

## The FTC's New Stance on Privacy for Data Collected Off-line

### New Scrutiny of Off-line Data Collection

The FTC recently announced a change in how it will review privacy policies posted on the Internet. Until now, it has generally been understood that on-line privacy policies covered only the handling of data gathered on-line. However, the Federal Trade Commission's ("FTC") Director of Consumer Protection recently stated that the agency will take action against any company whose handling of data collected off-line does not conform to the provisions of the company's on-line privacy policy, unless the policy clearly states that it applies only to the on-line collection of data.

### Violations of §5 the FTC Act

Because of the FTC's new position with respect to the collection of data off-line, a company's representations in its on-line privacy policy may apply to all information collected by the company, regardless of whether such collection is on-line or

off-line. Accordingly, a company using data collected off-line in a manner not conforming to its on-line privacy policy may ultimately find itself in violation of § 5 of the Federal Trade Commission Act, which prohibits unfair and deceptive trade practices.

### Evaluating Your Company's Use of Data Collected Off-line

Companies should therefore evaluate the impact that their on-line privacy policies could have on data collected off-line. If there is a disparity between a company's on-line privacy policy and its off-line data collection practices, the company should consider addressing such disparities. In certain circumstances, the company may simply state in its on-line privacy policy that such policy applies only to data collected on-line. In other situations, the company may wish to revise its privacy policy to cover its practices with respect to data collected off-line.

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