



The Economics of Privacy: Major Economic Policy Issues

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Agenda

- Policymaking Context
- Economics and Consent
- Economics and Institutions
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Modern FTC Experience

- Greater Systematic Use of All FTC Policy Tools to Inform Use of Authority
- Building Institutional Capacity
 - E.g., Cases, Research, Consultations
- More Investment to Link the Public Policy Archipelago: Home and Abroad
- Fuller Recognition of Competition and Consumer Complementarities



Institutional Context

- International Diversity (Rivalry) in Norms
 - European Union and Member States
 - Continuing wariness about US system
 - APEC
- US Domestic Policy Archipelago
 - Federal multiplicity: e.g., Commerce and FTC
 - States



US and Foreign Privacy Policy: Absorption of Economics Today

- Keen Interest in Behavioral Economics
 - Literature on limitations of choice models
- Doubts about Value of Competition and Intermediation
- General Recognition of Potential Hazards of Faulty Intervention (“Paternalism”)
 - Amazon, Apple, Facebook, Google
- Limited Integration within Agencies
 - Example: FTC Privacy Reports



Policy Change Models

- Incremental Elaboration
 - Privacy and the Exxon Valdez scenario
- Exogenous Shock Followed by Major Legislative Reforms



Economics of Consent

- Disclosure and Choice Models
 - Meaningful disclosure
 - Consumer cognition
- Choice of Default Rules
- Adjustable vs. Immutable Defaults
 - Consumer preferences
 - Consumer learning
 - Intermediaries



Economics and Institutions

- **FTC Policy Integration: Theory vs. Practice**
 - Competition, consumer protection, privacy
- **Statutory and Regulatory Framework**
 - Section 5 as “overarching” privacy law?
 - Rationalize/unify mosaic of commands?
 - Flexibility and adaptation: state/federal?
 - Remedies
- **Exemptions: Common Carriers and Not-for-Profit Institutions**
- **Cooperation Across Agencies and Jurisdictions**



Choice of Policy Instruments

- Litigation
- Rules
- Legislation
- Studies
- Consumer and Business Education



Concluding Thoughts

- Institutional Design Shapes Substantive Outcomes
- FTC Capacity to Execute Own Duties and Contribute to Policy Discussions
- Importance of Long-Term Capital Investments
 - Co-producers and the research agenda