



*With growing concerns over privacy, cybersecurity and IP protections, do you believe that federal regulations or legislation will have a significant impact on innovation and growth in the next five years?*

9/11 was a shocking wake-up call to America. Thousands of American citizens were killed on America soil. Obviously something had to be done. A little over a week later President George W. Bush declared a “War on Terror.”

Everyone wants to defeat “the terrorists.” But are we willing to sacrifice our right to privacy to beat the bad guys? Do we want the government reading our private emails and text messages, listening in on our phone conversations, all in the name of fighting terror?

It may be less dramatic than terrorism, but privacy concerns are also a big issue in the commercial sector. Consumers love free stuff – including Facebook and all those nifty apps for their smartphones. But consumers are increasingly wary of the way technology is being used to target advertising to individuals based on their activity and preferences. Google “Street View” is very cool – but what if it picks up a picture of you somewhere you are not supposed to be? Facebook’s new “Graph Search” is also very cool – but do you want people to be able to find you based on who you work for and what newspaper articles you like reading? Or what food you like eating? Or the booze you like to drink?

Over the next five years, the US government is going to continue to grapple with how to balance conflicting demands for security and privacy. They’ll examine conflicting interests between businesses and consumers. And forthcoming regulations in the areas of privacy, cybersecurity, and IP protection are liable to have a significant impact on the business community. The business community, however, does not have to be passive. Industry can have a big impact on how those regulations will play out.

Washington seems to be stuck in a state of perpetual deadlock. Partisan politics in the nation's capitol is at a level probably last seen during the Civil War. If one party says the sky is blue, the other party would argue the point. Such a situation makes it very difficult to see how Congress will ever be able to find a reasonable balance between security and privacy.

If one party takes up the cause of security, the other will accuse them of disregarding privacy concerns. If one party chooses to emphasize privacy concerns, the opposition will soon issue dire warnings of crumbling defenses and stifling innovation.

In Europe, governments are coming down on the side of protecting privacy. Facebook and Google have both been slapped hard by European governments, and both are concerned about the way legislation is evolving in the EU.

In response to the European Commission's proposed Data Protection Initiative, Facebook's Director of Public Policy for Ireland and the UK said "...but as drafted the current proposal risks introducing measures which are both unreasonable and unrealistic."

Many Americans see what's happening in Europe and are envious of how protective the European governments are of their citizens' private information. So it's not surprising that many Americans would like to see the same protections here – without considering the impact such an emphasis on privacy could have on either national security or the ready availability of very useful free apps and online services. The grass is always greener on the other side of the fence.

Making matters worse is the fact that like most representative governments, the US Congress is subject to the "seesaw" effect. Legislators always want to be seen as proactive in dealing with whatever the populace is most loudly complaining about at any given point in time – the "pain point du jour." The public is concerned about privacy? Congress wants to jump on it and pass some new rules. When the movement toward privacy results in a ground swell over security concerns, the attention of the legislature is diverted in that new direction and the seesaw then shifts – and nothing is accomplished.

Industry is not going to be able to change the way the US government works, and it's not going to be able to make concerns about privacy and security go away. Legislation will impact business. Instead of worrying about how the impact of legislation will be felt, industry – especially hi-tech – is better advised to think of ways to influence the debate.

These are complicated and difficult issues. Government is ill suited and largely unwilling to tackle difficult issues. After all, why would a member of Congress want to work hard on an issue only to have to face the challenge of defending it in a contentious reelection campaign?

If private industry is able to propose an effective solution to the privacy/security conundrum – and shows a willingness to invest in and implement those solutions – it may be able to drive the debate. If industry can position its products as the solutions that consumers are seeking, government will be more than happy to leave it to industry.

Representatives could “have their cake and eat it too.” They could present themselves as supporters of industry and innovation (and therefore job creation) without having to actually come up with solutions of their own – solutions which no doubt would alienate some part of their constituency.

The industry innovators win too – they not only receive the support and blessing of the government to move forward, but they get the positive recognition of being seen as problem solvers on the leading edge of the technology area. You don't have to read too many press releases by “Big Tech” to realize that this is a classic win-win they lobby hard to achieve.

While the government may enact legislation in an effort to address critical issues, it will always be private enterprise that develops and markets the real solutions. When it comes to meeting the privacy/security challenge, those companies with the intelligence, skill and foresight to walk the fine line between making a consumer feel secure from outside harm while also feeling his or her data is protected against prying eyes will clearly seize the advantage.

At FPX, seizing this advantage is not a matter of fretting over how the government's traditional mishandling of difficult issues is going to impact us, but rather a matter of seeing this as an opportunity to influence the direction of innovation to simultaneously serve the consumer and facilitate growth. We welcome you to join us in this important discussion.

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