Developments in Mobile Payments

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Agenda

- Marketplace Developments
- Policy Developments (Privacy, AML, Consumer Protection)
Marketplace Developments

• Google Wallet
• Isis
• MasterCard and Visa
• MCX
• PayPal Beacon
• Apple iBeacon
• Square
Policy Developments

- Mobile Payments: An Evolving Landscape, FDIC Supervisory Insights (Winter 2012)
- Privacy on the Go, Kamala Harris, California Attorney General (Jan. 2013)
- Mobile Privacy Disclosures, FTC Staff Report (Feb. 2013)
- Paper, Plastic... or Mobile? FTC Staff Report (March 2013)
- U.S. Mobile Payments Landscape – Two Years Later (May 2013)
- FCC Privacy Ruling (June 27, 2013)
- Mobile Wallet Payments, European Payments Council (June 2013)
- Prepaid Cards, Mobile Payments and Internet-Based Payment Services, FATF (June 2013)
- NTIA Voluntary Code of Conduct (July 25, 2013)
- The Future is Calling, CALPIRG Education Fund (Summer 2013)
Policy Developments - Privacy

• California AG:
  - Transparency
  - Limits on collection and retention
  - Meaningful consumer choice
  - Security
  - Accountability

• FTC Staff Report: Relies on basic principles from its earlier Privacy Report
  - Privacy by Design
  - Simplified Consumer Choice
  - Greater Transparency
Policy Developments - Privacy

• FTC Staff Report: Platforms and operating system providers
  – Just-in-time disclosures and affirmative consent for access to sensitive data such as geolocation
  – Consider similar approach to information like contacts, photos, calendar entries or recorded audio or video
  – Privacy “dashboard”
  – Icons to signal transmission of data
  – Promote best practices by app developers
  – Disclosure of practices in reviewing apps
  – Offer “do not track”
Policy Developments - Privacy

- California AG
  - Minimize surprise
  - Integrate privacy by starting with a checklist to identify data obtained, used, shared and retained and how each of the functions are controlled and disclosed
  - Address all factors from Slide 5: Transparency; Limits on collection and retention; Consumer choice; Security; Accountability
  - Privacy Policy: Discoverability; Readability; Descriptiveness
Policy Developments - Privacy

- FTC Staff Report: App developers
  - Make privacy policy easily available in the app store
  - Just-in-time disclosures and affirmative consent for collecting and sharing sensitive data
  - Understand and communicate privacy policies related to integration with third party ad and analytics networks
  - Participate in self-regulatory organizations
Policy Developments - Privacy

- NTIA Voluntary Code of Conduct for Mobile Application Privacy
  - Multi-stakeholder process
  - Core Concepts:
    - Transparency
    - Simplicity
    - Consistency
  - Not intended to replace long form privacy disclosures
Policy Developments - Privacy

• Data Collected
  – Biometrics
  – Browser History
  – Phone or Text Log
  – Contacts
  – Financial Information
  – Health, Medical or Therapy Information
  – Location
  – User Files
Policy Developments - Privacy

- Data Shared
  - Ad Networks
  - Carriers
  - Consumer Data Resellers
  - Data Analytics Providers
  - Government Entities
  - Operating Systems and Platforms
  - Other Apps
  - Social Networks
Policy Developments - Privacy

- FCC Ruling on Section 222 of the Communications Act of 1934
  - “[W]hen mobile carriers use their control of customers' devices to collect information about customers' use of the network, including using preinstalled apps, and the carrier or its designee has access to or control over the information, carriers are required to protect that information in the same way they are required to protect CPNI on the network.”
  - Phone numbers (in-bound and out-bound)
  - Call duration
  - Phone location
- No new requirements on third parties or specific rules for carrier use of CPNI or how to protect it
Policy Developments – AML

• FATF
  – Risk factors
    • Non-face-to-face and anonymity
    • Geographical reach
    • Methods of funding
    • Access to cash
    • Segmentation of services
  – Risk mitigation
    • Customer due diligence
    • Loading, value and geographical limits
    • Source of funding
    • Record keeping, transaction monitoring and reporting
  – Risk-Based Supervision
Policy Developments – AML

- **FATF**
  - Factors that lead to treating like a deposit
    - Unlimited reloads
    - No or very high funding, loading or spending limits
    - Cross-border transfers
    - Funding and withdrawal of cash or cash equivalents
  - Factors in determining the “provider”
    - Entity that has visibility and management of the service
    - Entity that maintains the customer relationships
    - Entity that accepts funds from customers
    - Entity against which customer can make claims for funds
Policy Developments – Consumer Protection

• Issues of disclosures, error resolution, unauthorized use
  – Reg Z for credit
  – Reg E for debit and potentially for most prepaid

• Evolving view on licensing questions
Questions?

THANK YOU

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