

IAPP Europe Data Protection Congress
Commissioner Julie Brill's Keynote Speech
"At the Crossroads"
December 11, 2013
Brussels, Belgium

Thank you Florian Thoma for that kind introduction, and thanks to Trevor Hughes, Brendan Lynch, Rita Di Antonio and IAPP for inviting me to speak this morning. It is a pleasure to be here today. I always enjoy the opportunity to engage with my European colleagues, and I see many familiar faces in the audience today.

Oliver Wendell Holmes, Sr., an American poet, a Paris-trained physician, and father of the famous Supreme Court Justice, once said, "The great thing in this world is not so much where we are, but in what direction we are moving." These words should have particular significance to you in this room, you who care deeply about privacy issues in our world – the world of privacy – we find ourselves at a crossroads, contemplating the direction in which we will move. The path that we choose next will have significant consequences. It will define the scope of protections for important privacy rights and help determine in some small part the future of the transatlantic relationship.

As we contemplate our future course, we need to ask whether industry and regulators, as well as governments, will be able to work together to develop ways to both protect consumer privacy and spur innovation. At this pivotal fork in the road, I believe that the answer to this question is "yes". And although there may be obstacles along the way to obtaining the twin goals of protecting consumer privacy and spurring innovation, we should be mindful of the words of Eleanor Roosevelt: "A stumbling block to the pessimist is a stepping stone to the optimist."

I am an inveterate optimist. I believe the work that all of you do within your companies – your collaboration with your engineers, computer programmers, marketing teams and other address privacy issues raised by your companies' products and services – does an enormous amount of good, both for your companies and for consumers. For those of you who work at companies – either US-based or based here in Europe – that intersect with the US regulatory regime, you know that one of the ways you can offer your company some of the best advice about appropriate privacy practices is to study closely the work of the US Federal Trade Commission. marketplace. The FTC uses its authority to stop unfair or deceptive practices that violate consumer privacy or place consumers' data at risk.

¹ We also

¹ 15 U.S.C. §45(a).

vigorously enforced laws that protect consumers' financial and health information, information about children⁴, and information used to make decisions about credit, insurance, employment and housing⁵.

We have used our broad enforcement authority to challenge inappropriate privacy and data security practices of well-known companies, such as Google⁶, Facebook⁷, Twitter⁸, and MySpace⁹. We also have brought myriad cases against companies that are not household names, but whose practices violated the law. We've sued companies that spammed consumers¹⁰, installed spyware on computers¹¹, failed to secure consumers' personal information¹², deceptively tracked consumers online¹³, violated children's privacy laws¹⁴, and inappropriately

² Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-02, 113 Stat. 1338 (codified in scattered sections of 12 and 15 U.S.C.).

³ Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-110 Stat. 1936 (codified as amended in scattered sections of 18, 26, 29 & 42 U.S.C.); Health Information Technology for Economic and Clinical Health Act of 2009, 42 U.S.C. 300jj et seq. §§17901 et seq.

⁴ Children's Online Privacy Protection Act of 1998, Pub. L. 105-277, 112 Stat. 2587-28 (codified as amended at 15 U.S.C. §§ 6501-6505).

⁵ Fair Credit Reporting Act of 1970, Pub. L. No. 91-508, 84 Stat. 1128 (codified as amended at 15 U.S.C. §§ 1681-1681x).

⁶ In the Matter of Google, Inc., FTC File No. 10236 (Oct. 13, 2011), *available at* <http://ftc.gov/os/caselist/1023136/111024googlebuzzdo.pdf> (decision and order).

⁷ In the Matter of Facebook, Inc., FTC File No. 092 3184 (July 27, 2012), *available at* <http://www.ftc.gov/os/caselist/0923184/120810facebookdo.pdf> (decision and order).

⁸ In the Matter of Twitter, Inc., FTC File No. 092 3093 (March 3, 2011), *available at* <http://www.ftc.gov/os/caselist/0923093/110311twitterdo.pdf> (decision and order).

⁹ In the Matter of Myspace, LLC, FTC File No. 102 3058 (Aug. 30, 2012) *available at* <http://ftc.gov/os/caselist/1023058/120911myspacedo.pdf>

collected information on consumers' mobile devices.¹⁵ We have obtained millions of dollars in penalties and restitution, and placed dozens of companies under 20-year orders requiring better privacy and data security practices,

I believe that there are important

these three cases require the companies to implement comprehensive privacy programs and

In the commercial context Safe Harbor is

