

Data Protection – *commercial friend or foe*

Just a week before the publication of the Walport Report on data sharing, Mike Bradford, Director of Regulatory and Consumer Affairs at Experian, addressed an audience of approaching 200 at the Westminster eForum in London on 3rd July. The seminar was supported by the Information Commissioner's Office.

Bradford's keynote session, chaired by Lord Erroll, laid down the challenge that commercial success is predicated on consumer confidence, especially for organisations who are entrusted with an individual's personal information.

He set the scene by reminding the audience of what the then Information Commissioner, Elizabeth France, said in her 2001 annual report:

'There should be nothing in the Data Protection Act which prevents the achievement of a legitimate business objective. What it does is ensure that the objective is met in a way which respects the rights of the individual whose data are being processed'.

Drawing on his experiences of 'policing' what is one of the biggest global data controllers with 36 offices worldwide and 15,500 people and information on over 460m consumers, 35m businesses and 600m motor vehicles, Bradford highlighted the growing complexity of the regulatory challenge and the diversity of stakeholders – consumers, shareholders, analysts, regulators, government, media, to name just six.

But he argued that while there are inevitable legal, reputational and commercial repercussions in any breach – real or perceived – there are huge market and consumer advantages in getting things right – and being seen to do this by our stakeholders. Indeed there is a direct correlation between organisations demonstrating strong ethical behaviours deriving competitive advantage.

The recent spate of data breaches has further raised the stakes for both private and public sector players. It is irrelevant whether there is a data breach or data loss per se – the fact that the public perception is that insufficient care has been taken of their personal information is what damages trust. This is a particular challenge for the public sector where accountability cannot be judged in terms of commercial impact.

Bradford stressed the need – and corporate responsibility – to build a rapport with consumers directly.

While one of Experian's core business is running credit bureaus, for example in the UK where its highly regulated databases hold 1,051m data items, it has worked closely with consumers and consumer lobbies such as Citizens' Advice, Which? and the NCC to promote consumer awareness through Experian's own consumer education programme now running for over 15 years.

In 2007 over 5 million credit reports were produced for 1.6m consumers and the no-charge victims of fraud service has dealt with over 12,000 cases since 2003. Through Citizens' Advice, credit reports can be provided at no charge for those in real financial difficulty.

Experian's dedicated consumer help teams work with consumers to explain how credit operates and this is now taken a step further with Experian's Pfeg accredited interactive learning game 'Creditability', aimed at giving secondary pupils an introduction to the world of credit and finance.

And CreditExpert provides a membership service enabling many thousands of consumers to actively manage all aspects of their credit.

But all this is well and good. The fact is that consumer confidence *has* been severely dented by recent data losses.

Quite rightly the Information Commissioner is looking to strengthen his powers, although Bradford stressed the need to be careful around mandatory data breach reporting without clear guidelines and expectations of what this will deliver. There is a responsibility to educate and enforce, but equally not to 'scaremonger' or sensationalise incidents as this may have an even more detrimental effect on consumers.

Indeed, consumer confidence is key not just to their feelings about dealing with a particular organisation or public sector department, but goes right to the heart of macro-economic well-being.

For example, with the UK credit market accounting for over 30% of EU credit and being so critical to 'UK plc', loss of consumer confidence in this sector around privacy and data protection – or with those serving this sector like credit bureaus – could have far-reaching macro-economic impacts.

Of the 94 data breaches reported to the ICO in the 6 months to April this year, the public sector accounted for 66% and the private sector 30%. This gives us all food for thought – but regulators need to work with those organisations affected as there is a joint responsibility to address this for the benefit of the consumer if trust is not to be eroded irreparably.

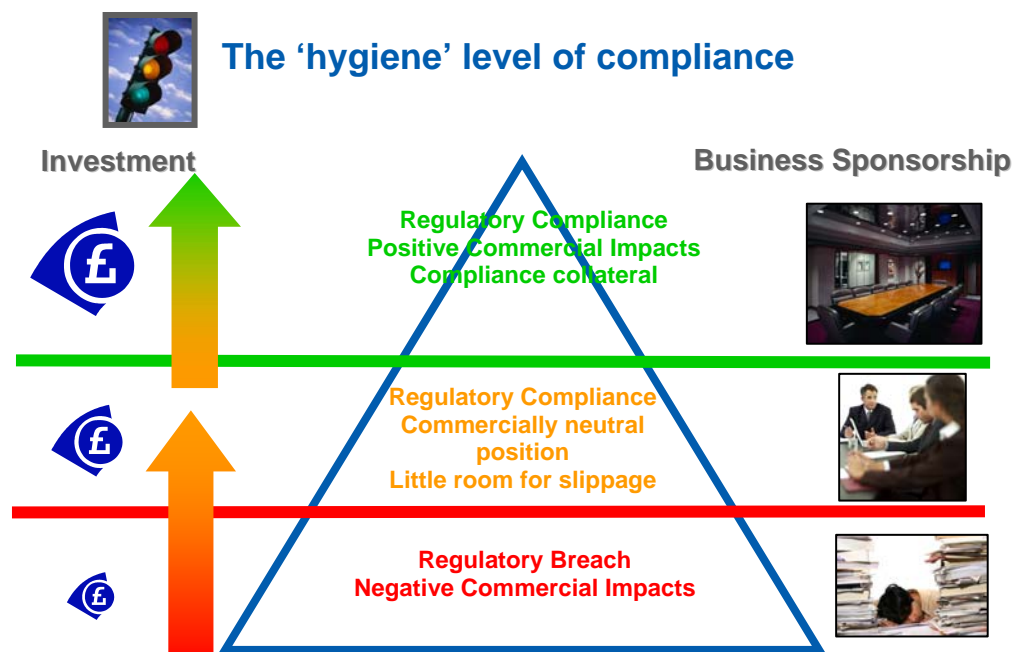
Bradford’s advice was that all organisations should have a full data-breach incident management process with clear accountabilities and communication lines. And it should be tested.

As a firm advocate of bringing regulators into the loop at an early stage, he stressed that building reputational collateral over time, while not lessening the severity of a breach, may at least give the organisation a reasonable starting point in the eyes of the stakeholders highlighted earlier.

But it was up to every organisation where to pitch its investment in this area.

Bradford argues that there is a direct correlation between spend and organisational positioning of the ‘compliance’ function, and its ability to actually trade positively on this as well as the being able to manage the impacts of any breach with its stakeholders.

His ‘hygiene’ level of compliance demonstrates this model in practice and the linkage between impacts of potential breach and commercial upsides, or in the case of a public sector application, the levels of trust around, for example, new initiatives such as ID cards.



There is no benefit in privacy for privacy's sake. Bradford's own definition of privacy for him is quite straightforward:

"Good privacy provides a framework of protection to give me the confidence to make informed decisions and lifestyle choices as to how I use and to whom I disclose my information for my benefit as a consumer; and ensures transparency over the legitimate uses and disclosures of my personal information in respect of my rights, obligations and protection as a citizen."

Bradford closed by stressing that good privacy – and achieving commercial success through consumer confidence should aim at a sensible balance. He believes that the UK regulatory environment is conducive to this with a pragmatic balance between public interest and consumer empowerment and education. In other EU markets we see highly paternalistic regimes where the overriding philosophy being privacy for privacy's sake – and this works against the consumer's interests.

Good privacy should – and can – protect and enable the consumer and citizen; encourage micro and macro economic growth and prosperity; protect and improve the trading position of UK plc in the face of global, European and emerging market competition; broaden the effective and trusted application of data, particularly in central and local government and across the public sector at large. A win:win.

In response to the **Walport report**, Bradford says any responsible custodian of data should welcome the increased focus on accountability.

But he also argues that so long as there is total clarity of purpose and freedom choice around how personal information is used, whether in the public or private sector, and the consumer is totally aware of the consequences of their decision, the consumer should be empowered to make that decision for themselves.

For example, the recommendation of the withdrawal from sale of the edited electoral roll is receiving headline press.

Most of this is aimed at the direct marketing industry, but the edited electoral register is also used to protect consumers from fraud, in particular when transacting on-line, and helping lenders in the customer management process.

In terms of marketing, the UK already has one of the most responsible and targeted direct mail industries in Europe and the

Direct Marketing Association and increasingly powerful Direct Marketing Commission are very proactive in this area.

When the concept of the edited electoral register came about in 2002 it was a reaction to the fact that the full electoral register should not be used for commercial purposes as - quite rightly - it serves a completely different and statutory purpose.

As result the full electoral register is tightly controlled and the edited register – which clearly indicates that it may be used, for example for direct marketing and there is clarity around this at the point the individual makes this choice – is available to organisations for 'commercial' purposes.

But the argument that 'commercial' purposes by definition must almost be detrimental to the consumer and a breach of privacy misses the point that – and again subject to transparency and freedom of choice – the consumer may actually benefit from the uses of their personal information.

Rather than mail being addressed to 'the occupier', the UK direct marketing industry is sophisticated in its use of information and commercial reality dictates that the more targeted an offer, the more the consumer is likely to take this up. This applies across the board and in particular in retail and financial services. Charities also use this information – again with transparency at the point of collection.

At a time when we are conscious of environmental issues, targeted direct mail actually works to support this agenda. The rather emotive phrase 'junk mail' is still a challenge and as an industry we must always be looking to reduce this, but not run the risk of doing the opposite.

Perhaps ironically, the edited electoral register is actually used to take names off marketing lists where it is clear the individual has moved from the address since the list was created. In other words it helps responsible marketers keep their data accurate an up-to-date and avoids people getting mail for a previous occupier.

And finally the transparent use of the edited electoral register can actually work to reduce costs for the consumer.

Companies quite rightly look to optimise the costs of acquiring a new customer and the more targeted they can be in building a prospect list, the more the reduced costs of customer acquisition

can be reflected in the price paid by the consumer for the good or services offered. Not unsurprisingly direct marketers have long moved on from the days of the more mail sent, the greater their success rate. Now less is more – but there needs to be a base dataset on which to begin this targeting process.

So while the withdrawal from sale of the edited elector register may at first impression be a potentially strong privacy card, it has unforeseen consequences that will actually adversely impact the people it is trying to benefit – you and me.