PRIVACY PROTECTION: WHEN IS "ADEQUATE" ACTUALLY ADEQUATE?

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INTRODUCTION

Notice has been referred to as an essential element of privacy when dealing with the sharing and dissemination of personal information, but because websites are not always required to provide individuals with notice of their privacy policies, notice is oftentimes overlooked or disregarded. The European Union and United States approach data privacy and the protection of personal information very differently, which creates tension when considering the adequacy of privacy protection for information transferred between the two regions.

The European Union values privacy as a fundamental right, and the protection of private personal information, which includes Internet Protocol (IP) and cookie information insofar as it can be linked with a natural person, is paramount. Accordingly, the European Union utilizes a rigorous and comprehensive approach toward privacy protection where data collection entities are required to carefully safeguard individuals' personal information.[1] Consequently, while there is no selective enforcement of standard privacy policies and practices in the European Union, this blanket approach may lack the flexibility to adapt privacy standards to particular industries.

The United States generally follows a market-dominated approach that provides limited statutory rights regarding information privacy.[2] Instead, self-regulation of industries prevails as a common method of data privacy protection, and the few privacy laws that do exist do not cover many companies that interact with consumers via

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1. *See* Joel R. Reidenberg, *Resolving Conflicting International Privacy Rules in Cyberspace*, 52 STAN. L. REV. 1315, 1318 (2000).

2. *Id.*