

## Global Data Privacy and Security Team

# Look Whose Watching What! The Video Privacy Protection Act At A Glance

The Video Privacy Protection Act (“VPPA”) was passed in 1988 in reaction to a fear that people other than a consumer and a video rental store could collect information on a consumer’s video rental history. This was not an academic concern at the time. Immediately prior to the passage of the VPPA, Judge Robert Bork, who had been nominated to the Supreme Court, had his video rental history published by a newspaper that was investigating whether he was fit to hold office.

Among other things, the VPPA protects consumers by limiting disclosure of rental and sales records by video tape service providers to the consumer, people who have the consumer’s consent, and law enforcement agencies who have a warrant, subpoena, or court order. Recently the plaintiff’s bar has tried to revive the VPPA by applying its provisions to websites that stream movies and digital content.



### If your organization rents, sells, or streams video content consider the following steps to reduce your risk of liability under the VPPA:

- Does your organization fall under the definition of a video tape service provider or a provider of similar audio visual materials as those terms are defined under the VPPA?
- Does your organization share information concerning consumers’ video viewing habits with any third parties?
- Which platforms does your organization use to provide access to videos? Do those platforms transmit personal information?
- Does your organization obtain consent prior to sharing information about consumers that view video content?

<sup>1</sup> Nielsen, The Total Audience Report Q4 2014 (Mar. 11, 2015) available at <http://www.nielsen.com/content/corporate/us/en/insights/reports/2015/the-total-audience-report-q4-2014.html> (last viewed Sept. 23, 2015).

<sup>2</sup> *Id.* at 12.

Bryan Cave’s Global Data Privacy and Security Team helps clients safely collect, utilize, transfer, and monetize data.

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