Hacking the Law for Researchers

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For WISE 2010
Law as a research tool

- General advice
- Freedom of Information Laws
  - Identity theft reporting
  - Consumer complaints about privacy
- Privacy Laws
  - FACTA Access
  - SB 27 Report
  - Flash Cookies
  - KnowPrivacy
General advice

● The policy debate is…not that sophisticated
  – Merely descriptive studies are very useful b/c the industry often controls the debate
    ● RFID

● Extremely important: attention to detail
  – You have to be correct
    ● If any of your findings are remotely inaccurate, critics will dismiss your entire study
  – Your actions send signals to your students
  – Document everything!
  – Stay narrowly focused on your topic
    ● Papers should have no “throw away” sentences, tangents, assertions of fact…!
My strategy

- Watch for most strenuous assertions…and test them
  - “People want tailored advertising”
  - “Young people don’t care about privacy”
  - “Guard your personal information to prevent identity theft”
  - “Blocking 3rd party cookies will ‘break’ the internets”

- Give the resulting reports simple titles that staffers are likely to find and understand
  - E.g. Americans Reject Tailored Advertising…, Flash Cookies and Privacy, etc.

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They take time…
- Narrow, targeted requests can be quicker
- Keep in touch with the FOI officer

You can opt for electronic data!
- Talk w/ the FOI officer to get a usable format!

You can get fees waived if you are acting on behalf of an “educational or noncommercial scientific institution” requester, under 5 U.S.C. §552 (4)(A)(ii)(II).
FOI Tools

- These are all free, high quality resources--
- Federal Open Government Guide
- State Open Government Guide
  - http://www.rcfp.org/ogg/
- FOI Letter Generator
FTC Identity Theft Data

Leading Types of Identity Theft at Top 5 Banks

- Attempt
- Auto Loan or Lease
- Check Fraud
- Checking Account - New
- Credit Card - Existing
- Credit Card - New
- Document or Card Lost or Stolen
- Electronic Fund Transfer or ACH
- ITAC - Account Takeover
- ITAC - New Account
- Inquiry
- Miscellaneous
- Personal/Business Loan
- Real Estate Loan
- Uncertain

Frequency
Narrative: “consumers care about harm”

Technique: FOI request to the FTC for consumer complaints concerning top 100 websites...
Privacy Laws

- Often require reporting
- Often require that governments or companies give individuals access to data
FACTA Access

- 2003 Amendments to the Fair Credit Reporting Act give victims of identity theft access to all business records associated with the crime.
- This means that the institution that granted credit in the victim’s name to an impostor must provide the credit application, account statements and other information about the crime.

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X6’s application

Evidence of picture ID & credit card not provided to victim

KOHL’S

expect great things

You MUST have a state issued picture ID and a current charge card to apply.

Last name misspelled; in first name field

Signature not consistent with victim's

Basic accountability metadata missing

Store #
Associate #
Date

17 2 4 7 7 4
1 1 1 1
## Summary of errors we found

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<th>Victim Number</th>
<th>Wrong Address</th>
<th>Wrong Phone</th>
<th>Wrong DOB</th>
<th>Wrong SSN</th>
<th>Wrong DLN</th>
<th>Misspelled Name</th>
<th>Red Flags</th>
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</tbody>
</table>
SB 27 Report

- SB 27, the “Shine the Light Law”
  - Direct marketing transparency law
    - Must disclose third party information sharing partners or
    - Opt the consumer out

- We sent 112 SB 27 letters and tracked them carefully
  - 53 companies never responded
  - Only 6 disclosed their information sharing practices
  - 39 did not share data with third parties
  - 5 provided an opt out right
  - 9 were classified as “other”
Walt Disney: 29 partners

Sharon C. Canty
395 Simon Hall
Emeryville, CA 94620

June 24, 2009

Dear Ms. Canty,

Thank you for contacting us.

At our company we take great pride in the relationship of trust we have built with our guests over many years and are dedicated to protecting guest privacy and to proper handling of any personal information we obtain. Should you wish to learn more about our privacy policy, you can access it by clicking on the privacy policy links on our sites’ homepages.

Thank you.

Walt Disney Internet Group
California Civil Code § 1798.83 Statement
In accordance with California Civil Code § 1798.83, Walt Disney Internet Group is providing the following information set forth in this statement for the 2008 calendar year.

Categories (as disclosed in accordance with California Civil Code § 1798.63 (a)(1)):

- Name and address
- Electronic mail address
- Age or date of birth
- Number of children
- The age or gender of children
- Occupation
- Telephone number
- The kind of product the customer purchased, leased, or rented.
- Time and date of customer purchase.

Third Parties (as disclosed in accordance with California Civil Code § 1798.83 (b)(2)):

ABC Television Network
7777 West 66th Street
New York, NY 10023
212-465-6065
Broadcasting services

EEDO Detroit
340-250-6561
860 W Long Lake Rd
Troy, MI 48088
Advertising Agency

The Walt Disney Internet Group - 500 South Buena Vista Street, Burbank, California 91521-7716

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Provide all your information...

CALIFORNIA THIRD PARTY DIRECT MARKETING OPT-OUT FORM

If you would like to request that personal information Victoria’s Secret collects about you online and offline not be shared with third parties that do not share the same brand name for their direct marketing purposes, please fill in this form completely with all of the postal addresses that you have provided to Victoria's Secret.

FULL NAME: __________________________
STREET/PO BOX: __________________________
CITY: __________________________
STATE: __________________________ ZIP CODE: ____________

FULL NAME: __________________________
STREET/PO BOX: __________________________
CITY: __________________________
STATE: __________________________ ZIP CODE: ____________
Flash cookies and privacy

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TRUST, WISE 2010
HTTP Cookies erased; Flash kept
Flash respawns erased cookies

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What is the state of internet tracking?
- Web beacons
- Content of privacy policies
- Affiliates
KnowPrivacy: Privacy Policies

- Many unclear on enhancement, data retention
- Only partial control offered
- Lots of affiliate sharing

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KnowPrivacy: Affiliates

- “We don’t share with third parties…” but we have 1,000 affiliates!