CIPL US Privacy Project
2022 Project Plan

CIPL PROJECT AND DELIVERABLES

In 2022 CIPL will continue to focus on increasing its visibility and engagement at the federal level in the US, building on our longstanding work on the US federal privacy process and the relationships we have in relevant government agencies and with legislative staff in both the House and Senate. We will also continue to follow the development of state privacy laws and look for strategic opportunities to engage at the state level.

Our primary objective in the US remains helping to achieve a **federal** privacy law that preempts inconsistent state privacy laws, is interoperable with data protection frameworks of other countries and regions, and that maximizes privacy protections and the ability to innovate and use data effectively. In that context, we will continue our efforts to educate lawmakers on:

- Why a US law should require and incentivize comprehensive risk-based privacy compliance programs that implement organizational accountability.

- Why it is important to include formal accountability schemes such as certifications and codes of conduct in a US privacy law.

- How an accountability and risk-based model for privacy protection can protect consumers and enable the digital economy and society better than the notice and consent model.

- Why a solely consent-based paradigm to privacy and data protection is no longer viable and how other legal grounds for using personal data can be more protective of privacy as well as better enable the digital economy and society (e.g. the "legitimate interest" ground for processing).

- Why it is essential to design a law with global interoperability in mind.

As we continue to talk about and engage on these issues, we will update our specific input as necessary in light of developments in the US legislative proposals. We will also update our previous US white papers as appropriate to meet the needs of the moment in the ongoing US privacy debate. All of our current global workstreams, such as on accountable AI, data sharing, children's privacy and effective governance of cross-border data flows, will be relevant for the US as well and help shape our US policy positions. CIPL's significant global experience and perspective on privacy and data protection law and policy places us in a unique position to help facilitate a US privacy law that is viable and competitive on the global stage.

To fully meet the needs of proactive and sustained engagement in the US, we are currently adding two staff positions in our Washington DC Office – a **Director for Privacy and Data Policy** and a **Manager for Privacy and Data Policy**. They will have frontline responsibility within our broader US and global team to engage on the US federal and state legislative processes and other US privacy policy discussions and initiatives in a number of ways, including:

(a) organizing or participating in virtual meetings and briefings with legislative staffers and government agencies and public authorities to discuss key privacy issues;

b) writing white papers and op-eds to address specific questions we are consistently encountering on the above issues; and

c) responding to draft privacy bills and privacy-related public consultations.

We are also adding an **AI Fellow** to our staff, whose role will be to help inform our policy positions on the governance of AI applications and other emerging technologies, in the US and globally.

PROJECT ACTIVITIES AND INITIATIVES

- Establishing a **US working group** for CIPL members to discuss developments, challenging policy questions (e.g. preemption and private right of action) and opportunities for engagement

- An **updated white paper** on the key elements of an effective US federal privacy law (building upon our earlier US white papers and responding to the latest US privacy bills)

- A **series of roundtables on the Hill** for legislative staffers on key elements for a federal privacy law, such as: (1) Why is global interoperability important and how can it be achieved? (2) What is organizational accountability and how can it be incorporated in a privacy law? (3) What is a risk- or harm-based approach to privacy protection and how can it be reflected in a privacy law; and (4) How and why to enable privacy certifications and codes of conduct in a federal privacy law? (5) How to ensure trusted cross-border data flows?

- Continued **regulator outreach**, including through one-on-one meetings, responding to public consultations and other engagement with US government agencies, including relevant groups in the Department of Commerce (ITA, NTIA, NIST) and the Federal Trade Commission (FTC). With respect to the FTC, to establish ties with its new leadership at the Commissioner level, the Bureau level and in the Division of Privacy and Identity Protection.

- Continue to **monitor emerging state privacy laws** and, where appropriate, engage on specific issues, such as enabling privacy certifications and safe harbors into state privacy legislation that could serve as interoperability mechanisms between different state laws.

PROJECT TEAM AND MORE INFORMATION

Markus Heyder, CIPL's Vice President and Senior Policy Counselor, will be the main point of contact for this project. We are also actively recruiting both a **Director of Privacy and Data Policy** and **Manager of Privacy and Data Policy** to advance CIPL's policy priorities and initiatives in the US in relation to a wide range of privacy and data related topics, including the US privacy law and policy development process.

CIPL is excited to continue our work in this special project. To learn more about participating in this initiative, please contact Michelle Marcoot at mmarcoot@HuntonAK.com.