Privacy & Data Protection: Policy & Business Trends

Harriet P. Pearson
VP Regulatory Policy & Chief Privacy Officer

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Agenda

- Key drivers of change for business
- Elements of privacy
- Privacy & data protection landscape
- IBM’s global approach

Forces of Change

A new computing model for business

New business models & client needs generated by these new possibilities

The rising tide of globalization

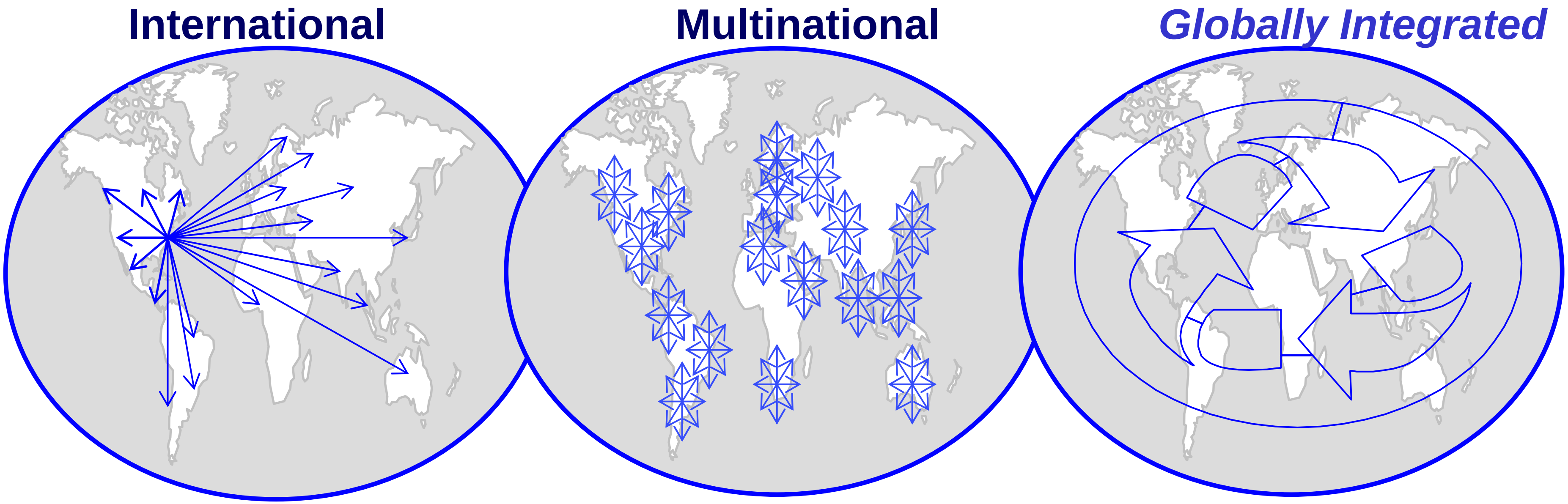
The international era -- exporting

The multinational era -- replicating

Today - a globally integrated enterprise…
… business without borders

21st
Century

Trust & the Globally Integrated Enterprise



International

Multinational

Globally Integrated

“**A … challenge will be to figure out how to maintain trust in enterprises based on increasingly distributed business models. A company’s standards of governance, transparency, privacy, security and quality need to be maintained even when its products and operations are handled by a dozen organization in as many countries.** A reliance on hierarchies contained within one function, enterprise or nation must be supplemented by new ways of establishing trust, based on shared values that cross borders and formal organizations. “

Sam Palmisano, *Foreign Affairs* (May/June 2006)

Elements of Privacy

Privacy relies on good security

- Many people see them as the same
- Can't achieve privacy without adequate security
- But, can have good security without privacy

Privacy is a shared responsibility

- Government role
- Individual role
- Private sector role
- Different models by country

An issue of behavior, not only technology

- Policies for collection and use of personally identifiable information are key
- Supported by a strong management system

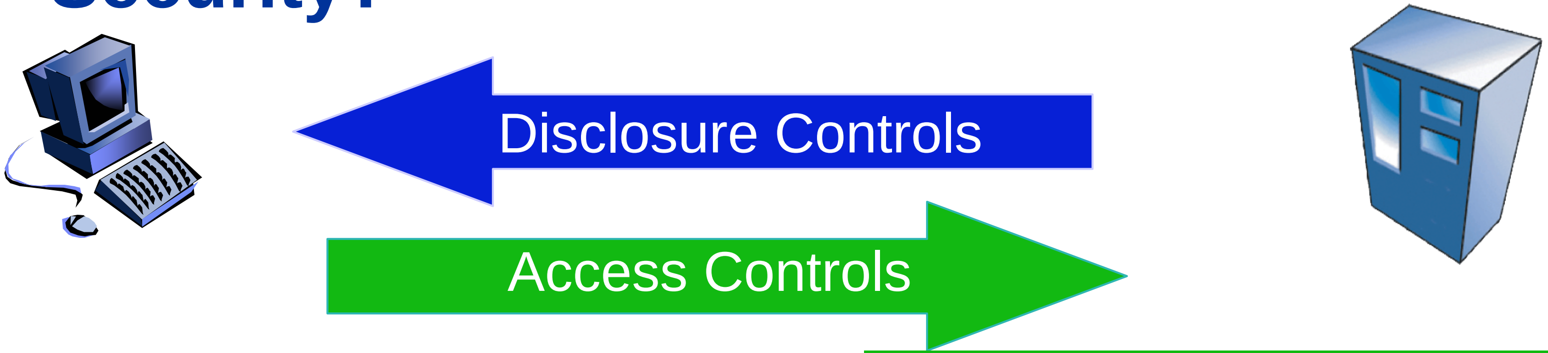
Trust: Sustainable, long-term relationships

- Client trust
- Employee trust
- Consumer trust

Privacy is personal

- Defined by the individual
- Varies by culture
- One size does not fit all

How Is Managing Privacy Different from Security?



Disclosure (Privacy) Controls

What data did you see/use?
For what business purpose?
Did data subject agree?
Audit: What data was disclosed, to whom,
Why, and was it compliant for policy

Access (Security) Controls

Who are you?
What groups do you belong to?
Are you allowed to access this resource?
Audit: Who logged in and when?

Segmenting Consumers on Privacy

- Two decades of Harris/Westin consumer privacy surveys document continuing segmentation of US public into three groups

- Percentages in each depend on the issue -- financial and health information privacy scores higher than marketing

- When marketing privacy issues the focus:

Privacy Intense………….. 25-30%

Privacy Pragmatists……. 55-60%

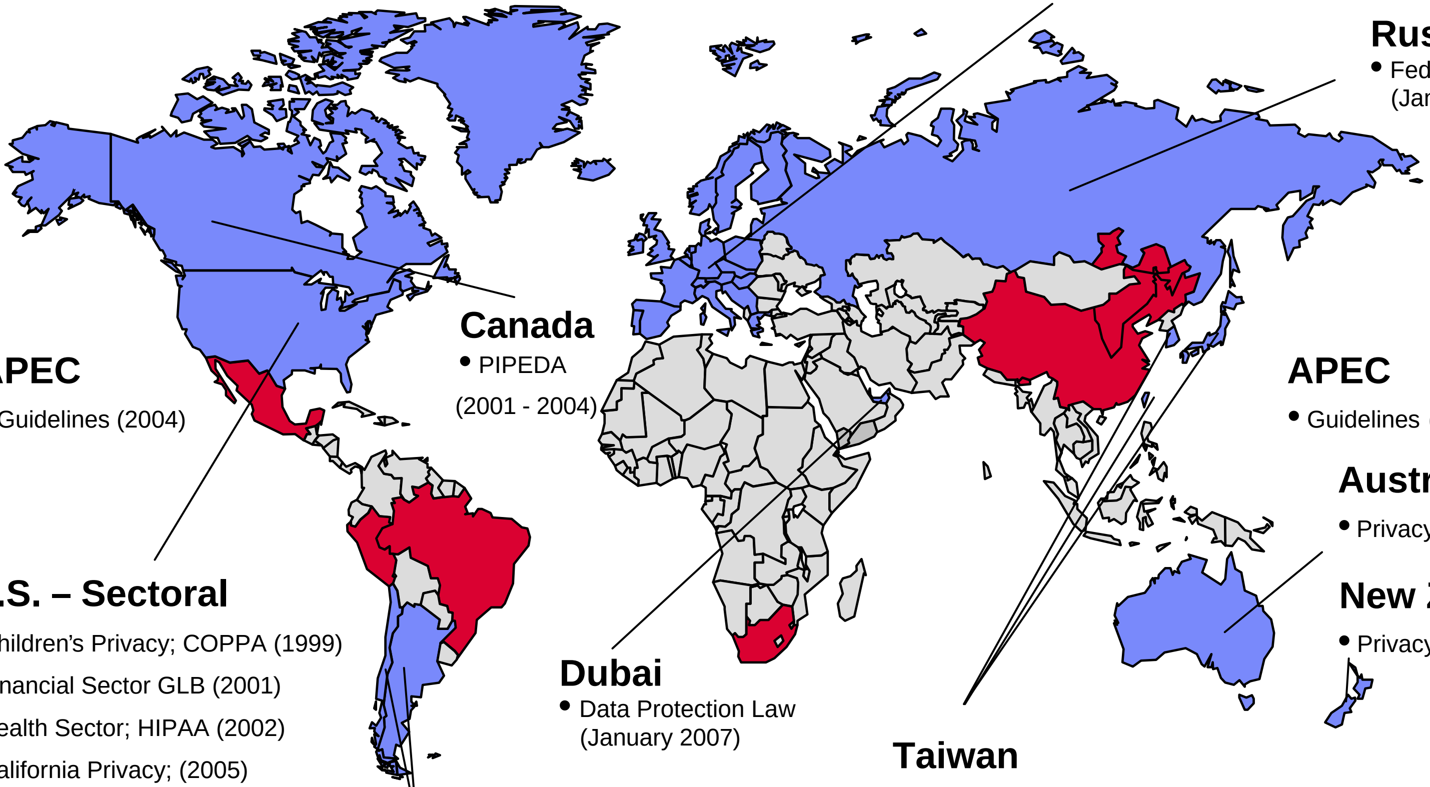
Privacy Unconcerned….. 10-12%

Privacy & Data Protection: Global Policy Landscape

Policy Frameworks to Enable Privacy

- **Data Protection Principles (OECD, APEC)**
  - Notice, Choice, Access & Accuracy, Security, Fairness, Collection Limitation, Data Minimization
  - Implemented differently by country (e.g. EU, US, Japan)
- **Sector-specific laws (e.g. US HIPAA)**
- **Market self-governance (codes of conduct, online privacy guidelines)**
  - E.g. Behavioral targeting best practices in online advertising

Privacy Regulation around the Globe



European Union

- European Data Protection Directive (1995)

Russia

- Federal law on Pers Data (January 2007)

Canada

- PIPEDA

(2001 - 2004)

APEC

- Guidelines (2004)

APEC

- Guidelines (2004)

Australia

- Privacy Amendment Act (2001)

New Zealand

- Privacy Act (1993)

U.S. – Sectoral

- Children's Privacy; COPPA (1999)
- Financial Sector GLB (2001)
- Health Sector; HIPAA (2002)
- California Privacy; (2005)

Dubai

- Data Protection Law (January 2007)

Taiwan

- Computer-Processed PD Protection Law (1995)

South Korea

- Info & Comm Network Util. & Info Protection Law (2000)

Japan

- Personal Data Protection Act (2005)

Chile

- Protection of Private Life Law (1999)

Argentina

- Protection of PD Law (2000)

🟦 ***Existing Private Sector Privacy Laws***

🟥 ***Emerging Private Sector Privacy Laws***

EU Data Protection Directive

- **Governs transfers of personal information of consumers, businesses and employees**

- **Variations exist among EU member states**

- **Member states must create supervisory agencies (data protection authorities) to oversee implementation**

EU Data Transfer Options

- **EU Data Protection Directive restricts data transfers to non-EU countries that do not provide an "adequate" level of data protection**

- **Country legislation that provides an adequate level of protection:**
  - US safe harbor; Argentina, Canada, Switzerland, Australia

- **Options available for data transfers to other countries**
  - Consent
  - Safe Harbor
  - Model contracts
  - Binding corporate rules

Other National Laws

- **Japan Personal Data Protection Act (PIPA)**
- **Canada Personal Information Protection and Electronic Documents Act (PIPEDA)**
- **India – self-regulation in progress**
- **China – regulation in progress**
- **Philippines – regulation in progress**

Global Accountability Initiative: Cross Border Privacy Rules (CBPRs)

- **Alternative model to international data transfer and access under development**

- **Involvement by APEC, OECD, Canada, Australia, US governments as well as industry**

- **Main idea: focus on accountability for data handling, rather than specific procedural rules that vary from jurisdiction to jurisdictions and that are ill-suited to modern Internet-enabled data flows**

- **Global set of principles backed up by private-sector and government accountability mechanism**

Privacy & Data Protection: 2008 Environment

- **Transparency of data handling practices and incidents**
  - Legal requirements to report data incidents de facto present in N America, Australia, UK (public sector), New Zealand, likely to spread
  - Client and regulator expectations for IBM data protection and compliance
- **Global integration & personal data flows**
  - Continued globalization intensifies regulatory compliance burden related to crossborder data transfers: EU laws are especially complex and pervasive
- **Outsourcing & data protection**
  - Industry understanding of reasonable practices and risk allocations slowly maturing
- **Technology-related issues continue to be active**
  - Implications of cloud computing model; identity management; RFID/sensors; social networking; online behavioral tracking; 3D Internet; digital security solutions
- **Health care privacy**
  - Industry transformation creates opportunities to address privacy via public policy and industry practices, for differentiation as well as compliance/risk management purposes
- **National legal models changing:**
  - India, EU, US, Australia, Mexico
- **National security measures:** privacy concerns may affect business operations and create opportunities for new methods

Web 2.0: New Issues & Considerations

- **Role of the individual**
  - As publisher and editor
  - What is the responsibility of the individual to respect privacy (and business confidentiality)?
  - How to support accountability without degrading trust in the workplace?
- **Work-Life Integration**
  - Blurring line between professional and personal
  - Business have always had policies on this, but it now FEELS different.
- **Exposes Fault Lines in Current Policy Models**
  - How do traditional data protection laws keep up with Web 2.0-enabled interactions and knowledge sharing?
- **Need for more-pervasive education/awareness**
  - Privacy protocols, common etiquette/expectations need to be developed and made pervasive

Operationalizing Privacy @ IBM: Case Study

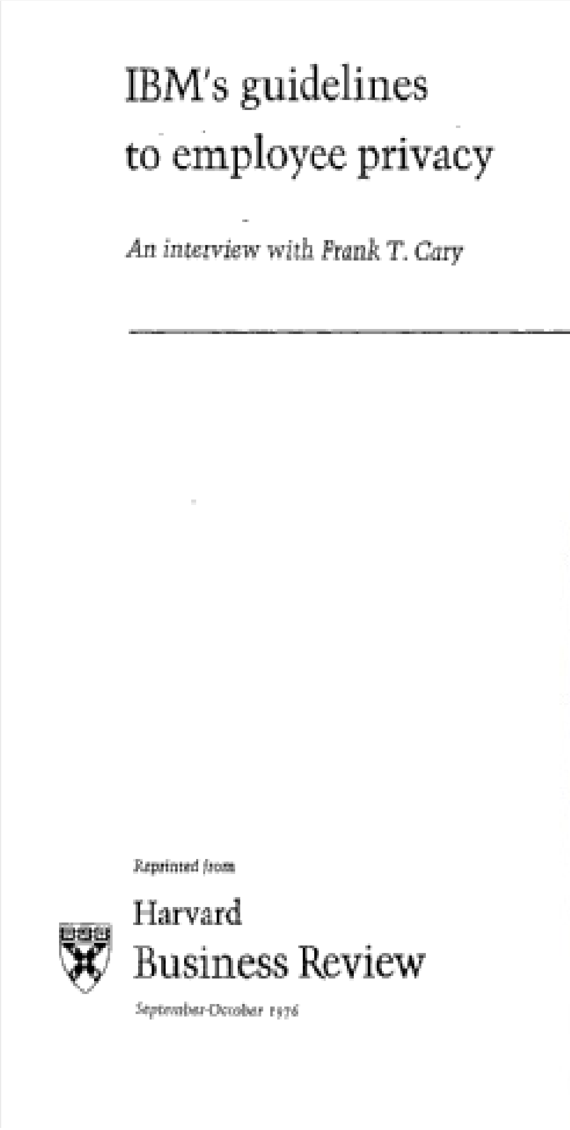
Privacy & Data Protection: Key Organizational Concerns

- How do I organize for privacy?
- What kind of skills do I put in place?
- How does my privacy program relate to security efforts?
- How to define “personal information” and related terms
- Where is the data?
- How do I internationalize or globalize processes?
- What kinds of arrangements do I make with vendors and business partners who access employee or customer data?
- How can technology/automation increase efficiencies or enable data protection?
- How do I respond in the event of a breach?

A Long History…

- Decades of experience
- Innovation in corporate policies
- Industry leadership
- Public policy influence
- CPO leadership
- Privacy Research Institute

"If you want to employ intelligent, sensitive, sophisticated people, privacy is an issue you would better think about."
Frank T. Cary, Former CEO, IBM
Wall Street Journal (Oct 2, 1975)



IBM's guidelines to employee privacy

An interview with Frank T. Cary

Reprinted from
Harvard
Business Review
September-October 1976

A Simple but Aspirational Strategy

- **Set the bar for how globally integrated enterprises comply with and manage privacy requirements and issues**

- **Deliver client value while managing risk**

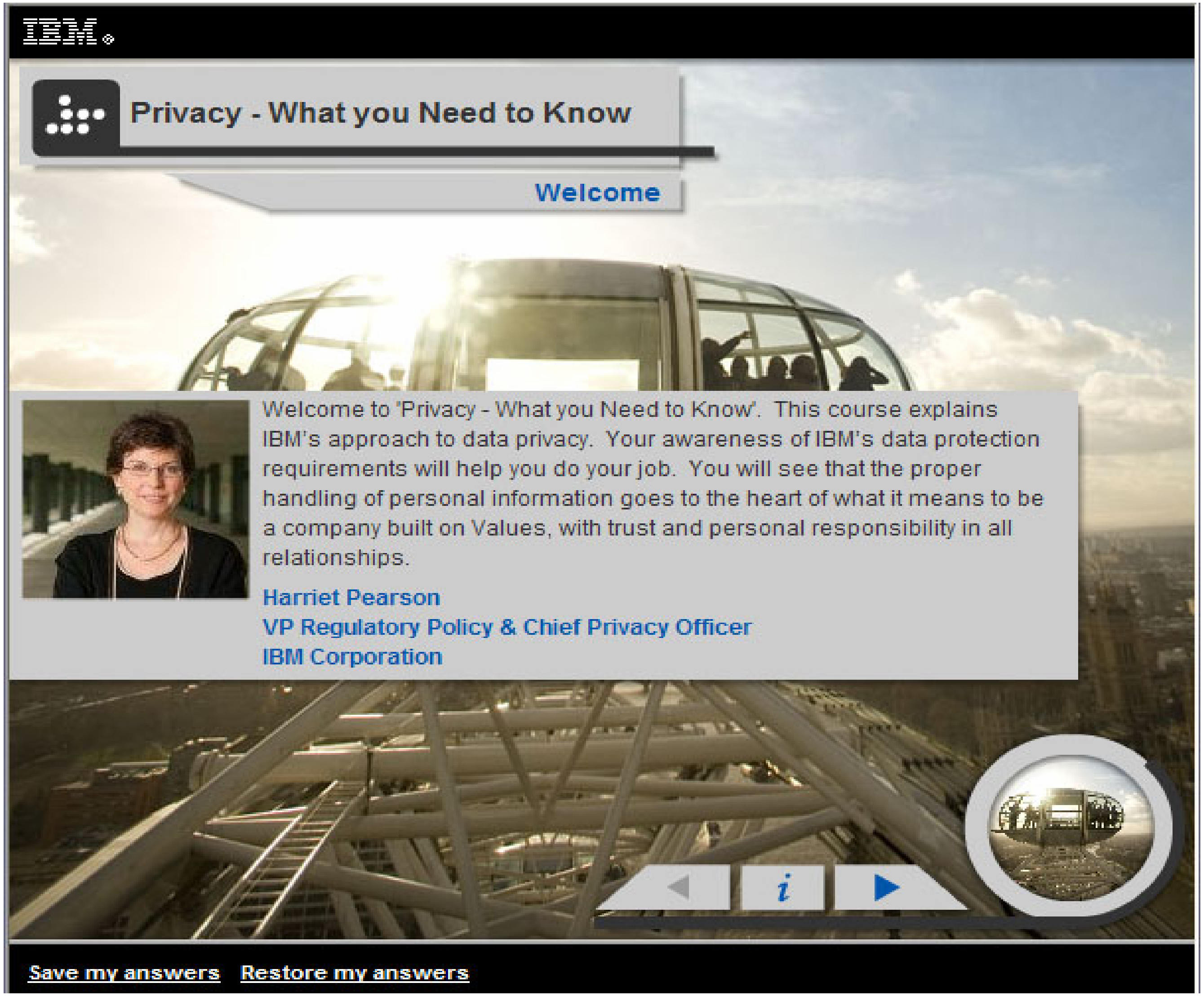
- **Engage externally to help shape policy and legal environment**

How do we manage privacy at IBM?

- Corporate Guidelines / Policies
- Business Process Governance Model
- Best Practices
- Education/Communication
- Business Controls
- Data Incident Response Process

This is a Closed Loop Process

Online Privacy Education for all IBMers

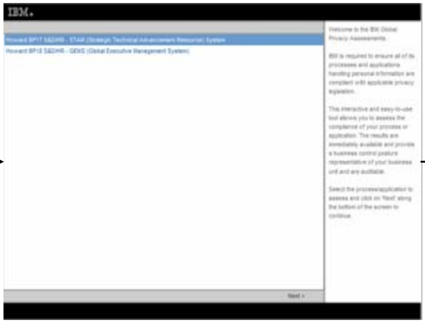


Welcome to 'Privacy - What you Need to Know'. This course explains IBM's approach to data privacy. Your awareness of IBM's data protection requirements will help you do your job. You will see that the proper handling of personal information goes to the heart of what it means to be a company built on Values, with trust and personal responsibility in all relationships.

Harriet Pearson
VP Regulatory Policy & Chief Privacy Officer
IBM Corporation

Privacy Self-Assessment Tool Flow

Intro / Welcome / Instructions



Howard BP17 S&D/HR - ETAR (Strategic Technical Advancement Resource) System

Howard BP15 S&D/HR - GEMS (Global Executive Management System)

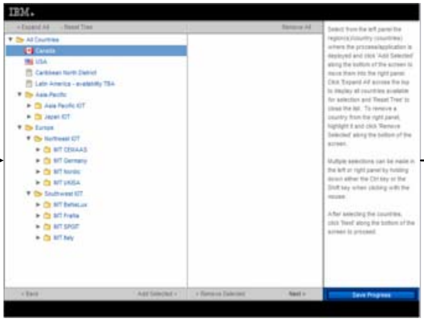
Welcome to the IBM Global Privacy Assessments.

IBM is required to ensure all of its processes and applications handling personal information are compliant with applicable privacy legislation.

This interactive and easy-to-use tool allows you to assess the compliance of your process or application. The results are immediately available and provide a business control posture representative of your business unit and are auditable.

Select the process/application to assess and click on 'Next' along the bottom of the screen to continue.

Authorized Process Selector

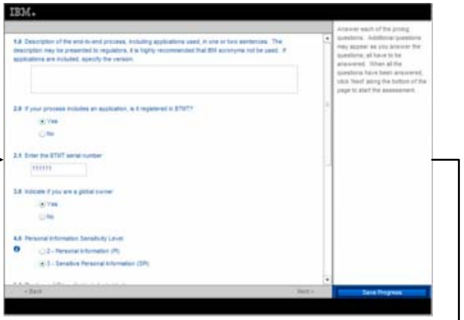


Select from the left panel the region(s)/country (countries) where the process/application is deployed and click 'Add Selected' along the bottom of the screen to move them into the right panel. Click 'Expand All' across the top to display all countries available for selection and 'Reset Tree' to close the list. To remove a country from the right panel, highlight it and click 'Remove Selected' along the bottom of the screen.

Multiple selections can be made in the left or right panel by holding down either the Ctrl key or the Shift key when clicking with the mouse.

After selecting the countries, click 'Next' along the bottom of the screen to proceed.

Country Selector



1.0 Description of the end-to-end process, including applications used, in one or two sentences. The description may be presented to regulators, it is highly recommended that IBM acronyms not be used. If applications are included, specify the version.

2.0 If your process includes an application, is it registered in ETMT?

● Yes

○ No

2.1 Enter the ETMT serial number

111111

3.0 Indicate if you are a global owner

● Yes

○ No

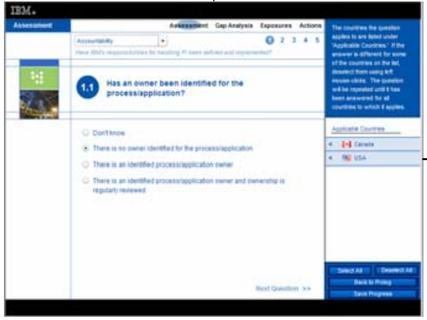
4.0 Personal Information Sensitivity Level

○ 2 - Personal Information (PI)

● 3 - Sensitive Personal Information (SPI)

Answer each of the prolog questions. Additional questions may appear as you answer the questions; all have to be answered. When all the questions have been answered, click 'Next' along the bottom of the page to start the assessment.

Prolog Questions



Have IBM's responsibilities for handling PI been defined and implemented?

1.1 Has an owner been identified for the process/application?

○ Don't know

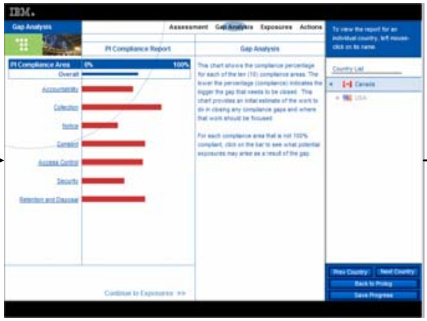
● There is no owner identified for the process/application

○ There is an identified process/application owner

○ There is an identified process/application owner and ownership is regularly reviewed

The countries the question applies to are listed under "Applicable Countries." If the answer is different for some of the countries on the list, deselect them using left mouse clicks. The question will be repeated until it has been answered for all countries to which it applies.

Assessment Questions

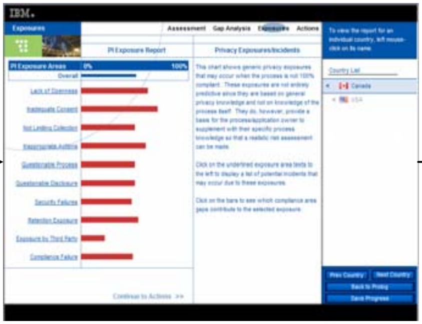


This chart shows the compliance percentage for each of the ten (10) compliance areas. The lower the percentage (compliance) indicates the bigger the gap that needs to be closed. This chart provides an initial estimate of the work to do in closing any compliance gaps and where that work should be focused.

For each compliance area that is not 100% compliant, click on the bar to see what potential exposures may arise as a result of the gap.

To view the report for an individual country, left mouse-click on its name.

Gap Analysis Report



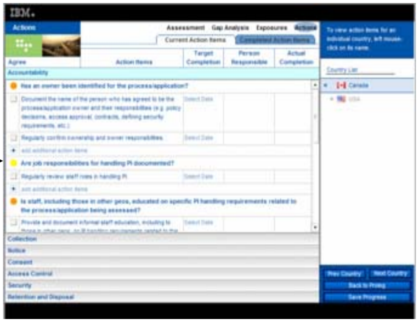
This chart shows generic privacy exposures that may occur when the process is not 100% compliant. These exposures are not entirely predictive since they are based on general privacy knowledge and not on knowledge of the process itself. They do, however, provide a basis for the process/application owner to supplement with their specific process knowledge so that a realistic risk assessment can be made.

Click on the underlined exposure area texts to the left to display a list of potential incidents that may occur due to these exposures.

Click on the bars to see which compliance area gaps contribute to the selected exposure.

To view the report for an individual country, left mouse-click on its name.

Exposures Report



Agree	Action Items	Target Completion	Person Responsible	Actual Completion
Accountability				
●	Has an owner been identified for the process/application?			
□	Document the name of the person who has agreed to be the process/application owner and their responsibilities (e.g. policy decisions, access approval, contracts, defining security requirements, etc.)	Select Date		
□	Regularly confirm ownership and owner responsibilities	Select Date		
+	add additional action items			
●	Are job responsibilities for handling PI documented?			
□	Regularly review staff roles in handling PI	Select Date		
+	add additional action items			
●	Is staff, including those in other geos, educated on specific PI handling requirements related to the process/application being assessed?			
□	Provide and document informal staff education, including to those in other geos, on PI handling requirements related to the	Select Date		
Collection				
Notice				
Consent				
Access Control				
Security				
Retention and Disposal				

To view action items for an individual country, left mouse-click on its name.

Actions

Screeshots are from the pre-production global privacy assessment tool.

Global Data Incident Response Process: Objectives

1. **Enable IBM to respond quickly and effectively to data security incidents involving personal information**

    a. Enable early identification of incidents and a response which minimizes risk to affected individuals, meets regulatory obligations and protects the IBM business and brand

    b. Provide a mechanism by which the appropriate business leaders have support and necessary information to effectively manage such incidents

2. **Identify trends and root causes behind incidents and use this learning to enhance IBM’s handling of personal information and response process**

Conclusion & Discussion

- **Global challenges require…**
  - Integrated and values-based view
  - Understanding of bigger context
  - Prioritization
  - Technology can enable

- **Getting privacy “right” is good business**

For further information, contact…

Harriet P. Pearson
VP Regulatory Policy & Chief Privacy Officer
IBM Corporation
hpearson@us.ibm.com

P.S. You can find me on Facebook, Linked In, Plaxo and Xing.
My office phone number is available on www.IBM.com.
And, you can read more about me on Google.

P.P.S. Inside IBM, you can read my blog (CPO Blog) and find
me on Beehive and Fringe (IBM social networking applications)