilot Testing
  Inform PET Technology Development
  Inform Technology Implementation
  Incorporate experience into International Technology Standards

PETTEP: The Work

- IPC formed an international team to take on the challenge of developing testing criteria for PET's
- Privacy Enhancing Technologies Testing and Evaluation Project
- Members included Privacy and CC experts from government, industry academic and legal communities.
  Core team consists of German, Dutch, Swedish, Italian, Canadian Privacy/DataProtection Commissions, Research and Academic institutions, Government sponsorship (CSE, US Department of Defense (DoD)) Private Sector Involvement (e.g., EDS)

PETTEP: Current Situation

- EDS has partnered with the IPC and PETTEP to develop an enhancement of the Privacy Chapter in the Common Criteria
- EDS has also committed to developing the necessary privacy protection profiles that will be form the basis of testing and evaluating the privacy claims of systems and technologies.
- PETTEP, the IPC and EDS plan to pilot three or four technologies/systems to refine the enhanced Privacy Chapter.

PETTEP: Next Steps

- Finalisation of research into CC for re-usable elements for Privacy
- Continued Workshops
- Final review of Privacy Security PP developed by US Department of Defense (DoD)
- Private Sector funding for next phase (Chapter Rewrite and lab testing/ refinement)
- Examination of issues and way ahead

Conclusion

Promoting and securing privacy for personal information requires multiple tools, regardless of whether or not the information is crossing borders

Promoting and securing privacy for personal information requires collaboration and sharing with other national and international data protection/privacy commissioners

Thank You

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