Privacy of Mobile Applications

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As we continue our “new year, new look” series into important privacy issues for 2013, we boldly predict:

**Regulatory Scrutiny of Data Collection and Use Practices of Mobile Apps Will Increase in 2013**

Mobile apps are becoming a ubiquitous part of the everyday technology experience. But, consumer apprehension over data collection and their personal privacy with respect to mobile applications has been growing. And as consumer apprehension grows, so does regulatory scrutiny. In 2012, the Federal Trade Commission (FTC) offered guidance to mobile app developers to “get privacy right from the start.” At the end of 2012, the California Attorney General’s office brought its first privacy complaint against Delta Airlines, Inc., alleging that Delta’s mobile app “Fly Delta” failed to have a conspicuously posted privacy policy in violation of California’s Online Privacy Protection Act. And also in December, SpongeBob Square Pants found himself in the middle of a complaint filed at the FTC by a privacy advocacy group alleging that the mobile game SpongeBob Diner Dash collected personal information about children without obtaining parental consent.

In 2013, we expect to see new regulatory investigations into privacy practices of mobile applications. Delta was just one of 100 recipients of notices of non-compliance from the California AG’s office and the first to be the subject of a complaint. Expect to see more of these filed early in this year as the AG’s office plows through responses from the lucky notice recipients. Also, we can expect to hear more from the FTC on mobile app disclosure of data collection and use practices and perhaps some enforcement actions against the most blatant offenders.

**Recommendation for action in 2013:** Take a good look at your mobile app and its privacy policy. If you have simply ported your website privacy policy over to your mobile app – take another look. How is the policy displayed to the end user? How does the user “accept” its terms? Is this consistent with existing law, such as California, and does it follow the FTC guidelines?

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