INFORMATION INTEGRITY SOLUTIONS

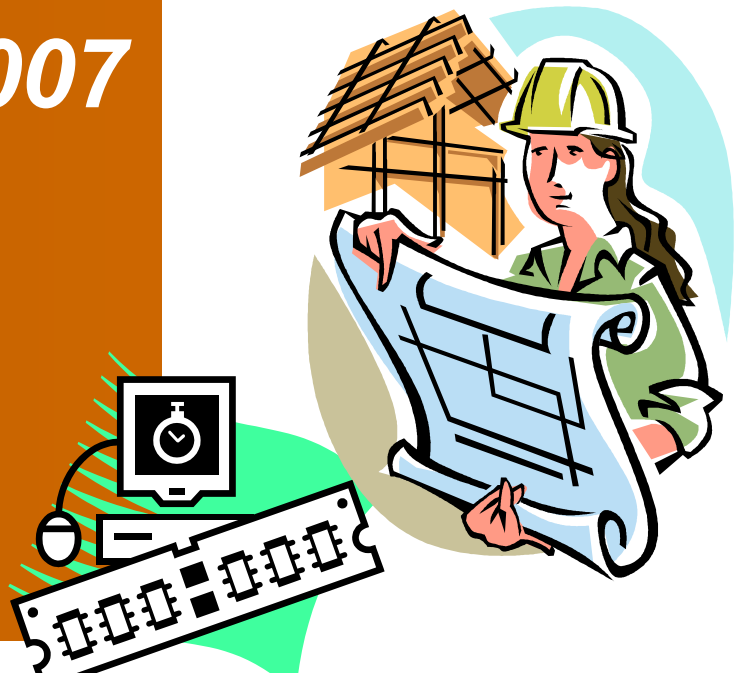
Malcolm Crompton

APEC & Privacy: why bother; what's happening in 2007

APEC

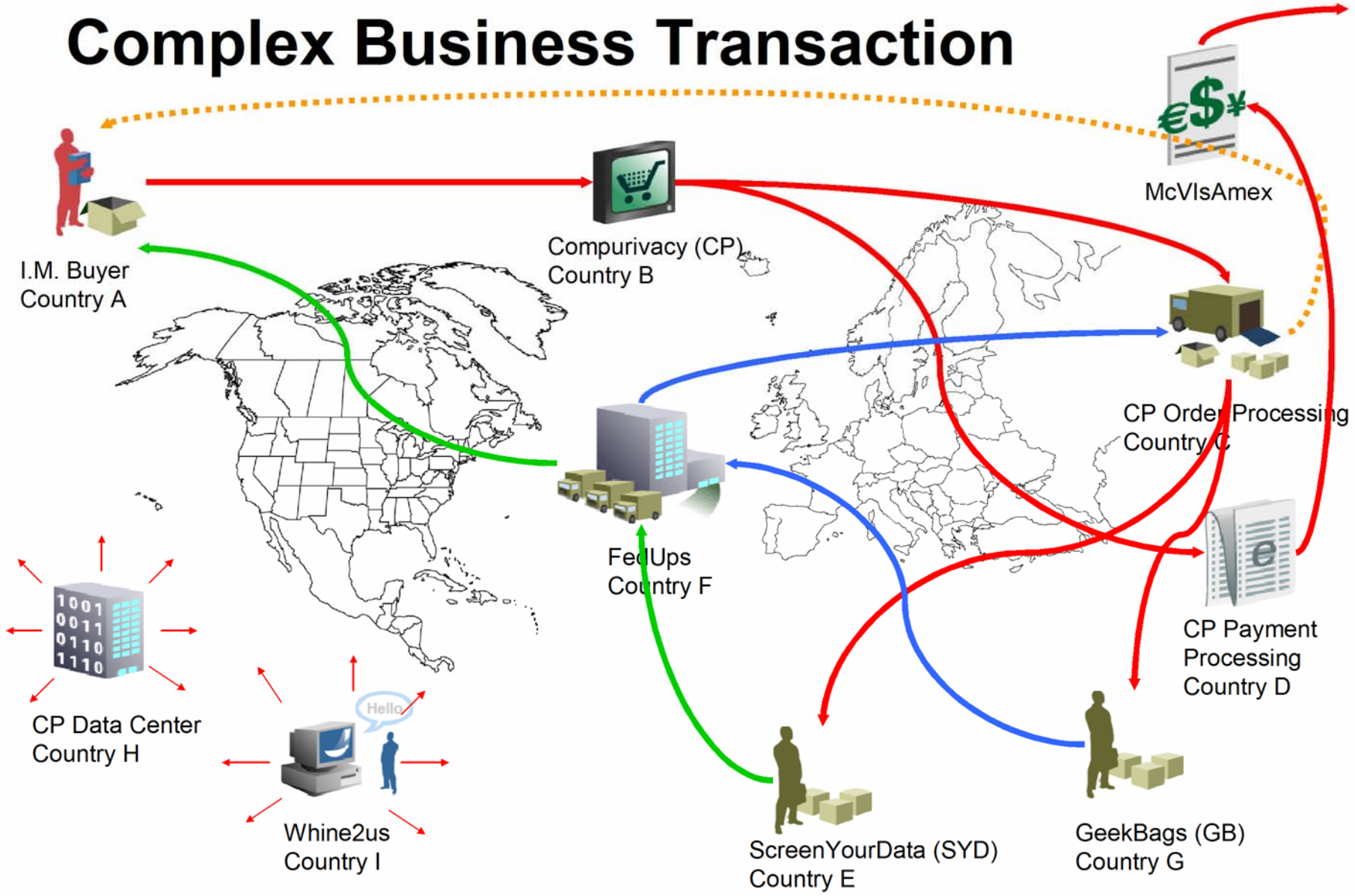
Seminar with members of IAPP

York, Maine
23 Aug 2007



Why is ‘Privacy’ on the APEC agenda?

Complex Business Transaction



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Overview of APEC & its work on privacy

What's the problem?

- Complex business transactions makes privacy compliance more difficult
- APEC a very diverse region
- Many laws, many regulators
  - Hard for anybody to see the whole
- We need to act now
  - can we wait for extensive law change?
- Effective resolution of complaints
  - Cost to business; cost to consumer

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What are we doing here?

- What is the “Cross-border” or “trans-border” problem:
  - Personal information collected in one economy is processed in another
  - How to keep the original privacy promise
    - Original economy law
    - Company privacy policy and other undertakings
    - Consumer choices
- “Privacy is local; processing is global”

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Asia Pacific privacy law – summary position

Omnibus or sector law	Minimal privacy law
USA *	China #
Canada *	Singapore #
Japan	Malaysia #
Korea *	Thailand #
Hong Kong *	Mexico #
Australia *	Chile
New Zealand *	India
Taiwan	Indonesia
Russia	others

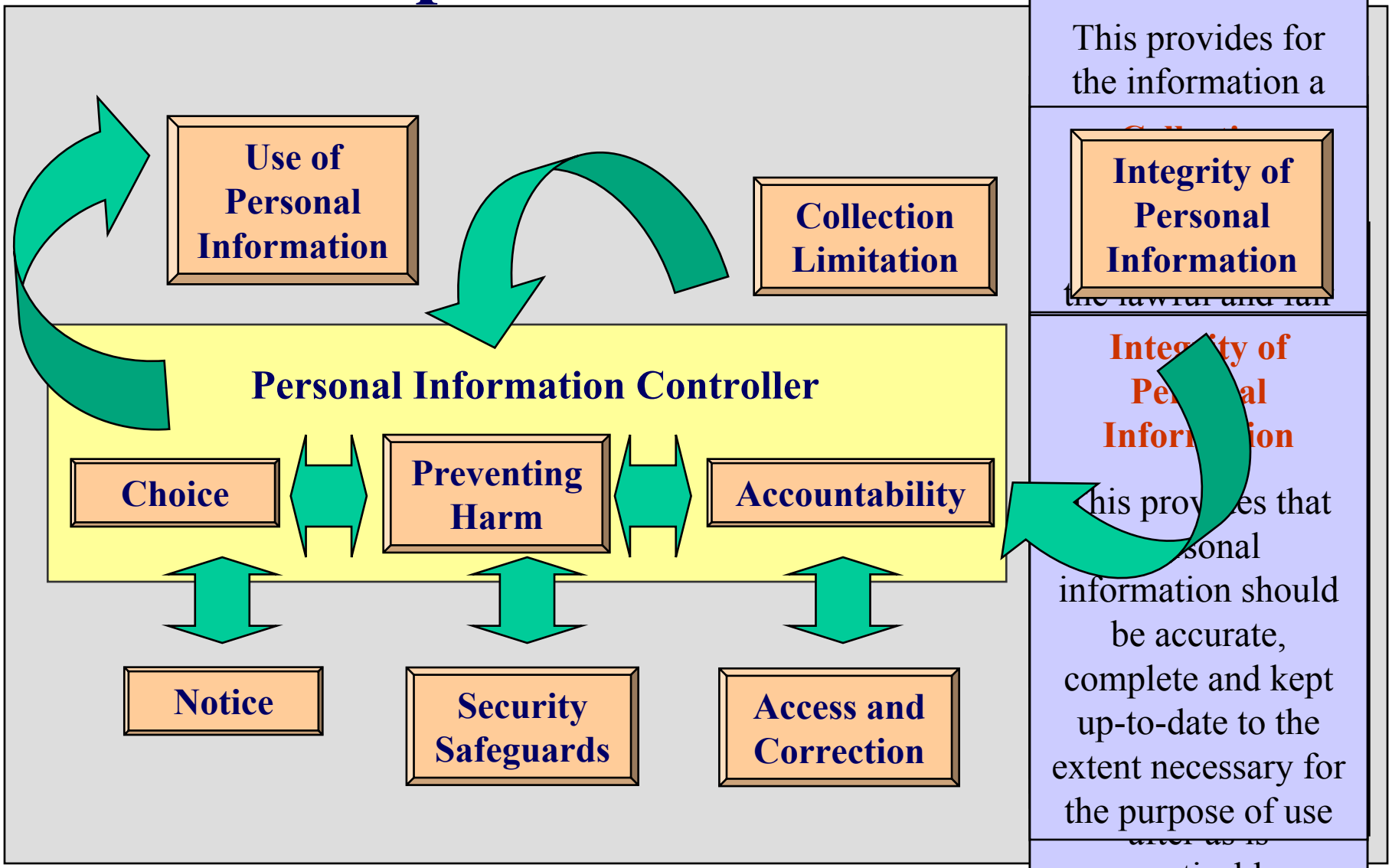
APEC Privacy Principles

* With enforcement

\# Law under consideration

The APEC Privacy Framework

APEC Privacy Principles: Relationship



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Nine APEC privacy principles

1. Preventing Harm – privacy protections should focus on preventing harm and misuse
2. Notice – clear & easily accessible
3. Collection Limitation – collect what's relevant in a lawful & fair manner
4. Uses of Personal Information – for expected and compatible purposes, with consent, or where necessary
5. Choice – where appropriate, provide clear, accessible mechanism to exercise choice

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Nine APEC privacy principles

6. Integrity – personal information should appropriately accurate, complete and up-to-date
7. Security – appropriate safeguards to protect against unauthorized access, use, modification or disclosure
8. Access & Correction – important (but not absolute) rights
9. Accountability – controllers are accountable for compliance with all Principles and must use reasonable steps to ensure that recipients of personal information also comply

The APEC Insight

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Insight in Principles 1 & 9

Principle 1

- Proportionality: focus effort on where harm greatest

Principle 9

- 'Accountability follows the data'

Implementation

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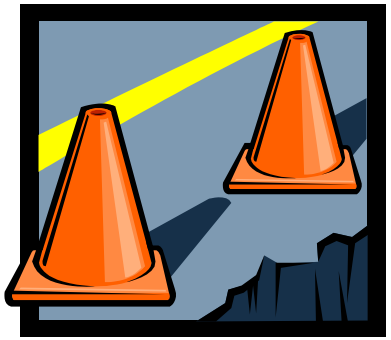
Governance

‘Safety begins at home’

- those directly handling the data to respect and abide by that framework

Internal Privacy Governance Framework

- A high level policy
- Standard operating procedures
- Recommended measures & best practices
- Training ,communication & compliance tools
- Assurance functions



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Domestic

- 6 APEC Member Economies have broad based privacy law
- 1 has sectoral law
- 1 has voluntary framework
- At least 5 drafting a privacy framework

Consistency with APEC Privacy Framework varies

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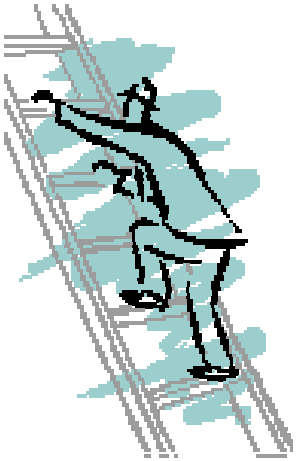
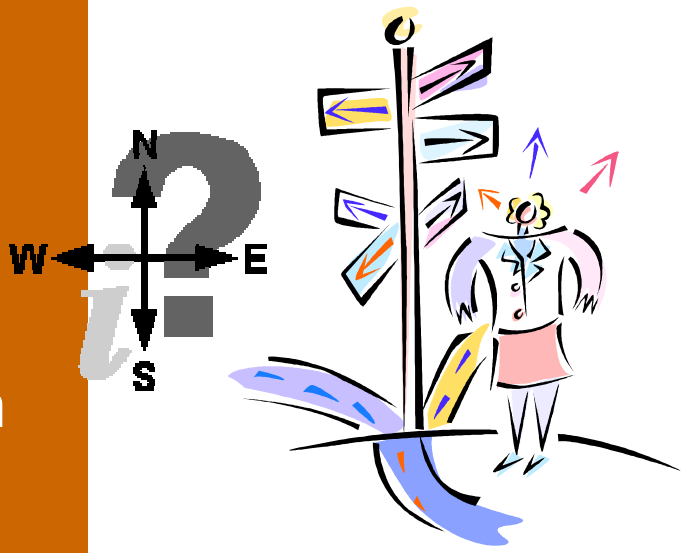
International

APEC Member Economies have most to do here

Options

- 'APEC Privacy Commission'
- NGO equivalent, either one or more
- Binding corporate rules
- Cooperative arrangements between existing privacy regulators





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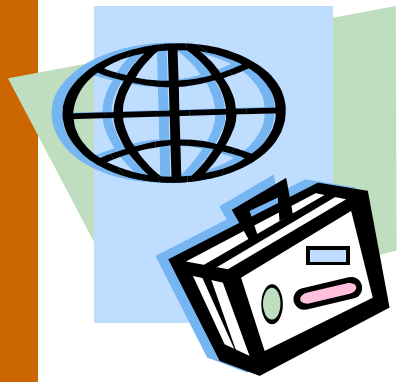
International

Part B:

"44. Member Economies should … facilitate cross-border cooperation in the enforcement of privacy laws

"46. Member Economies will endeavor to support the development and recognition or acceptance of organizations' cross-border privacy rules across the APEC region … that … adhere to the APEC Privacy Principles."



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2007: cross border focus

APEC annual cycle based on 2 significant meeting series

Privacy Working Group will hold 2 seminars: www.ag.gov.au/apec_privacy

- 22-23 January, Canberra
- 22-23 June, Cairns

Aim to agree compliance pilots for transfers of personal data between APEC economies

- For implementing in 2008

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LIMITED first steps

- APEC's ECSG Data Privacy Sub-Group wants to address a small part of the problem in pathfinder projects in 2008
  - Consumer to business (& business to business) only
  - A volunteer group of APEC economies only
  - Cross-Border Privacy Rules only
  - For Businesses that opt in only
  - Hence, probably large companies only
- Expand later if successful
  - Start again if not successful ?!?
- Remember this integrates into wider Sub-Group work eg on information sharing & cooperation between regulators

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Seminar 2 theme – "CBPRs: building confidence in an accountable system for personal information moving between economies" – Cairns, June 2007

- "Privacy is local; processing is global"
  - How to make accountability also global?
    - APEC Privacy Principle 9
  - How to keep the original privacy promise
    - Original economy law
    - Company privacy policy and other undertakings
    - Consumer choices

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Day 1 What we learnt

- Regulators showing clear willingness to work together
  - APPA, OECD
  - Very real differences in laws affecting privacy regulation
- Trustmarks also
  - ATA & GBDe; Mexico conference
- Business plea
  - Clarity, Consistency, Cooperation & Consensus
- Consumer view
  - VERY cautious if non-government accountability agents make processes more complex

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Day 2 What we learnt; Pathfinders

- General support for Pathfinder framework
  - Multi-layered; Multi-Stakeholder
  - Consistent with APEC policy as in APEC Privacy Framework
- General support for the 9 Pathfinder projects
  - With modifications still to finalise
  - All stakeholders to be engaged in each project even if one leads
  - Project Management essential
  - Stakeholder capacity building essential
  - Project 9 a 'laboratory' for early testing of components emerging from other Projects?

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Next …

Keep in touch: Meeting Document Database: http://aimp.apec.org/MDDB/pages/BrowseMeeting.aspx

3rd 2007 Seminar, Vancouver, 22-23 September
"Finding paths to successful cross border privacy rule systems"

Data Privacy Subgroup 2008 Work Agenda: http://aimp.apec.org/Documents/2007/ECSG/ECSG2/07_ecsg2_010.doc

APEC Data Privacy Pathfinder: Project Outlines: http://aimp.apec.org/Documents/2007/ECSG/DPS2/07_ecsg_dps2_004.doc

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2008 Pathfinder pilots: Current ideas

- CBPR self-assessment guidance for organisations
- Guidelines for trustmarks participating in a CBPR system
- Compliance review of an organisation's CBPRs
- Directory of compliant organisations
- Data Protection Authority & Privacy Contact Officer Directory
- Template Enforcement Cooperation Arrangements
- Template cross-border complaint handling form
- Guidelines & procedures for responsive regulation in a CBPR system
- Cross-Border Privacy Rules International Implementation Pilot Project

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We can do this!

- Win-Win-Win is possible
  - Good privacy is good business
  - But flexibility needed in a region as diverse as APEC
  - Time to develop detailed requirements; get beyond theory
  - Need transparency, consistency, user friendly systems and credible accountability across borders
- Regulator cooperation in the region has commenced
  - APPA – Asia Pacific Privacy Authorities
  - MOU between Australia and New Zealand

APEC has come a long way in 3 yrs

Now for more

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What has IIS done?

- Privacy Impact Assessments
  - Process, eg Cancer Institute of NSW
  - Process & technology, eg Nehta, Trust Centre, FaCSIA
  - Technology, eg VeriSign, NXP
- Thought leadership & public engagement
  - ID management, eg Global Trust Centre
  - Technology futures, eg Microsoft TCAAB, CardSpace
  - Future of privacy regulation, eg Veda, Cisco
  - Global transborder data flows, eg OECD, APEC
- Research reports
  - Technology trends in criminal justice enhancement

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What is IIS ?

- A consulting company working with business & government agencies to address 'information governance' issues & implement trustworthy business dealings
  - Starting with the way personal information is handled
  - ID management a strong focus
  - "Respect customer information for what it is: a key asset for business success. Protect it with the same care you give trade secrets."

Richard Purcell, Corporate Privacy Group & former CPO, Microsoft
The Seattle Times, 14 February 2005

- www.IISpartners.com

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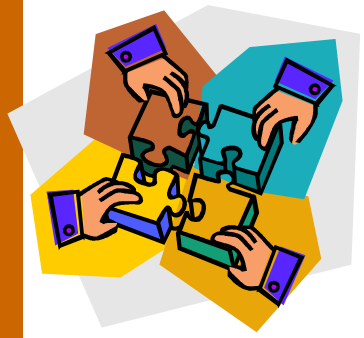
Who is behind IIS ?

- Malcolm Crompton, Federal Privacy Commissioner 1999-2004
  - Member, IBM Privacy Research Institute; PRIME, Microsoft TCAAB, IAPP Board
  - Also >20 years in APS; 3 years AMP
- Peter Fritz AM, Group MD, TCG Group
  - thought leader through Global Access Partners, Global Trust Center etc
- Robin McKenzie, OPC, 1999-2005
- Chris Cowper, OPC, 1991-2007
- Chris Jefferis, OPC, 2003-2004



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