



INFORMATION PRIVACY LAW COURSE SERIES

Consumer Data and US Regulation Part I: The Common Law and the FTC

COURSE OUTLINE

About this Course

Introduction

The US System of Privacy Law Regulation

Structure

The Sectoral Approach

Federal and State Laws

Self-Regulation

The Chief Privacy Officer

Personally Identifiable Information

Injury and Standing

Tort Law

Creating Marketing Lists of Names

Sponsored Stories

Limitations of the Privacy Torts

Contract Law

Opt Out vs. Opt In

Are Privacy Policies Contracts?

Promissory Estoppel

Privacy Settings and Other Statements About Privacy

FTC Section 5 Enforcement

Deception

Unfairness

The Scope of Section 5

FTC Enforcement Powers

FTC Enforcement Process

FTC Consent Decrees

Prohibitions on Wrongful Activities

Fines and Other Monetary Penalties

Duration

Deleting Data or Refraining from Using It
Making Changes in Privacy Policies
Establishing Comprehensive Programs
Assessments by Independent Professionals
Recordkeeping and Compliance Reports
Notification of Material Changes Affecting Compliance

FTC Jurisprudence

Broken Promises
Retroactive Policy Changes
Inadequate Notice
Deceptive Data Collection
Inadequate Security
Security Gaffes and Failure to Train
Transfer of Data in Bankruptcy
Violating the Privacy Policies of Others
Inadequate Vendor Management
Some Takeaways

FTC Beyond Section 5

Conclusion