

INTRODUCTORY REMARKS
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"DRAFTING YOUR PRIVACY POLICY"

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It is hard to believe that it is only a little over a year since Congress began serious consideration of privacy laws which would regulate the use of consumer data by private firms outside the credit reporting context.

Many of you were present at our first annual meeting in June of last year to hear Rep. Ed Markey and Clinton Administration Privacy Counselor Peter Swire lay out the case for increased federal regulation. By November, the first major piece of privacy legislation was in place and the regulatory process began, with our group filing extensive comments, which I think brought a unique perspective to the issues. Meanwhile, we have witnessed a series of state initiatives in this area, which we shall also inventory today.

No one I know believes that we have reached the high water mark so far as either the coverage or the scope of privacy legislation is concerned. Indeed, even with its overly expansive definition of "financial institution," the Gramm Leach Bliley bill does not reach substantial segments of American business where polls indicate consumers have privacy concerns. As the only group which is focused exclusively on the electronic delivery of financial services, we are right at the center of the debate because there is no question that a major part of the increased public awareness of personal data collection possibilities focuses on the power of computer technology.

There have been numerous conferences on privacy since enactment of the Gramm Leach Bliley privacy provisions, but we believe that the focus of this conference is a little different. While no conference on privacy can fail to provide an update on the current state of the public policy debate, and we shall certainly do so, the primary focus of this conference is on the practical aspects of developing a privacy policy under the current law. In that sense this is intended to be a nuts and bolts session, which draws on the experiences of business and legal executives of EFSC member companies to give participants in this conference the benefit of real life experiences of those in the front lines dealing with privacy compliance.

We shall begin by outlining the current state of the law and regulations at the federal level and a review of current state rules. This summation of the law, while intended to be thorough, is designed to lay the foundation for what is to come, not to be the reason for the conference itself. What we all should hope to take from this conference is more than a summary of the law, but a shared, increased understanding of the legal and practical business decisions which go into developing a privacy policy.

Among your materials is a toolkit which we have developed to help companies come to grips with the issues, both legal and practical, which they face in crafting and sustaining a compliant privacy policy. While the toolkit is a valuable take-away, we hope, equally or more valuable

should be the comments of our panelists about the ways they have dealt with expected and unexpected issues.

One of the most interesting aspects of the exercise preparing a privacy policy is the fact that it forces a company to come to grips with the value of the data it possesses on the activities of its customers and to attempt to anticipate how that data might be used by the company or its business partners to bring new products to existing or future customers. As important as complying with the law is continuing compliance by your company with the policy your company pronounces to the public to be its standard. In setting that standard, you have got to be forward thinking and not commit to

data restrictions which may fit your current business model, but may hinder future development of your business. Variations from declared privacy policies may engender UDAP complaints or even breach of contract claims.

After having heard from the business and legal executives of both large and small companies about their experiences in drafting a privacy policy, we will no doubt have accumulated a series of questions... "everything you always wanted to know about privacy, but didn't know enough to ask." At that point, having educated ourselves with shared experiences, we shall have a chance to pose questions to the regulators, who have themselves had a steep and rapid learning curve in this area. I believe that they, like the rest of us, will benefit from a healthy exchange of ideas and comments.

While it might be nice for the economics of the EFSC to have had a larger audience, one of the advantages of a group this size is that the conference can truly be participatory. We urge you all to ask questions and share your own experiences, because we are all learning in this area together.

So let's start learning together.