

## Legal Regulation & Education: Doing the Right Thing?

Roksana Moore

University of Southampton

[Roksana.moore@gmail.com](mailto:Roksana.moore@gmail.com)

Sophie Stalla-Bourdillon

University of Southampton

[S.Stalla-Bourdillon@soton.ac.uk](mailto:S.Stalla-Bourdillon@soton.ac.uk)

### Breach Notification Law - Security vs. Trust: Can we have both or does one eliminate the other?

This paper explores the interrelationship between information security law and trust, specifically in the context of breach notification and the European single digital market. Privacy is the main driver of many new information security laws such as breach notification. With the belief that increasing transparency over the loss of personal information will develop trust. It is argued herein that this premise is misguided, that trust is a much deeper sentiment, and that trust in the privacy of information can be neither built nor upheld through transparency alone.

Breach notification laws use transparency to inform individuals and regulators when privacy has been compromised, the principle objective being damage mitigation. They are built on the belief that to do so will benefit individuals and indirectly force data controllers to take better care of information. This presumption on the part of policy makers is a key-driving factor behind breach notification, and yet one that is largely unsubstantiated. Whilst the need for trust is generally accepted as a prerequisite to increasing the frequency of online/offline transactions, legal literature is divided on the role of the law as a driver. As such the ability of the law to create trust is an important factor behind ambitions for creating a single European digital market.

To better understand whether breach notification law can facilitate trust and trustworthiness, this paper additionally looks towards the US and the state specific breach notification laws that have been enacted. The objective being to understand the impact that US breach notification has had on cultivating trust. Comparable European legislation is thereafter analysed in order to better hypothesise on its likely effectiveness. Finally empirical analysis is drawn upon to grasp public opinion on this matter and to challenge the presumptions of policy makers.