



- JOHN T. SABO -

# Minding Your Business: The New Privacy Protocol

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**Editor's Note:** *Although this article does not directly relate to healthcare nor Canada, I believe that its content is reflective of the magnitude, importance, and relevance of the "privacy issue" within the global context of today's "e-world", and perhaps to serve as a reminder that we, in healthcare, are not alone.*

**T**he New Privacy Protocol" is a paradox of doing business in the age of the Internet: How do companies offer consumers access to customized information, while safeguarding the very information the consumers must supply in order to receive the services they desire? Welcome to the complex issue of privacy. Issues surrounding privacy are more visible than ever due to increased data collection, consumer information processing, system networking and the Internet. If companies want to remain competitive, particularly multi-national ones, they must address privacy policy and implement business systems that take into account the cultural and jurisdictional concerns of consumers.

## Privacy Policy as a Global Issue

Both privacy concerns and the interconnectedness of companies and data are global issues. Privacy is also personal. The fact that data are collected and processed by multi-national companies in traditional ways such as by corporate HR systems or as a routine part of a consumer's interaction with the Internet, some of it without their knowledge, means that the treatment of privacy concerns is a worldwide issue. This global nature means that jurisdictional perspectives, laws, regulations and cultural differences will vary. For example, in Europe, the desire to foster the flow of data across member states has been coupled with the understanding that personal information and privacy are basic human rights. The E.U. and member states have therefore enacted detailed legislation having a great deal of definition and structure, including provisions for enforcement.

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The United States, typically a first adopter of technologies and their benefits, espouses a much more entrepreneurial, consumer-focused point of view. The U.S. relies on a combination of sector-specific legislative regulation (such as in healthcare and banking), as well as industry self-regulation, to manage privacy protection for its citizens. Safe Harbor, a framework developed by the United States Department of Commerce and approved by the E.U. in July 2000, provided a method for U.S. companies to establish compliance with the European Commission's Directive on Data Protection. Without such a framework, there were serious concerns that the E.U. rules on privacy could seriously impede the operations of U.S. companies and their dealings in Europe. Similarly, the enactments of privacy laws in other countries, such as Canada or Australia, potentially create policy and operational issues for U.S. companies.

"You have to not only understand what the rules are where you're operating, you also have to understand how the rules reflect the places where data moves and is processed," says Gary Roboff, Principal, GSR Strategic Consulting, a financial services strategic consulting firm. "You have to be able to properly differentiate and respect local customs."

Because the rules differ from nation to nation, or even state to state, businesses are charged with managing the impact of the Internet and back-end systems on privacy. In order to accomplish this, companies must have the right kind of security and privacy policies in place, which will enable them to set rules for how data will be used and protected. And while technology has accelerated privacy issues, it can also be utilized to help address them.

## Technology that Supports Privacy

For companies with multiple jurisdictions, having an IT infrastructure in place that allows for the management of these distinctions is imperative. Companies without an automated system capable of managing the collection and processing of data in accordance with differing jurisdictional rules could have problems enforcing privacy controls as their businesses expand.

They will either have difficulty meeting consumer demands from those jurisdictions, or they will have trouble meeting regulatory requirements and surviving audits.

"From an infrastructure perspective, companies want to have procedures and data centers in place to ensure that people are doing the right thing," said Roboff. "You want to make sure that you're doing the right kind of audits and that your software is bulletproof in every sense of what that means. You need a systemic perspective on applications that allows you to think about how data is transported and enables you to have an understanding of where the data may go and how it can be manipulated. The degree of organization and understanding that it takes to do this correctly is significant."

One of the key considerations in dealing with privacy policy is risk management and balance. The collection of beneficial data, which can be quite helpful to consumers, must be compared to the inherent risks of collecting data. Public policy debate regarding privacy is often headline driven and examples of privacy violations in industry are not difficult to find. Business leaders must establish IT systems that will give them adequate technical controls over their policies. If they are able to identify their legal and regulatory issues, they can then perform risk assessments and put in place appropriate security and privacy controls. But how far are they willing to go to manage these requirements?

## Privacy as a Differentiator

Companies that make their consumers' privacy a top priority are sending a clear message. By instituting a strong privacy policy supported by the appropriate IT systems and security, companies engender the trust of consumers, creating a business environment that puts customers at ease. In order to achieve this level of customer satisfaction, business leaders must educate themselves on privacy issues within their specific industries and business sectors. They must also understand what their obligations are with respect to privacy and what their risk exposure is — in some cases there are monetary and criminal penalties associated with the improper disclosure of information. Being aware of and involved in collaborative work underway by business alliances that focus on privacy, such as the International Security Trust & Privacy Alliance ([www.istpa.org](http://www.istpa.org)), would also be beneficial to business leaders.

In sum, the collection and processing of personally identifiable information and the value that this can generate for consumers and businesses alike must be managed in the context of well-designed and implemented privacy and security systems to achieve trusted business relationships.



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