APrIGF Seoul 2013

**Workshop Summary Reports**

**Date: September 4, 2013**

**Time: 1630-1800**

**Track: Openness**

**Workshop Title: Privacy in Asia: Beyond the APEC CBPR**

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**Moderators: Jim Foster**

**Panelists: Taro Komukai, Executive Director, Infocom**

 **Hyun-Joon Kwon, Korea Internet Security Agency**

 **Nir Kshetri, Professor, University of North Carolina**

 **Carolyn Nguyen, Director, Technology Policy Group Microsoft**

**A brief summary of presentations (If any)**

Panelist presented on the following topics:

1. Recent Developments in Japanese Privacy Policy (Komukai)
2. Privacy Policy in Korea and APEC Cross-Border Privacy Rules (Kwon)
3. Developments on Privacy Policy in the US, EU and China (Kshetri)
4. Creating a Sustainable Global Data Ecosystem (Nguyen)

**A substantive summary and the main issues that were raised:**

Presentations offered a snapshot of varying approaches in the region and globally to the issue of privacy. At one pole is the top down approach favored by the EU, which is seeking to develop a comprehensive legal framework enforced by a privacy commission designed to protect the privacy rights of EU citizens both within Europe and globally.

On the other side is the US, which favor a more market-based approach based on industry-developed standards but with enforcement powers given to the Federal Trade Commission (FTC).

Within Asia, Korea may have the most comprehensive legal framework for privacy, but in the enforcement area it is closer to the US model of leaving enforcement to an independent agency (in Korea’s case, the Korea Communications Commission) that takes into account market factors as well as consumer rights in protecting privacy.

Japan is still struggling to develop a policy consensus on the approach it should take. Currently enforcement of privacy is left to the discretion of each ministry. Compliance is strong, but enforcement uneven. An advisory commission will report out a series of recommendations by the year end.

Finally, China is beginning to assemble a legal framework to regular privacy with respect to commercial transactions, but there are significant gaps and there are concerns about arbitrary and inconsistent enforcement. Nonetheless, China’s growing reach in the Asian Internet Economy makes developments here quite important.

At the regional level, APEC is making strides to implement a set of common rules for cross-border data transfers based on the APEC privacy principles – but the lack of common definitions and enforcement mechanisms leaves APEC nations at a disadvantage in trying to negotiate a “safe harbor” arrangement with EU regulators.

However, even as new regulatory frameworks are emerging, there are new questions as to how privacy should be defined and regulated especially with the advent of an era of Big Data and the Internet of Things. For example, one principle underlying current privacy regulatory approaches is “consent.” Yet how is “consent” to be obtained when disparate data most often gathered “passively” (think of roadside surveillance cameras) is then correlated to produce unexpected and novel connects that are of value to business and society?

**Conclusion & Further Comments:**

There has been a lot written and discussed about the challenges of privacy on the Internet. But a key conclusion from the panel is that we need more research and discussion – particularly in Asia where government are moving quite quickly in response to perceived consumer and business needs to develop new sets of regulation. There is a danger that we end up with a patchwork of regulation in the region that leaves consumers actually less secure and slows business innovation. These problems could be exacerbated by the new challenges from the advent of Big Data and the Internet of Things that are transforming the connection between the individual consumer and data.

We plan to further pursue this discussion in a panel that we are organizing for Bali that will take as its departure point the discussion and issues highlighted above.