



# ***Federal law and the issue of data sovereignty***

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**Course: ITM 395 (Strategic Information Technology Planning, Organization, and Leadership)**

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## **FTC has brought over 500 suits related to consumer information privacy against IT giants such as Google, Twitter, and Facebook.**

### **List of data breach occurred in recent years:**

- ▶ In 2016, Uber suffered a data breach of 57 million users
- ▶ In 2016, Yahoo declared that over one billion accounts were impacted by an attack in 2013
- ▶ In 2017, Equifax breach endangered Social Security Numbers of 147 million people
- ▶ In 2017, the FTC brought a claim against Lenovo for giving a third-party access to their customer's sensitive personal data "[w]ithout the consumers' knowledge or consent."
- ▶ In 2018, Cambridge Analytica misused the private information of more than 50 million Facebook users for election.
- ▶ In 2018, personal information of 150 million users misused in Armour's application

## **Problems caused by Lack/failure of the law?**

- ▶ Companies did not report breaches sooner or at all. Examples:
  - ✓ Equifax spent six weeks assessment to alert the affected shareholders or clients of the breach
  - ✓ Uber spent over \$100,000 to hide the data breach
- ▶ The United States has no universal, federal data protection law enforcing companies to give information about data breaches
- ▶ IT Giants, such as Amazon, Facebook, Equifax, and Google, have lobbied against federal data protection laws by spending millions dollars.
- ▶ In lack of federal law, Federal Trade Commission (FTC) has to bring suits/sanctions against companies have deceptive practices
- ▶ In the data breach cases, FTC prohibited unfair business practices from violating section 5 of the FTCA which is inadequate for data breach cases

**Due to the recent catastrophes mentioned in prior, Congress should enact a “federal data protection law”**

**federal data protection law decreases the risk of data breach to consumers**

**There are 3 available legislation can inspire “federal data protection law”**

- ▶ **Canadian ACT:** Personal Information Protection and Electronic Documents Act (“PIPEDA”)
- ▶ **Australian ACT:** Federal Privacy Act 1988 and Australian Privacy Principles (“APPs”)
- ▶ **California ACT:** The California Consumer Privacy Act of 2018 (“CCPA”) is the privacy rights and consumer protections for residents of California
- ▶ **European Regulation:** General Data Protection Regulation (“GDPR”)

**Advantages of European Regulation (GDPR):**

- ▶ Expanded the definition of “personal data protection” to technological process such as data controllers and data processors
- ▶ Obligated security requirements for cloud service providers and companies store personal information.
- ▶ Strengthened the citizens’ rights by mandating companies to get informed consent prior to collecting personal information
- ▶ Imposed obligations for organizations to deploy “baseline security measures” to collect personal information and apply universal data protection regulations.
- ▶ Imposed fines of “4% annual global turnover” or up to €20 million for violation
- ▶ Imposed an obligations for companies to notify the data protection authority immediately, and “not later than 72 hours after having become aware of data breach”

- ▶ Congress should model a federal data protection platform in different areas including “national security, finance, healthcare, education, and children’s privacy”
- ▶ It should be flexible with rapid growth in technology
- ▶ Congress should deploy in future legislation
  1. [Data minimization](#); companies should only request for or hold information is necessary for core business processes
  2. [Notice of data breaches](#); companies should inform data protection authority about occurred breach immediately
  3. [Encryption and pseudonymisation](#); companies should deploy IT security requirement to decrease risk of data breaches and replace personal identifiers and contents with random codes
  4. [Getting informed consent from consumers before collecting data](#)
  5. [guaranteeing several individual rights](#):
    - ✓ the right to be informed: platform must clearly say “inform individuals about required information before processing their data”, “the identity of firm is storing the data,” “the aim of the collection of the data,” “the identity of third party receiving the personal data,” “making aware of third countries will access to the data” “and conditions and “individual’s right to cancel consent at any time”
    - ✓ the right to erasure: “This right allows a person to request a company to delete or remove their personal information when data is not required to be stored more.”
    - ✓ the right to object to the processing of their personal data: the processor have to clean all data relating to the users

## Issue:

- ▶ Lack of data protection legislation for the mass data breaches like Yahoo, Equifax, Cambridge Analytica

## Effects:

- ▶ self-regulation is not sufficient and increases risk of data breaches
- ▶ The US has no universal, federal regulation for data protection

## Available Solution:

- ▶ The EU enacted the GDPR to guarantee data protection to all EU citizens

## Next Steps:

- ▶ Congress must address these new issues by enacting a federal data protection legislation
- ▶ Platform must have a risk management approach, force organizations to deploy new privacy metrics in data minimization, encryption and pseudonymisation
- ▶ Companies should get the informed consents from customers prior to process their personal information.

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