
From: William Gamble
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To: privacyframework
Subject: Privacy Compliance Framework

I am one of the few lawyers with advance cyber security certifications. I teach the GDPR and cyber security frameworks like ISO 27001. I also have studied and combined information on cyber security and privacy frameworks around the world.

What NIST must understand is that the GDPR and CCPA are not about either cyber security or privacy. The GDPR is a PROPERTY law. It defines our property rights in our data. This is not a new concept. It goes back to an article in the Harvard Law Review over 100 years ago by then Professor Louis Brandeis. <http://links.jstor.org/sici?sici=0017-811X%2818901215%294%3A5%3C193%3ATRTP%3E2.0.CO%3B2-C>

What is necessary is the ability of the consumer to protect their property rights in their data like the ability to protect any other property right. If you trespass on my property or damage my car I have the right to get compensation in a court of law. This is fundamental to any property right.

To defend any property rights in data I need to have access to courts, I need a private right of action. Neither the federal government nor states attorney generals enjoy a stellar reputation for protecting any rights. They are cumbersome, complicated and ineffective. Without court protection any property right, including rights in my information is useless.

In regard to a property framework NIST, and for that matter the US, is far behind the times in terms of setting international standards. Whether American businesses or legislators like it or not, the global standard has become the rights enshrined in the GDPR, a law that has been successful for over 20 years. Developing anything less restricts our competitiveness by encouraging US businesses to ignore the property rights of non US customers.

Thanks to the help of hackers and Facebook, customers and partners are becoming far more aware of cyber security and privacy property rights. If they can't find firms in the US who can protect both, they will simply go elsewhere.