Primer on Data Privacy Law

Professor Dan Jerker B. Svantesson
Co-director, Centre for Commercial Law
Faculty of Law, Bond University

“Understanding Data Privacy & Data Protection in a ‘4.0’ World”
Seminar 15 November 2018

See also ‘Primer’ in the Seminar BOOKLET pages 7-9
Data privacy law: What is it?

- **Technology - constant driving force**
  - Technology develops quickly
  - Laws develop slowly
  - Law is now trying to catch up (but is already behind again)

- **Privacy - fundamental human right**
  - Right to Privacy applies to all technologies
  - The difficulty of protection privacy makes the right to privacy even more important
  - Interpretation/application of data privacy law is affected by each state’s fundamental values
  - Same legal rule can be interpreted/applied differently in different countries

- **Regulates processing of Personal Data to protect privacy**
  - Avoid personal data and you can avoid data privacy law
  - Data minimisation and smart data processing

- **Ecosystem:**
  - Data subject – Controller – Processor
Data privacy law: What is it?

• Common rights and obligations
  • Processing (collection, use & disclosure)
  • Openness & transparency
  • Data quality
  • Access & correction
  • Data security
  • Cross-border data transfers

• Compliance is not optional, you can’t contract out of data privacy law as such, BUT…
Key Concepts: Consent

- Unambiguous
- Informed
- Free
- Specific
- Right to withdraw
- Bundled consent (to a number of actions with one click)
- An uneasy relationship with contract law (e.g., online Terms of Use agreements)
- Difficult to achieve all elements
Thank you.
Professor Dan Jerker B. Svantesson
dasvante@bond.edu.au

See also ‘Primer’ in the Seminar BOOKLET pages 7-9