

LEGAL AND PRIVACY

Businesses express optimism over privacy laws, but are they prepared?

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With more mobile technology comes more protections for consumers and legal challenges for businesses. Image credit: Facebook

By NORA HOWE

Brands and retailers continue facing challenges with new consumer privacy legislation that will inevitably impact operations, but the majority feel prepared to meet upcoming requirements.

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According to a new survey from law firm **Womble Bond Dickinson**, 68 percent of retail executives feel optimistic about meeting guidelines in new privacy legislation in several U.S. states, with 96 percent reallocating budgets to match standards. Retailers, specifically, have voiced concerns regarding restrictions on geolocation data for mobile tracking, yet progress is being made to assess and manage risks.

"Preparing for these new laws understanding the necessary policies, procedures, compliance and governance practices is really a risk management and legal issue," said Ted Claypoole, partner at Womble Bond Dickinson, in a statement. "Ideally, organizations would have a cross-functional task force that includes tech and compliance professionals, with a primary lead to ensure things get done."

From April 20, 2022 to May 6, 2022, 182 decision-makers completed the survey through an online tool. Respondents include decision-makers across a range of departments, including general management, information systems and technology, privacy and security, legal, marketing and finance.

Respondents are with organizations based across the United States, including California, New York and Texas. Nearly half of those surveyed have annual revenues above \$250 million, with 24 percent reporting a 2021 revenue above \$1 billion.

Case for privacy

In September 2017, credit-reporting company Equifax announced a data breach that exposed the personal information of nearly 150 million U.S. consumers.

Quickly after, states amended data breach laws and introduced new ones around data security and consumer privacy. The following year, California passed the Consumer Privacy Act (CCPA).



The CCPA was passed in June 2018, setting a new precedent for strict protections. Image credit: Getty

Now, Colorado, Virginia, Utah and Connecticut are following suit having passed data privacy laws or amendments that will take effect in 2023, with several other states considering similar legislation.

Though 59 percent of executives say their companies are "very prepared" to meet the guidelines set forth by new privacy legislation, less than half have completed the necessary steps for compliance, such as conducting data mapping, performing data assessments and establishing metrics and deadlines to track compliance.

"Companies often feel they are ready for compliance, but that optimism starts to fade when it comes to applying the often unsettled regulations and granular tactics they need to effectively prepare," said Tara Cho, chair of Womble Bond Dickinson's privacy and cybersecurity team, in a statement.

"The new requirements affect so many aspects of how companies do business that it can be challenging, particularly at the executive level, to make sure all the bases are covered."



Retailers including Neiman Marcus have faced data breaches in the past. Image credit: Neiman Marcus

According to Womble Bond Dickinson, a major part of this discrepancy is operational.

Those who do not feel their organizations are prepared have cited a lack of available staff to address compliance and challenges around tracking the status of legislation and differences between state laws as major roadblocks.

Companies are also growing wary of two major emerging risk areas: geolocation and biometrics data collection.

While the ubiquitous nature of smartphones and wearable technology, such as smartwatches and smart rings ([see story](#)), presents major opportunities for businesses to reach consumers, it also comes with significant risks.

More than 70 percent of executives are very concerned about state privacy laws that include specific restrictions on collecting and using precise consumer geolocation data for mobile tracking purposes the primary concerns being securing consent from consumers to gather and apply this data and defining the specific business purpose for such data applications.



Gucci partnered with health platform ura on tech-enabled ring. Image courtesy of Gucci

While 59 percent of survey respondents are already using biometric data, less than 60 percent of those respondents have assessed their risks or developed risk management strategies and compliance plans. That number decreases in regards to conducting internal training sessions or drafting notice templates.

Of those businesses who fear enforcement actions related to geolocation data, 75 percent of retail executives say it is due to their industry being a likely target.

Role of social media

While ecommerce and social shopping are accelerating, brands and retailers must stay aware of consumer skepticism about the privacy and security of social media apps and omnichannel payments.

In its "Omnichannel Payments Consumer Trust" survey, data security and compliance solutions provider Semafone highlighted generational divides and consumer concerns for personal privacy and security when providing payment details across channels including social media, text/SMS, chat and phone calls.

As distrust grows among consumers, brands must address payment security and increase awareness of the measures they take to keep personally identifiable information secure ([see story](#)).

Video-sharing platform TikTok seems to be consistently under fire for privacy concerns, which could be detrimental to brands that rely on its algorithms and users for exposure.

In late June, U.S. Federal Communications Commission (FCC) Commissioner Brendan Carr called on tech giants Apple and Google to remove TikTok from their app stores. In a letter, Mr. Carr accused TikTok of harvesting sensitive data that is being accessed in China ([see story](#)).