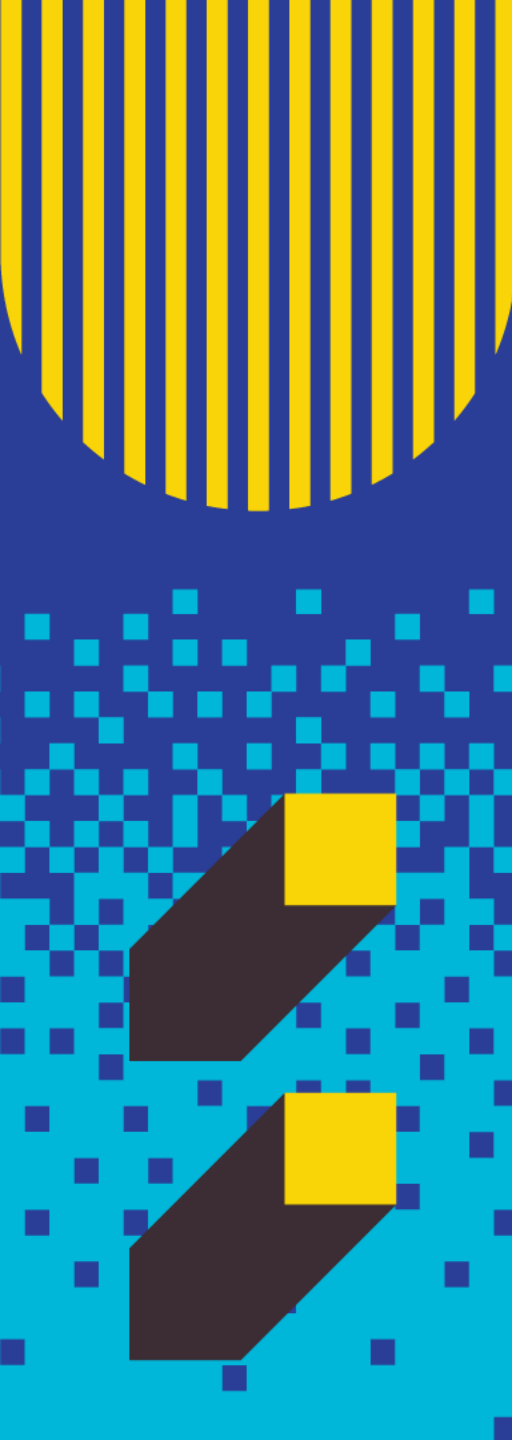




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Avoiding Tracking Risk: Data Practices That Create Exposure

Presented by: Lara Kehoe Hoffman, Melinda McLellan, and Matt Van Hise

Friday October 9, 2026



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WELCOME AND INTRODUCTIONS



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AGENDA

- Intro and Overview of Tracking Technology Risks
- State Privacy Law Landscape
- What is GPC?
- Regulatory Attention
- Managing Online Tracking Tech
 - Cookie banners, management tools, and GPC
- Focusing on Data Minimization
- Best Practices for Reducing Risk
- AI Considerations
- Questions?



Tracking Tech: Key Risks

- Focus on online tracking technology
 - But also consider geolocation tracking, facial recognition tech, license plate readers...
- Regulatory enforcement
- Class action litigation
- Balancing business needs and compliance requirements

State Privacy Laws

- **California** (California Consumer Privacy Act / CCPA)
- **Colorado** (Colorado Privacy Act)
- **Connecticut** (Connecticut Data Privacy Act)
- **Delaware** (Delaware Personal Data Privacy Act)
- **Florida*** (Florida Digital Bill of Rights)
- **Indiana** (Indiana Consumer Data Protection Act)
- **Iowa** (Iowa Consumer Data Protection Act)
- **Kentucky** (Kentucky Consumer Data Protection Act)
- **Maryland** (Maryland Online Data Privacy Act)
- **Minnesota** (Minnesota Consumer Data Privacy Act)
- **Montana** (Montana Consumer Data Protection Act)
- **Nebraska*** (Nebraska Data Privacy Act)
- **New Hampshire** (New Hampshire Consumer Data Protection Act)
- **New Jersey** (New Jersey Consumer Data Privacy Act)
- **Oregon** (Oregon Consumer Privacy Act)
- **Rhode Island** (Rhode Island Data Transparency and Privacy Protection Act)
- **Tennessee** (Tennessee Information Protection Act)
- **Texas** (TX Data Privacy and Security Act)
- **Utah** (Utah Consumer Privacy Act)
- **Virginia** (Virginia Consumer Data Protection Act)
- **Washington** (Washington My Health My Data Act)
- * FL – Targeting large technology companies
- ** OK '27, AL '27, LA '27, VT '28
- * NB – Conditional approach to UoM

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What is GPC?

- Opt-out Preference Signals (OoPS)
 - Also called Universal Opt-out Mechanisms (UooM)
 - Global Privacy Control (GPC) is one type, currently the most widely adopted
 - Functions at the browser level
- Mandated by certain state privacy laws
- Interaction with cookie preference managers
- State regulators eyeing compliance

Regulatory Attention

- GPC Sweeps and Regulator Guidance
 - ❖ Focus
 - ❖ Core Goal
- What has coordination looked like among the regulators?



Banners, Managers, and GPC

- Cookie banners not required, but may reduce litigation risk
- Pros and cons of opt-in consent to cookies and trackers
- Avoiding “deception” claims
- Default interfaces often aligned with European requirements



Focus on Data Minimization

- Maryland's heightened standards
- Consent to share vs. collection practices
- Limiting collection to what is "strictly necessary"
- Prohibitions on selling sensitive PI
- Over-collection, undefined retention, and weak controls increase risks in the event of a breach



Best Practices for Reducing Risk

- KYC = know your cookies! (and trackers)
- Tracking tech governance
 - Eliminate unnecessary trackers or trackers that don't add value
 - Establish a review and approval process for adding new trackers
- Audit cookie managers and GPC functionality regularly
- Review and refine representations in your privacy policy
- Customize consent manager language to reflect legal requirements and actual effects
- Establish data classification protocols and enforce retention requirements

AI Considerations

- Inherent tension between data minimization principles and AI data demands
- Using AI tools and solutions to help minimize data
 - Can identify redundancies, manage opt-outs, process consumer requests
- Applying existing laws to AI use cases
 - Need for AI-specific laws to address potential risks?
 - Basic privacy principles and data hygiene best practices should apply regardless

Questions?



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