

# PRIVACY HORIZONS: TERRA INCOGNITA

29<sup>th</sup> International Conference of  
Data Protection and Privacy Commissioners

September 25 to 28, 2007  
Montreal, Canada



## LES HORIZONS DE LA PROTECTION DE LA VIE PRIVÉE : TERRA INCOGNITA

29<sup>e</sup> Conférence internationale des commissaires  
à la protection des données et de la vie privée

du 25 au 28 septembre 2007  
Montréal, Canada



# FEDERAL TRADE COMMISSION

WORKING FOR CONSUMER PROTECTION  
AND A COMPETITIVE MARKETPLACE

## Privacy – The USA Model

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# Meet the FTC

- U.S.'s only general jurisdiction consumer protection agency
- Mission: promote efficient functioning of the marketplace by protecting consumers from unfair and deceptive practices

# U.S. Legal Framework for Privacy

- ❑ No general privacy law or obligation to have any particular privacy practices
- ❑ Various federal laws and regulations governing specific industries
  - financial industry
  - health care industry
  - credit reporting industry
- ❑ State laws
- ❑ FTC Act – “unfair or deceptive practices”

# U.S. Legal Framework for Data Security

- ❑ No general security law or obligation to have any particular security practices
- ❑ Various federal laws and regulations governing specific industries
  - financial industry
  - health care industry
  - credit reporting industry
- ❑ State laws on data security and breach notification
- ❑ FTC Act – “unfair or deceptive practices”

# FTC Act

- ❑ prohibits “unfair or deceptive acts or practices in or affecting commerce”
- ❑ “**deceptive practice**” – one that is likely to mislead reasonable consumers in a material way
- ❑ “**unfair practice**” – one that causes or is likely to cause substantial consumer injury that is not reasonably avoidable by consumers and is not outweighed by benefits to consumers or competition

# Safeguards

- Safeguards Rule – data security requirements for financial institutions
- Must have “reasonable procedures” to safeguard sensitive personal information
- Flexible and adaptable standards – security as a process
- No specific “technical” requirements

See [www.ftc.gov/infosecurity](http://www.ftc.gov/infosecurity)

# FTC Enforcement

- Investigations
- Law enforcement actions
  - deception cases
  - Safeguards cases
  - Fair Credit Reporting Act cases
  - Gramm-Leach-Bliley Act cases
  - unfairness cases

# FTC Enforcement

- Conduct remedies – auditing requirements
- Monetary remedies – consumer redress, civil penalties

# Other FTC Efforts

- Business education
- Consumer education
- Rulemaking
- Legislative assistance

See [www.ftc.gov/privacy](http://www.ftc.gov/privacy)

# Other Government Enforcement

- “Banking” agencies (OCC, FDIC, FRB, OTS, NCUA) – examination and law enforcement powers
- State enforcement