

Data Privacy for Multinationals: How to Build and Implement a Compliance Plan





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Janine Regan, a solicitor in the data protection team at Charles Russell Speechlys LLP, advises on global data protection compliance and outsourcing projects for multinationals in sectors such as financial services pharmaceutical, construction and marketing and advertising. Janine is also a Certified Information Privacy Professional for Europe.



Part 1 – Other drivers for a Data Privacy Project

- Remedial action after a data breach
- Regulatory action taken against other companies / competitors in their sector
- To save legal costs



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Part 1 – Overview of Global Data Privacy Landscape - Current

- Why is data protection important in Europe?
- European Data Protection Directive 95/46/EC
- 28 different legislations on data protection, all based on the Directive
- Key definitions

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Part 1 – Overview of Global Data Privacy Landscape - Current

- Personal data (aka in the US as 'personally identifiable information')

"means data which relate to a living individual who can be identified from those data, or from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller"




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**Part 1 – Overview of Global Data Privacy Landscape
- Current**

- Data subject

“means an individual who is the subject of personal data”.




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**Part 1 – Overview of Global Data Privacy Landscape
- Current**

- Sensitive personal data
 - Racial or ethnic origin
 - Political opinions
 - Religious beliefs
 - Trade Union Membership
 - Physical or mental health condition
 - Sexual life
 - **Criminal offences** (sometimes)

Note: does **not** usually include financial data




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**Part 1 – Overview of Global Data Privacy Landscape
- Current**

- Processing

“recording or holding the information or data or carrying out any operation or set of operations on the information or data”

Includes storing, viewing and hosting data



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**Part 1 – Overview of Global Data Privacy Landscape
- Current**

- Data controller

“means....a person who (either along or jointly in common with other persons) determines the purposes for which and the manner in which any personal data are, or are to be, processed”



**Part 1 – Overview of Global Data Privacy Landscape
- Current**

- Data processor

“means any person who (other than an employee of the data controller) who processes the data on behalf of the data controller”



**Part 1 – Overview of Global Data Privacy Landscape
- Current**

- International data transfers
- Model Contract Clauses
- Safe Harbor Certification



**Part 1 – Overview of Global Data Privacy Landscape
– The Principles**

- Personal data must be processed **fairly** and **lawfully**
- Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.
- Personal data shall be adequate, relevant and not excessive
- Personal data shall be accurate and, where necessary, kept up to date
- Personal data shall not be kept for longer than is necessary



**Part 1 – Overview of Global Data Privacy Landscape
– The Principles**

- Personal data shall be processed in accordance with the rights of data subjects (e.g. subject access rights)
- Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
- Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data



BUT IT DOESN'T END WITH EUROPE...

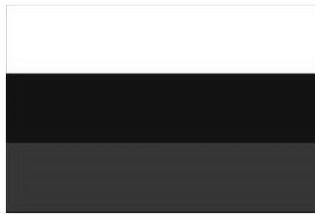


ARGENTINA



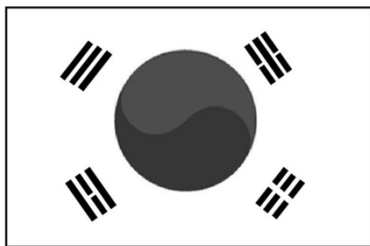
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RUSSIA



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SOUTH KOREA



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...AND THAT'S JUST TO NAME A FEW!!



Malaysia



Singapore



Taiwan



Part 1 – Overview of Global Data Privacy Landscape – the USA

- US CAN SPAM ACT
- The Health Insurance Portability and Accountability Act
- Children's Online Privacy Protection Act
- The Gramm–Leach–Bliley Act

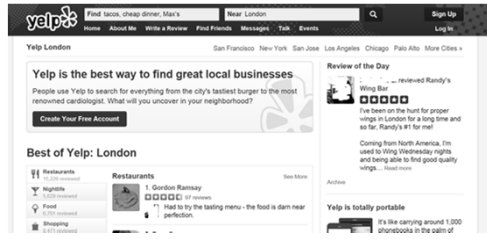


Part 1 – Overview of Global Data Privacy Landscape – the USA

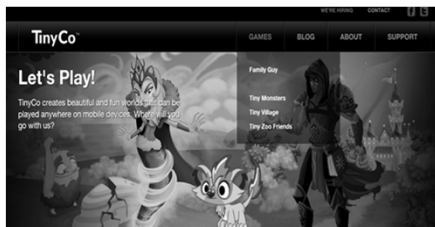
- Federal Trade Commission
- Powers
 - Investigative Authority
 - Enforcement Authority – notably \$16,000 fines *per violation*
- Recent enforcement action...



Part 1 – Overview of Global Data Privacy Landscape – the USA

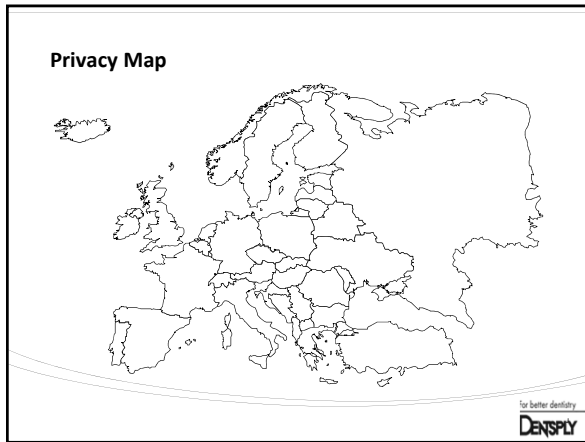


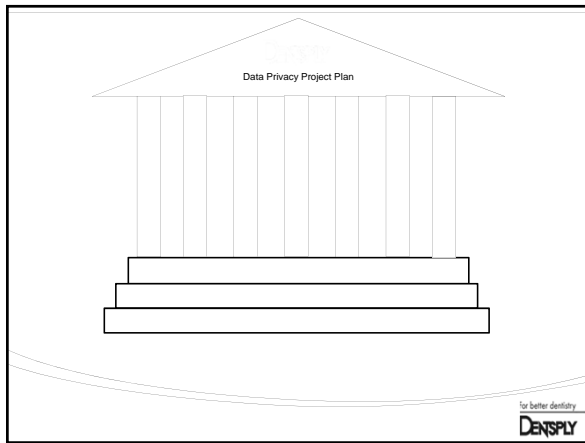
Part 1 – Overview of Global Data Privacy Landscape – the USA

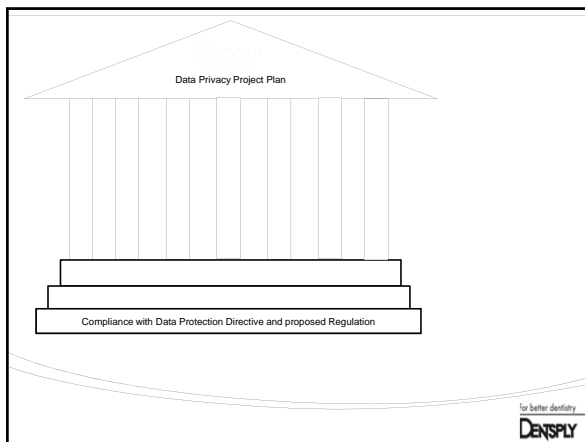


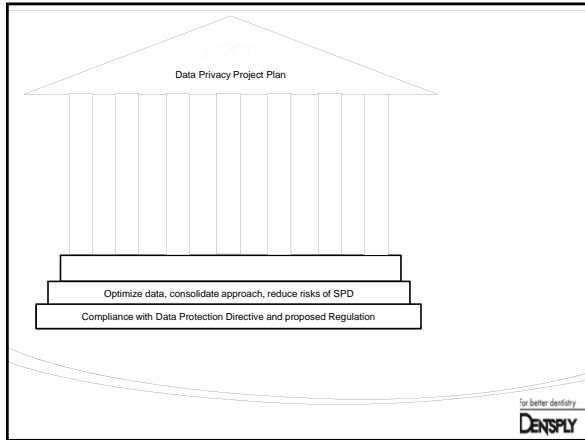
Part 2 – Case Study

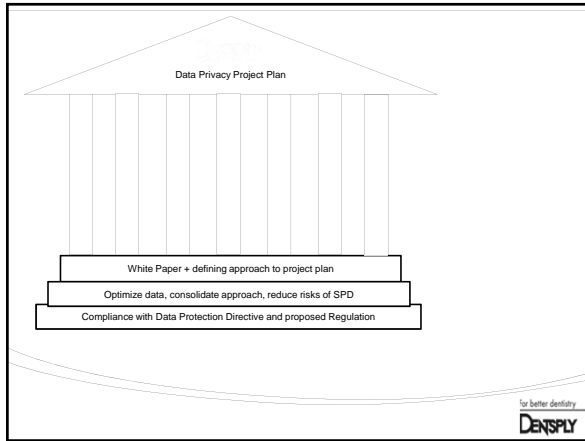


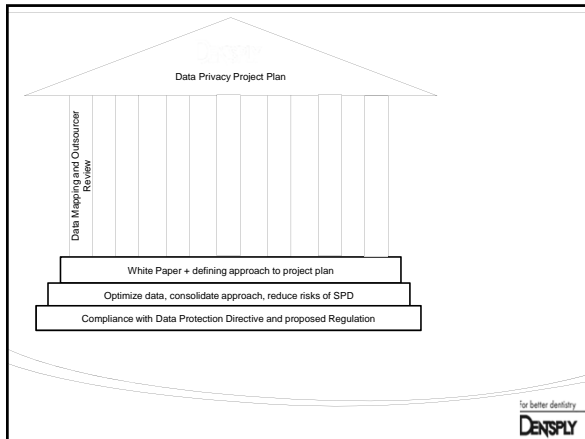


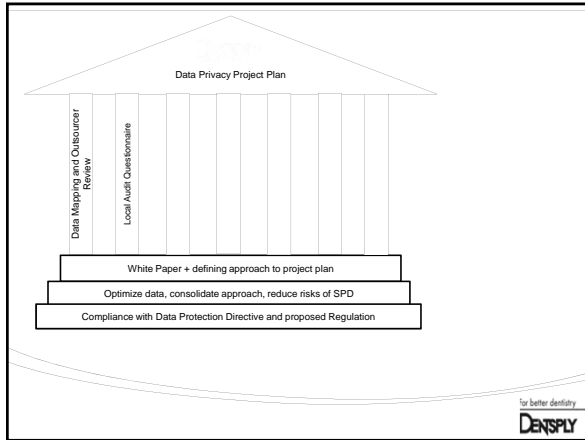


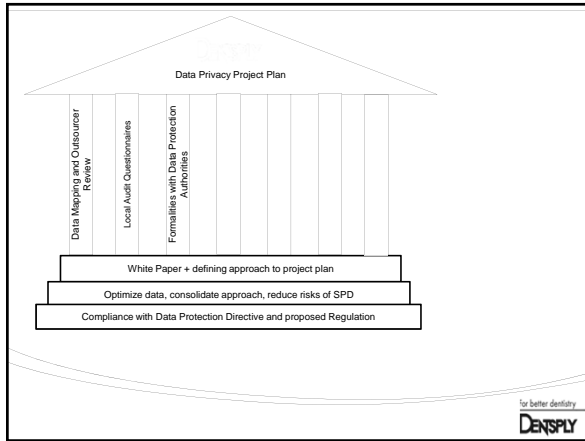


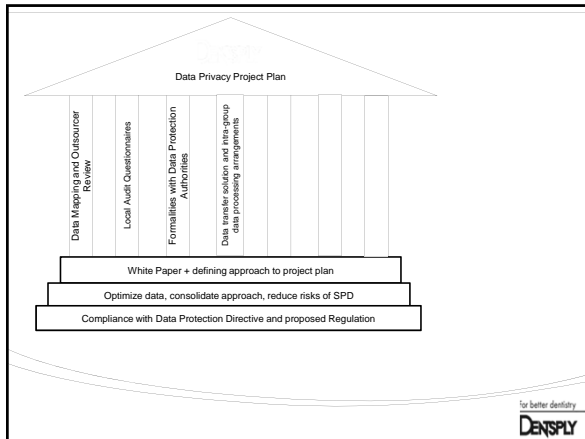


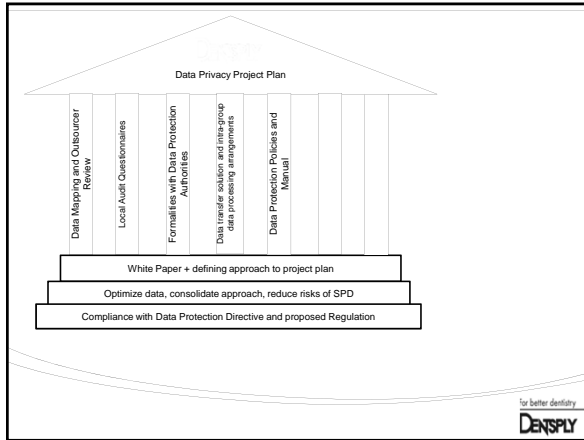


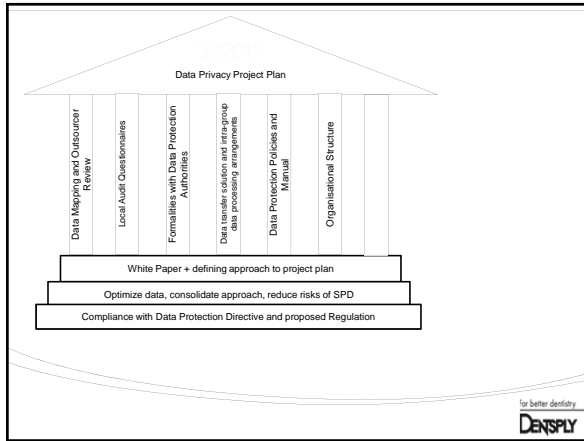


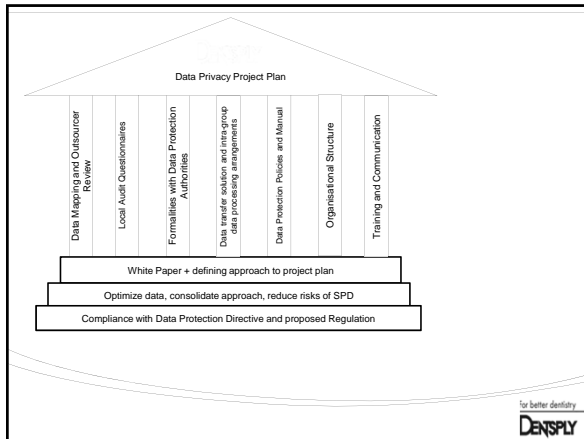


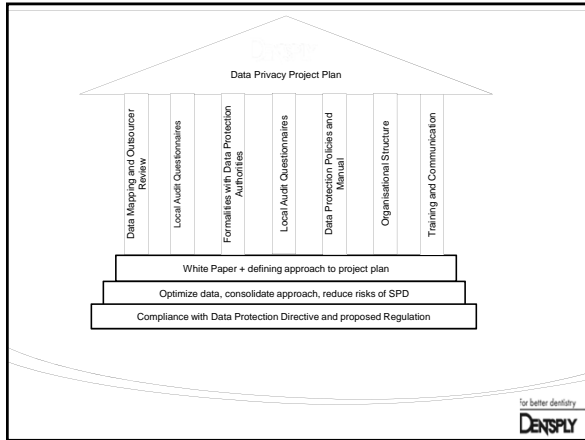














Part 2 – Case Study

- Challenges and benefits



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Part 3 – How to ensure that your data privacy program stands the test of time



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