



***Legal Issues when data
Is lost, stolen or leaked***

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Who We Are

Boutique firm - 10 lawyers

Specialist practice -IT, telecoms

International experience

7 books published

Worldwide network through alliance

Ranked as leading firm in international surveys

- Asia-Pacific Legal 500
- Asialaw Profiles
- Chambers



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Overview

- Nature of Data Today
- Liabilities
 - Civil liability
 - Criminal liability
 - Regulatory liability
- Case Studies
- Future Trends and Strategy

Nature of Data Today

Electronic

Pervasive in content, form and transmission

Can be Manipulated

Loss, theft or leak

Deliberate, accidental, criminal, disaster

Response to data theft, loss or leak

Liabilities

Civil liability

Criminal liability

Regulatory liability

Civil Liability

Contract

- Strict obligation
- Implied duties
- Force Majeure

Tort

- Negligence - Standard of care
- Act or omission
- Vicarious liability
- Breach of Statutory Duty

Criminal Liability

Banking Act - 3 years jail and/or \$200,000 fine

Data protection legislation

Computer Misuse Act - 20 years jail and/or \$100,000 fine

Regulatory Liability

Monetary Authority of Singapore - Internet Banking and Technology Risk Management Guidelines

Telecom Competition Code

ID Management legislation

Case Studies

UNAT DIRECT Insurance Management Limited (UNAT)

Insurer UNAT fined for call centre failings, 22 May 2008 -

UNAT contracted 9 call centres to sell its products before assessing if they were suitable to sell financial products.

“The Financial Services Authority (FSA) has fined UNAT £640,000 for failings relating to a lack of effective control and oversight over its appointment of call centres.”

Case Studies

Citibank

Seven ex-Citibankers charged with stealing client information before leaving to join rival UBS, 24 Jan 2008. Citibank took out civil proceedings against several of the seven charged. The accused were said to have compensated the bank.

They were charged under the Computer Misuse Act.

Case Studies

D.A. Davidson & CO. (DDA)

Financial company in Montana Fined for Breach, 16 April 2010

DDA was fined \$375,000 by the Financial Industry Regulatory Authority (FINRA) for failure to protect confidential customer information despite a recommendation from experts to install an intrusion detection system. An international crime group hacked into the company's server and accessed the customer information of 192,000 customers and demanded payment. The fine took into account DDA's quick response.

Case Studies

HSBC

HSBC fined £3.2m for losing customer data, 22 Jul 2009 -

“large amounts of confidential unencrypted customer details had been sent via the post or courier to third parties, or had been left on open shelves or in unlocked cabinets.”

sending confidential data of 180,000 insurance policy holders through the post by unrecorded delivery and leaving customer data in open sacks in a reception area.

Lost disc in Switzerland stolen by employee in 2010

Case Studies

Nationwide Building Society

FSA slaps Nationwide with £980,000 fine, 15 Feb 2007 -

Theft of a laptop containing details of nearly 11 million customers

Insufficient procedures to protect confidential information

Nationwide did not start its own investigation until three weeks after the event due to tip-off.

Future Trends and Strategy

Data protection legislation

Privacy legislation

ID management legislation

Prevention-based approach

Comprehensive

Management-driven

Emergency response



Thank you
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