
Implementation of the APEC Privacy Framework in National Regulation

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Outline

- ❑ APEC Privacy Framework:
Data Protection Principles
- ❑ Implementation:
Guidance and Giving Effect
- ❑ Data Protection Across Asia:
Approaches
- ❑ Some On-going and Recent Legislative
Activities

APEC Privacy Framework: Data Protection Principles

- Preventing harm
- Notice
- Collection Limitation
- Use of Personal Data
- Choices
- Integrity of Personal Data
- Security Safeguards
- Access and Corrections
- Accountability

Implementation: Guidance and Giving Effect

- ❑ Protect individuals information privacy and to benefit from information flows within and across borders
- ❑ Should take all reasonable and appropriate step to identify and remove unnecessary barriers to information flows and avoid the creation of any such barriers
- ❑ Does not require any particular means
 - Legislative
 - Administrative
 - Industry self-regulation
 - Combination of any of these
- ❑ Enforcement mechanism

□ Article 31

“ In practice, the Framework is meant to be implemented in a flexible manner that can accommodate various methods of implementation, including through central authorities, multi-agency enforcement bodies, a network designated industry bodies, or a combination of the above, as Member Economies deem appropriate.”

□ Support and Criticisms

- A good foundation for global standard
- The first step towards a truly global standard
- 'Not too bad as a floor'.
- Acceptable information – privacy policies twenty years ago
- Weaker than any other international privacy instrument
- APEC Privacy Framework is missing a great deal of data protection detail

Data Protection Across Asia: Approaches

- Comprehensive Legislation
- Self – Regulatory
- Doing Nothing

Comprehensive Legislation – Stronger than APEC Framework

- Japan
- Korea
- New Zealand
- Australia
- Taiwan
- Hong Kong

Comprehensive Legislation: Just Completed/ In the Making

Malaysia	Just completed and to be tabled in October 2009
Thailand	Recently completed
Indonesia	First Draft completed in January 2009

Self-Regulatory

- Singapore
 - National Internet Advisory Committee
Model Data Protection Code (2002)

Doing Nothing so far

- Brunei
- Vietnam
- Laos
- Cambodia

Some On-Going/ Recent Legislative Activities

□ INDIA

- Amendments to the Indian Information Technology Act (2000) have been passed and received President's Assent on 5 February 2009.
- New sections have been added.
 - Section 43A – Specifies liability for a body corporate handling sensitive data
 - Section 66C – Identity Theft
 - Section 66E – Violation of Privacy
 - Section 72A – Punishment for disclosure of information in breach of lawful contract

□ SINGAPORE

- In January 2009, the Minister for Information, Communication and the Arts said in Parliament:

“We’re currently looking into developing a data protection model that can best address Singapore’s privacy concerns, commercial requirements and national interest.”

□ CHINA

- Draft Personal Information Protection Measures was published in 2005
- It is a consultative documents and has not been formally adopted by the PRC Government
- The National Criminal Law has been amended in February 2009 to criminalise the sale or other unlawful disclosure of personal data by government officials and employees in key industries
- Recently, several provinces and cities such as Guangdong Province, Shanxi Province and Xuzhou City have introduced laws to regulate the online disclosure of personal information
- E.g. The Municipal Provisions for Protection of Computer Information System Security of the city of Xuzhou came into force on 1 June 2009.

Some of my works...



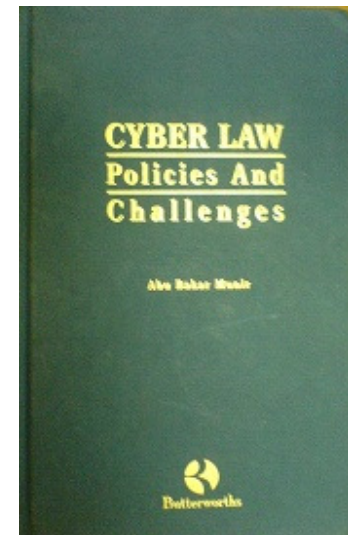
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THANK YOU

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