

Knobbe Martens

Knobbe Practice Webinar Series: Strategic Considerations for Data Privacy

Part I

June 6, 2022

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Key Terms

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- Data Privacy
 - How data is collected, stored, shared, and used
 - Compliance with data protection laws and regulations
- Data Security
 - Protecting data from unauthorized access (e.g., external attackers, malicious insiders, etc.)
 - Technology and processes to prevent unauthorized access and use of data
- Data Rights
 - Permissions/consent for use of data
 - Identifying and capturing permissions for third-party use of data

Relevant Data Privacy Law and Regulations

- The U.S. Privacy Act of 1974:
 - This Act contains laws that maintain restrictions on data held by government agencies.
- The Gramm-LEACH-Bliley Act (GLBA):
 - This Act protects financial nonpublic personal information (NPI).
- Health Insurance Portability and Accountability Act (HIPAA):
 - Governs how health information should be collected, shared, and used by covered entities and third parties.
- Children's Online Privacy Protection Act (COPPA):
 - This law protects children's data (age 12 years and below).
- Federal Information Security Management Act (FISMA) of 2002:
 - The act directs all agencies to protect sensitive information.
- General Data Privacy Regulation (GDPR):
 - This law protects E.U. citizens' personal data.
- California Consumer Privacy Act (CCPA) of 2020:
 - This Act restricts how companies collect and use data. It applies to all California consumers.

Fundamentals of Data Privacy

Data Privacy Rules - GDPR

Lawfulness, fairness and transparency

Purpose limitation

Data minimization

Accuracy

Storage limitation

Integrity and confidentiality (security)

Accountability

Data Privacy Rules

- Purpose
 - Identify what data you need
 - Identify the consents that will be required
- Consent
 - How will consent(s) be acquired?
 - How will consent(s) be maintained?
- Management
 - How will data be acquired?
 - What are the retention policies for the collected data?
 - How will you identify and discard non-necessary data?

Data Privacy Rules

- Security/Access
 - What are the best practices for maintaining data?
 - What are the best practices for providing access?
- Accountability
 - How can you audit consents/data rights/security?
 - How can evaluate and improve?

Operationalizing Data Privacy

- Assessment Step
 - Assessment of people, processes, consents, technology, security
 - Result:
 - Model of environment
 - Assessment of each component
 - Roadmap for privacy issues

- Design/Planning Step
 - Development of standards for consents, security models, data use
 - Result:
 - Validation of assessment step
 - Implementation plan

Operationalizing Data Privacy

- Execution Step
 - Collect and management consents
 - Collect and manage data
 - Result:
 - Collected data
 - Collected data about data

- Evaluation Step
 - Assessment of people, processes, consents, technology, security
 - Result:
 - Update of generated model
 - Audits of processes
 - Feedback/improvement

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Knobbe Practice Webinar Series: Strategic Considerations for Data Privacy

Part II

June 9, 2022

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Data Privacy Rules

Data Privacy Rules

- Purpose
 - Identify what data you need
 - Identify consents that will be required
- Consent
 - How will consent(s) be acquired?
 - How will consent(s) be maintained?
- Management
 - How will data be acquired?
 - What are the retention policies for the collected data?
 - How will you identify and discard non-necessary data?

Data Privacy Rules

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Data Protection

Data Security

Data Privacy

Network Security

Access Control

Activity Monitoring

Breach Response

Mitigation

Definition and Planning

Consents

Requests

Data Pruning and Removal

Transparency and Policies

Negotiating Licenses with Data Rights

Key Terms for Discussion

- Identification of Data
 - Data that is provided
 - Data that is collected
 - Data that is generated
- Ownership
 - Which party “owns” the data
- Licenses
 - How will the data be used – Deliverables or Services
 - Rights to incoming third-party data – Reps and Warranties

Key Terms for Discussion

- Maintenance
 - Data security
 - Anonymization
 - Compliance with regulations
- Audit Rights
- Data destruction and Return
- Representations and Warranties
- Indemnification

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