


“Privacy Institutions in the Federal Government”

Professor Peter Swire
Ohio State University
Center for American Progress
Silicon Flatirons
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Overview

- Topic of our panel: role of multi-stakeholder processes for governance
- What should government role be?
 - Aneesh – convener, standards, focus attention
 - Privacy – the role of the FTC as enforcer and sometime regulator
 - Need for any other federal institutions for privacy?
 - Agencies have chief privacy officers
 - Privacy and Civil Liberties Board (not yet in place)
 - Point today: Commerce Department has important complementary role
 - Could be housed instead in EOP

The FTC as Federal Privacy Agency

- Jeff Chester: “Having the Commerce Department play a role in protecting privacy will enable the data collection foxes to run the consumer privacy henhouse.”
 - This intuition – Commerce Department involvement will dilute the effectiveness of the FTC and give industry a new path for upholding privacy-invasive activities by business
- Current FTC privacy roles include:
 - Enforcement
 - Rulemaking (currently for Can-Spam and COPPA)
 - Convener
 - Institutional Expertise over time
 - Bully pulpit – effect shows on recent browser practices for BT

Complementary Roles for Commerce

- Clearance – key and little understood
- International position of US government
- Convening multi-stakeholders
 - Risks and benefits of duplicating FTC
 - To simplify, nimbleness vs. relative lack of multiple perspectives

Every Cabinet Agency

- • Department of Agriculture. Migrant worker records
- • Department of Defense and Veterans Affairs. Records of service members
- • Department of Education. Education records, including for for-profit institutions
- • Department of Energy. Smart grid
- • Department of Health and Human Services. Medical records; many forms of human services records
- • Department of Homeland Security. Numerous issues, including transportation safety and immigration
- • Department of Housing and Urban Development. Public housing records

Clearance (2)

- • Department of Interior. National park reservations and other services provided online
- • Department of Justice. Numerous issues: CALEA, ECPA
- • Department of Labor. Records of union membership
- • Department of State. International privacy issues
- • Department of Transportation. Smart roads
- • Department of Treasury. Financial privacy; money laundering

Where to House Federal Office

- Commerce Department
 - Possibly greater staffing
 - Better chance of institutional memory
 - International Trade Administration
- Executive Office of the President
 - More powerful coordination in clearance
 - But, staffing is tight and personnel leave
- Perhaps model on Howard Schmidt's position as cyber-security coordinator
 - In EOP, but detailees and staffing broader

Conclusion

- The administration should have a capability on privacy policy
 - Clearance
 - International discussions
 - Inform privacy policy with the insights and expertise from other agencies
 - Insert privacy expertise into other agencies' activities
- That illustrates good reasons to have privacy expertise beyond the FTC
 - Is much more than a cynical ploy to undermine the FTC's efforts