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Tips and Insights On Data Transparency

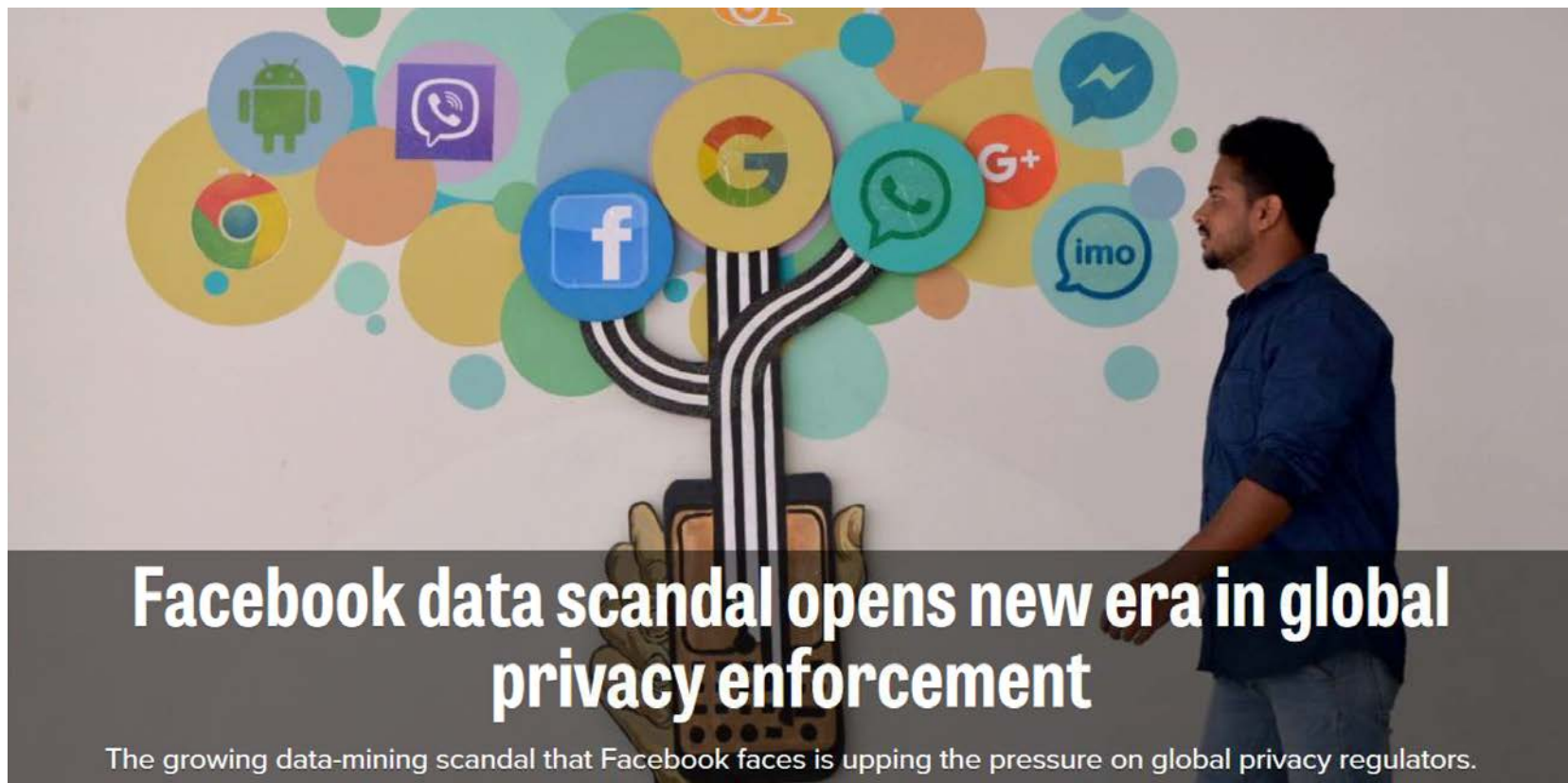
Prepared for the **Association of National Advertisers**

Presented by:

Keri Bruce and Kimberly Chow, Reed Smith LLP

November 13, 2018





Facebook data scandal opens new era in global privacy enforcement

The growing data-mining scandal that Facebook faces is upping the pressure on global privacy regulators.

Privacy is a Concern for Most Consumers

According to a 2018 global consumer survey from McAfee 43 percent of consumers feel they have a lack of control over their personal information

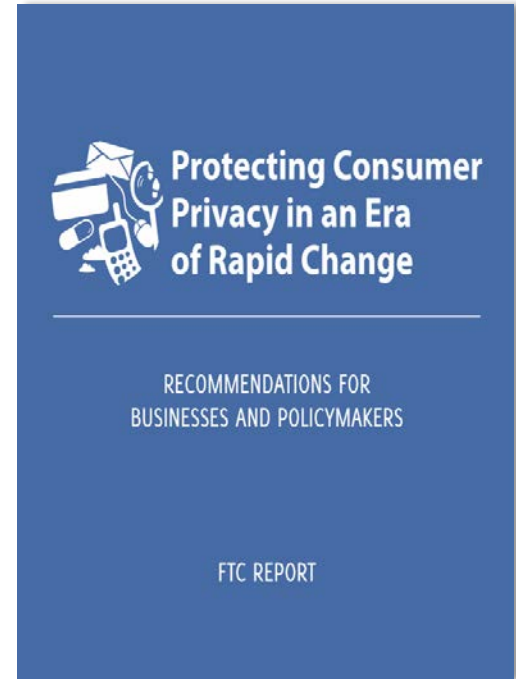
TrustE study revealed that more Americans are worried about their data privacy than they are about losing their main source of income

According to a Pew Research Center Study, 76% of adults say they are “not too confident” or “not at all confident” that records of their activity maintained by the online advertisers who place ads on the websites they visit will remain private and secure

According to the Ping Identity 2018 Consumer Survey that surveyed consumer responses to data breaches, 78% of respondents said they would stop engaging with the brand online following a data breach, and 36% said they would stop engaging with the brand completely

U.S. Regulator Perspective

- Focused on preventing consumer harm from deceptive and unfair practices
- FTC: willing to act whenever a company's practices "unexpectedly reveal previously private information even absent physical or financial harm, or unwarranted intrusions"
- Privacy protections should be extended to all "consumer data that can be reasonably linked to a specific consumer, computer, or other device"



EU Regulator Perspective

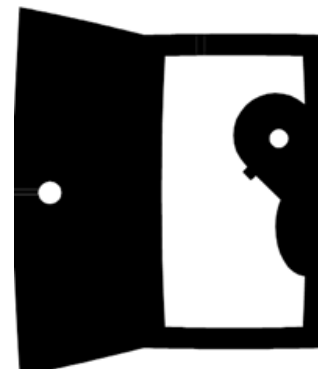
- The protection of natural persons in relation to the processing of personal data is a fundamental right
- EU data subjects have the right to access, erasure, restriction on processing, transfer of data
- Data minimization
- Purpose limitations



Tip 1: Issue Spot for Potential Data Liability

Risk lurks in many areas of the law

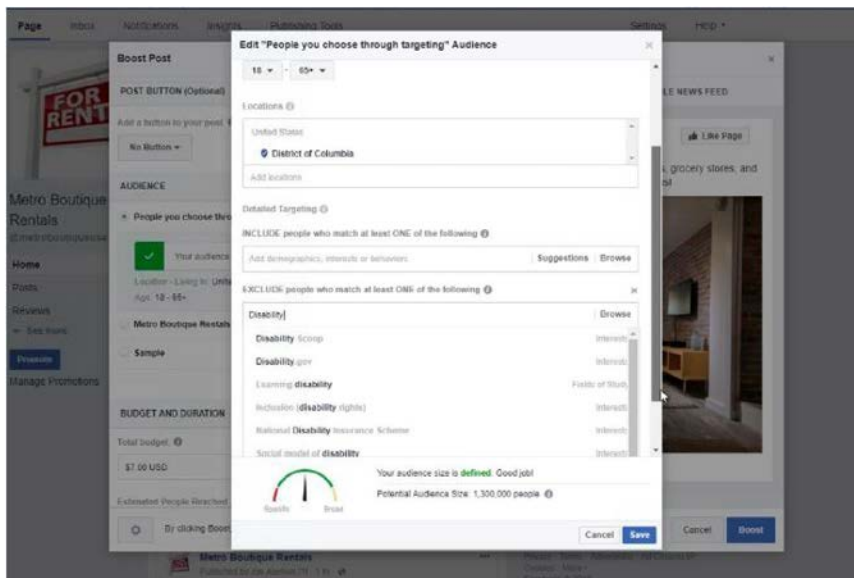
- Fair Housing Act (FHA)
- Fair Credit Reporting Act (FCRA)
- Gramm Leach Bliley Act (GLBA)
- Employment laws
- Health Insurance Portability and Accountability Act (HIPPA)
- Telephone Consumer Protection Act (TCPA)
- CAN-SPAM
- Children's Online Privacy Protection Act (COPPA)
- General Data Protection Regulation (GDPR)
- FTC Act
- State UDAP laws
- State privacy laws



Tip 1: Issue Spot for Potential Data Liability

Facebook Vowed to End Discriminatory Housing Ads. Suit Says It Didn't.

By CHARLES V. BAGLI MARCH 27, 2018



Tip 1: Issue Spot for Potential Data Liability

Facebook Is Hit With Gender Bias Claims Over Ad Practices

“We can’t let gender-based ad targeting online give new life to a form of discrimination that should have been eradicated long ago,” says Galen Sherwin, a senior staff attorney at the ACLU's Women’s Rights Project.

By **Erin Mulvaney** | September 18, 2018 at 09:00 AM

Tip 1: Issue Spot for Potential Data Liability

A.G. Schneiderman Announces Results Of “Operation Child Tracker,” Ending Illegal Online Tracking Of Children At Some Of Nation’s Most Popular Kids’ Websites

Tip 2: If You (Or Your Vendors) Collect It, Protect It

- Understand data flow from beginning to end
- Assess quality of vendors
- Who stores data and where?
- Who has access and how?



Tip 2: If You (Or Your Vendors) Collect It, Protect It

PRIVACY AND SECURITY

**12,000 Social Media Influencers, Mostly Women,
Exposed by Marketing Firm Data Breach**

Tip 3: Access, Control and Portability of Data

Access

- Visibility into who is collecting your data
- Visibility into the cost of the data
- Visibility into the quality, validity and authenticity of data
- Ability to access data handled/controlled by third parties (view-ability, attribution, URL transparency)
- Clear articulation of how that data is stored

Control

- Controlling how your data is collected and stored
- Clear delineation of rights to data
- Knowing limitations on data
- Audit rights to data

Portability

- Ability to take data to another provider
- Ability to integrate with other data

Tip 4: Read and Understand Your Privacy Policy

False advertising liability hinges on your privacy policy and other disclosures

- How do you collect, use, share and use your consumer data versus how do you say you do it?
- Consider all of your consumer touchpoints



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False advertising liability hinges on your privacy policy and other disclosures

Snapchat Settles FTC Charges That Promises of Disappearing Messages Were False

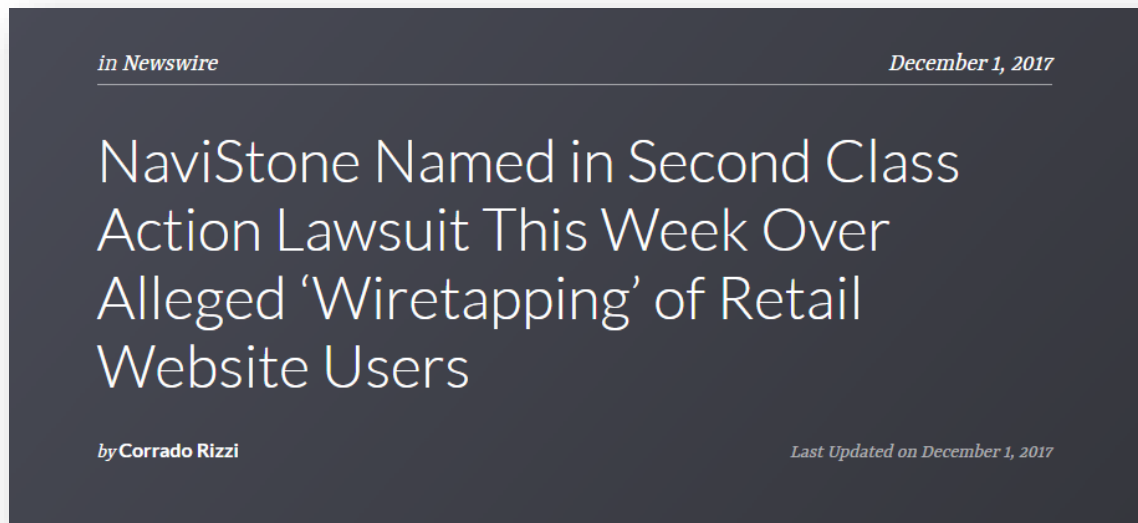
Snapchat Also Transmitted Users' Location and Collected Their Address Books Without Notice Or Consent

Tip 5: Understand Technology Providers

- Are you collecting and using data in a way a consumer would expect?
- Does the collection comply with applicable laws?
- Consider the creepy factor



Tip 5: Understand Technology Providers



Tip 5: Understand Technology Providers

Digital Advertising Company Settles FTC Charges It Deceptively Tracked Consumers Both Online and Through Their Mobile Devices

Settlement ensures consumers can control targeted ads

Tip 6: Use Caution When Collecting and Using Personal or Sensitive Information

VIZIO to Pay \$2.2 Million to FTC, State of New Jersey to Settle Charges It Collected Viewing Histories on 11 Million Smart Televisions without Users' Consent

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FOR RELEASE

February 6, 2017

TAGS: [Telecommunications](#) | [Bureau of Consumer Protection](#) | [Consumer Protection](#) | [Privacy and Security](#) | [Consumer Privacy](#)

VIZIO, Inc., one of the world's largest manufacturers and sellers of internet-connected "smart" televisions, has agreed to pay \$2.2 million to settle charges by the Federal Trade Commission and the Office of the New Jersey Attorney General that it installed software on its TVs to collect viewing data on 11 million consumer TVs without consumers' knowledge or consent.

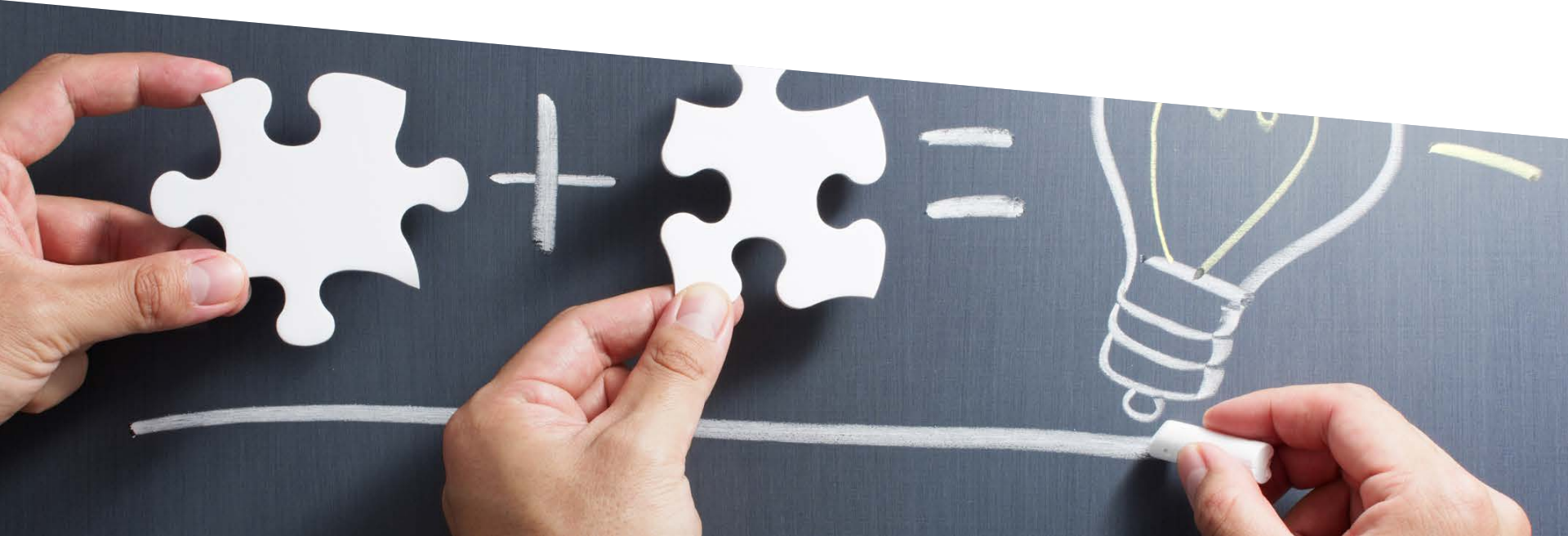
Tip 7: Participate In Self-Regulatory Efforts

- Digital Advertising Alliance (DAA): coalition of media and marketing associations - publishers, advertising service providers (ad networks and agencies)
- Network Advertising Initiative (NAI): association of advertising networks
- Trustworthy Accountability Group (TAG): joint marketing-media industry program, focus on four core areas: eliminating fraudulent digital advertising traffic, combating malware, fighting ad-supported Internet piracy to promote brand integrity, and promoting brand safety through greater transparency



Tip 8: Partner with IT, Data Security and Legal





Questions?

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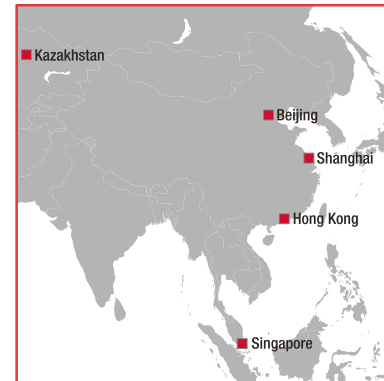
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