

MEMO# 26860

January 11, 2013

Association Letter Criticizes California Attorney General for Failed Process in Developing Recommendations for Mobile Apps

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TO: ADVERTISING COMPLIANCE ADVISORY COMMITTEE No. 3-13
PRIVACY ISSUES WORKING GROUP No. 3-13
SMALL FUNDS MEMBERS No. 4-13
TECHNOLOGY COMMITTEE No. 2-13 RE: ASSOCIATION LETTER CRITICIZES CALIFORNIA ATTORNEY GENERAL FOR FAILED PROCESS IN DEVELOPING RECOMMENDATIONS FOR MOBILE APPS

As we informed you yesterday, the California Attorney General has published Privacy on the Go; Recommendations for the Mobile Ecosystem (the "Recommendations"), which includes various recommendations relating to protecting the privacy interest of consumers when developing mobile applications. [\[1\]](#) As noted in our memo, while the Attorney General's Recommendations state that they were arrived at "after consulting a broad spectrum of stakeholders," these stakeholders were limited to "mobile carriers, device manufacturers, operating system developers, app developers, app platform providers, mobile ad networks, security and privacy professionals, technologists, academics, and privacy advocates."

Subsequent to the Recommendations' publication, a coalition of the nation's leading Internet advertising, marketing, and media associations [\[2\]](#) sent a letter to the Attorney General criticizing her for the flawed process used to develop the Recommendations. According to the coalition, the Recommendations were "developed without the engagement or consultation of the vast majority of companies and consumers likely to be affected by them." The letter expresses concern with the fact that the Recommendations "were never presented for public review and comments." As a result, and as a result of the complexity of the issue of mobile privacy, the Recommendations "could have significant and negative impacts on California's affected industries, innovation, jobs, and American commerce generally." It additionally notes that the Recommendations "openly conflict with developing consensus standards and are not grounded in any apparent legal authority, go well beyond existing requirements under California law, as well as Federal law, and will

inevitably impact countless entities that are not subject to California's Online Privacy Protection Act."

A copy of the coalition's letter and press release announcing it are attached. It is expected that issues relating to mobile privacy will be on the agenda of the California Legislature during its 2013 term.

Tamara K. Salmon
Senior Associate Counsel

[Attachment - Letter](#)

[Attachment - Press Release](#)

endnotes

[1] See Institute [Memorandum](#) No. 26857, dated January 10, 2013. The Recommendations are available on the Attorney General's website at:
http://oag.ca.gov/sites/all/files/pdfs/privacy/privacy_on_the_go.pdf.

[2] The coalition is comprised of the American Association of Advertising Agencies, the American Advertising Federation, the Association of National Advertisers, the National Business Coalition of E-Commerce & Privacy, the Direct Marketing Association, the Interactive Advertising Bureau, and the MPA – Association of Magazine Media. The Institute, and some of our members are members of the National Business Coalition of E-Commerce & Privacy.

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