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INFORMATION PRIVACY MANAGEMENT: PROACTIVE VS. REACTIVE APPROACHES

Chair: Yolande Chan, Queen's University (ychan@business.queensu.ca)

Panelists: Mary Culnan, Bentley College (mculnan@bentley.edu)
Gary Laden, BBBOnline (gladen@cbbb.bbb.org)
Toby Levin, Federal Trade Commission (tlevin@ftc.gov)
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Introduction

Information privacy is an important information management issue that continues to challenge managers, policy makers, and researchers. Although we have investigated information privacy concerns at *individual* and *national* levels, there remains a significant gap in our understanding of the costs and benefits accruing to the *organization* when it does—or does not—develop business processes to protect customer and employee information. This panel focuses on the *organization* in the privacy equation, asking, “Is it possible to successfully institutionalize good privacy practices? Can organizations prevent privacy disasters?”

Panel Format

The panel chair, **Yolande Chan**, will open the session with a news clip drawing attention to a recent information privacy disaster, and highlighting the topic's importance. She will introduce the panelists and challenge them each to address the question: “Can an organization institutionalize good information privacy practices?” **Mary Culnan** will respond by describing a framework to examine privacy disasters. She will provide examples where early use of new technologies (ranging from databases on a CD-ROM to RFID's) caused a public backlash and where an apparent absence of good business processes led to negative consequences to the firm such as the recent case of JetBlue providing customer data to a defense department contractor in violation of its posted privacy policy. Mary will argue that although managing privacy is difficult, it is possible if organizations institutionalize processes for privacy. **Jeff Smith** will offer a contrasting perspective, arguing that while executives bear the ultimate responsibility for their privacy practices, his research provides a pessimistic view of privacy-related managerial behaviors and a sobering perspective on the institutional challenges involved. Jeff will contend that most executives do not manage information privacy. Generally, they end up approaching privacy concerns by reacting to external stimuli, which most frequently are of a legal form but can also involve marketplace pressures. These legal and competitive “privacy levers,” when pulled, do gain executives' attention. These levers represent challenges to organizations, not the least of which is that they often argue for incompatible decisions that create a problematic privacy tension within firms.

Two practitioner panelists will also provide expert insights into privacy management challenges. **Toby Levin**, an attorney with the Federal Trade Commission, will discuss the legal lever. The FTC investigates and, when necessary, prosecutes complaints about organizations that may have violated the law. In addition, the FTC has an ongoing agenda to facilitate a public conversation about emerging technologies with privacy implications (e.g., spyware, RFID's, and spam). Toby will discuss recent FTC activities in privacy regulation, focusing on when it can be difficult for legislative, regulatory, and judicial structures to make a satisfactory difference in terms of privacy management. **Gary Laden** runs the privacy seal program at BBBOnline. He will discuss compliance challenges that arise when organizations apply for and receive the BBBOnline seal. Gary will provide his views on the “invisible hand of the market.” He will discuss the ways in which marketplace pressures (the competitive lever) can, or cannot, be used to prod organizational attention to privacy issues. Panelists have differing perspectives on where the primary solutions and responsibilities lie when organizations attempt to manage information privacy. Each panelist will have 5 to 10 minutes to present, and will then field questions from the audience and other panelists. This will be followed by an open forum for discussion.

Participant Biographies

Yolande E. Chan is a professor of Management Information Systems at the School of Business at Queen's University in Kingston, Canada. She conducts research on information privacy, knowledge management, and information systems strategy. She is currently a coinvestigator of a \$2 million grant intended to explore surveillance and privacy issues.

Mary J. Culnan is the Slade Professor of Management and Information Technology at Bentley College in Waltham, MA. Her current research addresses developing effective online privacy notices. She is the author of the 1999 *Georgetown Internet Privacy Policy Survey*, which the FTC used to make recommendations to Congress about Internet privacy. She currently serves on the General Accounting Office's Executive Committee on Management and IT.

Gary M. Laden joined BBBOnLine in 1998. He currently serves as director of the BBBOnLine Privacy Program. From 1994 to 1998, Gary served in the Federal Communications Commission's Cable Services Bureau, first as Chief of its Policy and Rules Division, and most recently as Chief of the Consumer Protection and Competition Division. Prior to his service at the FCC, Gary was at the Federal Trade Commission for 21 years as an attorney and assistant director of the Marketing Practices Division in the FTC's Bureau of Consumer Protection. He served as the FTC's Dispute Resolution Specialist charged with implementing the Administrative Dispute Resolution Act. Gary also served as a Distinguished Visiting Fellow at the Administrative Conference of the United States advising a wide range of federal agencies.

Toby M. Levin is a senior attorney in the Division of Financial Practices of the Federal Trade Commission and is responsible for working on privacy matters. She has served as coordinator of several public workshops and headed the initial implementation of the Children's Online Privacy Protection Act. She also was a coauthor of the Commission's 1998 *Online Privacy: A Report to Congress* and the December 1996 *Staff Report: Public Workshop on Consumer Privacy on the Global Information Infrastructure*. She has been with the Commission since 1984 and was the lead attorney on the Commission's first privacy cases (*GeoCities* and *Liberty Financial*). Currently she is working on several Gramm-Leach-Bliley Act (GLB) and Fair and Accurate Credit Transactions Act of 2003 (FACTA) interagency rulemakings, as well as enforcement of the GLB Security Safeguards Rule.

H. Jeff Smith is a professor of Management at Wake Forest University in Winston-Salem, N.C. He has several publications on societal and regulatory issues associated with strategic uses of information technology. His research also examines organizational impediments to successful implementation of information technology applications. His book, *Managing Privacy: Information Technology and Corporate America*, was published by the University of North Carolina Press and received the 1994 Donald McGannon Book Award for Social and Ethical Relevance in Communication Policy Research (administered by Fordham University).