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Data Privacy Update

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Various significant developments in data privacy have unfolded at both the state and federal levels. On July 26, 2023, the United States Securities and Exchange Commission (SEC) implemented new disclosure rules mandating public companies provide specific details in the event of cybersecurity incidents (U.S. Securities and Exchange Commission, 2023). These rules, tailored to benefit investors, aim to enhance transparency by standardizing and facilitating more consistent and comparable disclosures.

At the state level, numerous states are scheduled to implement new privacy regulations in 2024. For example, Oregon's data privacy law, the Oregon Consumer Data Privacy Act 2023, is set to take effect on July 1 this year. This legislation mandates large businesses (those holding personal data of over 100,000 citizens) to uphold specific data safeguards to prevent abuse by third parties. Included in these provisions is also a right of access, allowing Oregonians to inquire about their information when held by a data processor.

On the global stage, on October 12, 2023, the United States enacted a Data Bridge with the United Kingdom, establishing a legal framework to ease trans-Atlantic data transfers between the two nations. This new framework removes the need for additional certification or safeguards when business or organizations seek to move personal data to the UK or US. The arrangement removes the need for U.S. business to complete complex risk analyses to comply with U.S. surveillance laws when exporting data overseas (Jones, 2023).

In the European Union, which pioneered its world-leading General Data Protection Regulation (GDPR) in 2016, efforts have continued to regulate tech giants. In September 2023, the European Commission named the first six firms who will be subject to its Digital Markets Act. The firms are Alphabet, Amazon, Apple, ByteDance — the company which owns TikTok — Meta, and Microsoft. This regulation, which first came into effect in May last year, seeks to enhance competition among large multinational digital gatekeepers to improve fairness in the digital sector (European Commission, 2024). For instance, the Act empowers phone users to delete proprietary apps on their devices (such as Apple's Maps app) and requires software manufacturers to deregulate proprietary software, such as Alphabet's Google Pay software on Android phones. The six firms will have six months to comply with the new regulation or can face fines up to 10% of their annual global turnover.

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