

# Global Approaches to Privacy in a Flattening World

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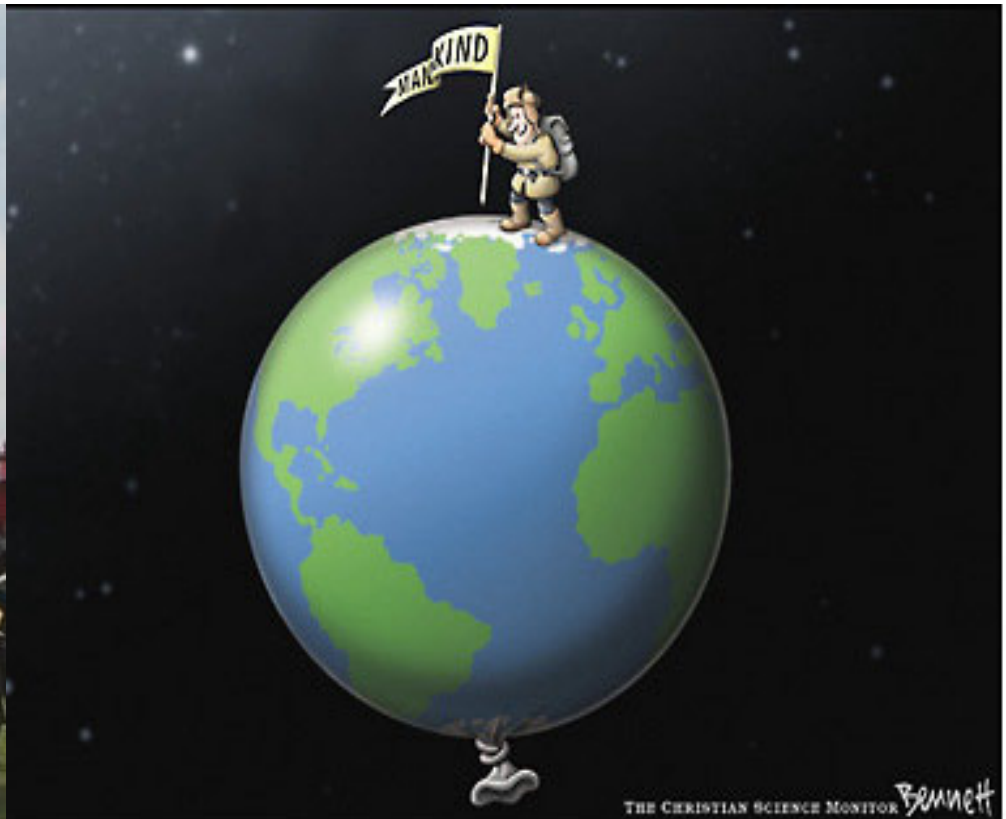
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# Privacy: Local, Global, and Fragile



# The impacts of digitization

- The Information Economy has enabled business to distribute functions across geographies (payment processing, credit verification, customer service, support, data centers, follow-the-sun models)
- Supply and distribution chains are becoming more globally integrated
- Businesses-to-business, business-to-consumer and consumer-to-consumer interactions are becoming more global
- New services are driving ever-increasing information flows and customers may enter the system across multiple media from many jurisdictions

# The new use case...

## 1980's

- Point-to-point exchanges of information
- Overnight batch processing
- Easy identification of sharing parties
- Transfers most often within one or between two jurisdictions

## Today

- Global access to information
- Global interaction between customers and providers 24x7x365
- Follow-the-sun service models
- Less ability to predict who will need what information & where to serve customer

# Need for Flexible Solutions

- Global flows of information result in spider webs of interrelations
  - May include layers of subsidiaries vendors, contractors and agents bound by some level of contract
- Finding chokepoints of compliance
- Assuring consistent policies and accountability across network of entities that may be involved in information flows

# What's your flavor of Privacy?

- **Top-down, prescriptive law**
- **Light touch**
- **The US Approach**
- **Consumer Protection Law**
- **Self Regulatory Mechanisms**
- **Trustmarks**
- **Privacy Enhancing Technology**
- **Contracts**
- **Accountability**
- **Sectoral privacy**
- **Adequacy**
- **Codes/Binding Rules**



# Getting The Right Blend

- Legal Framework
  - Government
  - Private Sector
  - Contract
- Privacy Compliance Mechanisms
- Enforcement Cooperation
- Privacy Technology



# APEC

- All countries with a Pacific coast
- Mission of APEC is growth-oriented
- Larger GDP than enlarged EU
- Those countries that had laws...
  - Credible laws
  - Flexible implementation
  - Better appreciation of business concerns
  - Willing to listen/discuss

# APEC Privacy Framework

- Dual objectives:
  - Provide some framework concepts for those countries that haven't developed an approach to privacy
  - Develop methods of regional mechanisms to facilitate data flows while providing for cooperative enforcement
- Principles Framework finalized last year
- Implementation work is ongoing on both objectives

# Key APEC Concepts

- Maximize the benefits to individuals and societies from data flows AND effective privacy protection
- Principles/Framework focuses on harm
- Accountability enables global data flows
- Application – should be flexible, but with limited & proportional exceptions
- Some preferable guidance on business and public information

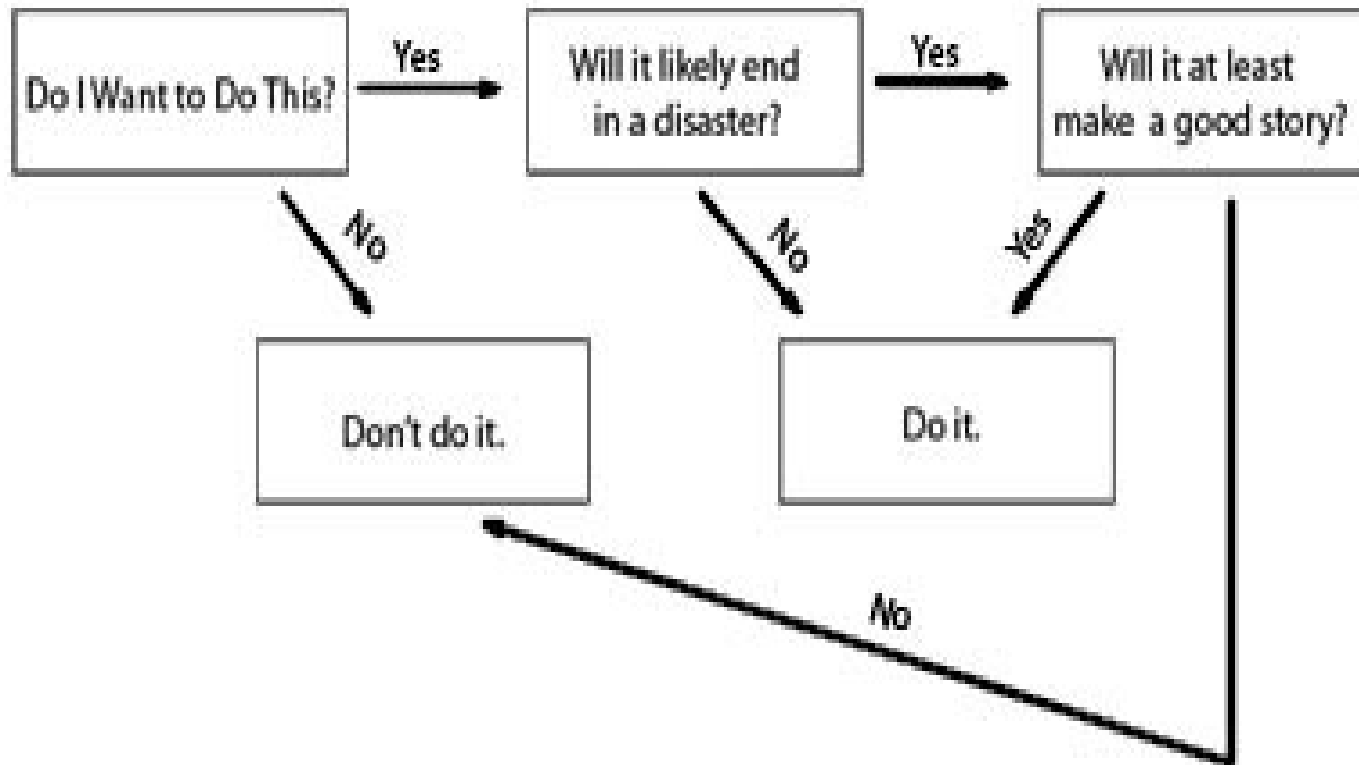
# Framework Principles

1. Preventing Harm – privacy protections should focus on preventing harm and misuse
2. Notice – clear & easily accessible
3. Collection Limitation – collect what’s relevant in a lawful & fair manner
4. Uses of Personal Information – for expected and compatible purposes, with consent, or where necessary
5. Choice – where appropriate, provide clear, accessible mechanism to exercise choice
6. Integrity – personal information should appropriately accurate, complete and up-to-date

# Framework Principles II

7. Security – appropriate safeguards to protect against unauthorized access, use, modification or disclosure
8. Access & Correction – important (but not absolute) rights
9. Accountability – controllers are accountable for compliance with all Principles and must use reasonable steps to ensure that recipients of personal information also comply

# Applying The Framework



# Applying The APEC Principles

- **Where can they work?**
  - Where Privacy Frameworks exist
  - Where Privacy Frameworks are developing
  - Where No work is under way (Contracts, and other accountability solutions)
- **What's Missing**
  - The more detailed requirements
  - The business tools
  - An evaluation process
  - Enforcement Cooperation
  - The test beds

# Principles on Applying the Principles

- Minimize change to the consumer, where possible simplify processes and improve understanding
- Provide greater transparency and visibility in the rules and their operation, both in terms of business rules and government processes
- Recognize the changed environment and needs that the digital economy brings
- Develop flexible yet accountable solutions that enable responsible global information flows

# Privacy Compliance Mechanism (PCM)

- Solutions need to work across various legal frameworks
- Rationalize policies and practices across the enterprise or value chain
- Provide transparency and user friendliness
- Credible accountability mechanisms
- Work in conjunction with applicable legal frameworks
  - Retain where possible consumer channels of complaint resolution where company/compliance mechanism does not satisfy

# Win-Win-Win

- Consumer plus – more uniform practice, local enforcement, credible accountability
- Business plus – unified back end practice, better compliance visibility across enterprise, cost saving
- Regulatory plus – no limitation of local authority, extends ability of regulator to beneficially help consumers when information is outside of jurisdiction

# The Time For Progress is Now



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