

# Global Privacy, Cybersecurity, and Data Protection



Businesses and organizations of all sizes collect, store, and share personal information about individuals. While new technologies and easy access to information allows for greater innovation and enhanced delivery of products and services, the protection of data maintained on consumers and employees requires a broad range of legal compliance activities.

Data breaches, biosensors, “Big Data,” the “Internet of Things,” credit card fraud, stolen data, and data monetization efforts are all pushing the limits of privacy advocates, regulators, consumers, and lawyers who advise businesses on the use of information technology, data privacy, and security issues.

- How does a business optimize the information available yet remain in compliance with the evolving and ever-changing legal landscape?
- How does a business not compromise consumer privacy as more and more information is collected and shared?
- What about privacy rights of employees and prospective employees?

Gray Plant Mooty has assembled a multidisciplinary team of lawyers with significant background and experience navigating the federal, state, and global data privacy and security laws. These lawyers have special expertise in information technology, employment, health care, insurance, and financial institution related laws and regulations. They also have certifications in both United States and European data privacy law (CIPP/US and CIPP/E) from the International Association of Privacy Professionals.

**For more information about the Gray Plant Mooty Privacy Team and practice please call Michael Cohen at 612 632 3345.**

## Proactive Approach to Privacy

Gray Plant Mooty suggests that a business follow a “Privacy by Design” approach. Privacy by Design is a multi-factored approach to promoting privacy considerations at every stage of the development of a product or service throughout the enterprise. Privacy practices are built into the company culture including data privacy concerns, reasonable data collection limits, sound retention and disposal practices, data accuracy, and adequate information security. We work closely with clients to implement this comprehensive approach to legal privacy compliance.

It is not a question of whether unauthorized access, an incident, or a data breach will occur, but when. We help our clients become ready for any unauthorized incident or data breach and offer best practices to mitigate risk.

## Legal Services

Gray Plant Mooty’s global privacy and cybersecurity practice group focuses on providing legal services in

the following areas:

- **Privacy and Cybersecurity Readiness** – Comprehensive privacy audits and assessments including preparation of data flow maps and privacy policies and procedures; legal risk assessment, information governance review, and mitigation strategies; “Privacy by design” initiatives; and coordination with information security consultants to provide counsel on data security safeguards and certifications such as PCI-DSS, NIST, HIPAA, ISO, SSAE, and SOC.
- **Insurance** – Evaluation of various types of cybersecurity coverages and coordination with other traditional coverages, preparation of contract provisions with appropriate insurance obligations to address privacy and data security exposures, and representation of clients in pursuing claims for coverage.
- **Policies and Procedures** – Corporate privacy policies and procedures, information management and life-cycle policies, website privacy policies and terms of use, information technology usage policies, information governance policies, document retention and destruction policies, and policies to safeguard confidential and proprietary information.
- **Training** – Data privacy and security training for management and employees.
- **Vendor Management** – Vendor management programs, including information security policies and procedures, vendor information security, and privacy contracts and addendums.
- **Incident and Data Breach Planning** – Not every unauthorized access to data constitutes a breach that triggers compliance with multiple laws. Prompt legal review is therefore essential. Gray Plant Mooty offers breach incident management and planning for data breaches, including preparation of incident response teams and plans, prompt analysis of incidents and unauthorized access as necessary to determine if “breach” and appropriate next steps, data breach notifications, and coordination with information security, computer forensics, law enforcement, and public relations consultants to mitigate risk and limit reputational harm.
- **Federal and State Laws** – There is no single comprehensive data privacy law in the United States. There are at least 25 federal laws that govern privacy and data security in some fashion or another, as well as numerous federal regulations and “guidance” documents. The federal government (particularly the Federal Trade Commission) is increasingly aggressive in policing these laws and regulations. In addition, there are at least 110 state laws governing privacy and data security, including state breach notification statutes, and the California Consumer Privacy Act (CCPA). State attorneys general are becoming very active in enforcing these laws and the CCPA allows for a private right of action. Our privacy team is familiar with the complex landscape and intersection of federal and state laws and regulations, and can help clients avoid or minimize regulatory enforcement actions and other litigation.
- **Global Compliance** – We are familiar with international data protection laws, including the new General Data Protection Regulation (GDPR) and compliance with the ever changing cross border data transfer requirements (including Model Contracts, Binding Corporate Rules, Privacy Shield, and other EU data transfer mechanisms) as well as the Canadian Personal Information Protection and Electronic Documents Act (PIPEDA) and Canada’s stringent new anti-spam law.
- **Data Monetization Activities** – More and more companies are viewing data as an untapped new source of revenue or other considerations. We can help clients explore legal ways to explore such opportunities.

- **Marketing and Advertising** – Best practices for use of behavioral advertising, Search Engine Optimization (SEO), geo-location, “cookies” and other tracking technologies, SMS text messaging campaigns, and compliance with the Telephone Consumer Protection Act.
- **Agreements** – SaaS and related software and technology agreements notices, online licenses, and terms of use including special requirements for mobile devices and applications, vendor agreements, and HIPAA Business Associate Agreement.
- **Social Media and Privacy in the Workplace** – Employee privacy issues including compliance with FCRA, monitoring of employee communications, video surveillance, pre-employment background checks, post hire investigations, investigations of employee misconduct and theft, Bring Your Own Device (BYOD) policies, use of social media as a business tool, and social media usage policies.

## **A Legal Guide to Privacy and Data Security**

In collaboration with the Minnesota Department of Employment and Economic Development Gray Plant Mooty has prepared ***A Legal Guide to Privacy and Data Security***. This Guide is a detailed review of federal, state, and global data privacy and security laws, along with best practices and key questions every business should ask related to privacy and data security issues relevant to their business. ***The Guide is available for free from Gray Plant Mooty or the Minnesota Department of Economic Development, Small Business Assistance Office.***

## **IAPP Certifications**

In recognition and demonstration of advanced knowledge in both United States and European data privacy law, some members of the Gray Plant Mooty group have been certified by the International Association of Privacy Professionals (IAPP) and hold the CIPP/US and CIPP/E certifications.

For more information visit [www.gpmlaw.com/Global-Privacy-Cybersecurity-Data-Protection](http://www.gpmlaw.com/Global-Privacy-Cybersecurity-Data-Protection)