



## FTC Announces a New “Start with Security” Campaign

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This announcement came at one of the largest worldwide gatherings of privacy professionals, the International Association of Privacy Professionals’ annual global privacy summit in Washington, D.C. The announcement is also a likely response to the growing criticism the FTC has received for charging companies with unfair trade practices for data security breaches and incidents when the FTC has issued little to no guidance as to what constitutes acceptable security practices. Some companies have challenged the FTC’s enforcement jurisdiction in the cybersecurity space, and the 3rd Circuit, during oral argument this week in the *FTC v. Wyndham Worldwide Corp.* dispute, appeared sympathetic to companies facing enforcement with no detailed standards. LabMD has also challenged the FTC’s jurisdiction, but the 11th Circuit determined that it lacked subject-matter jurisdiction because there was no “final agency decision,” thus forcing LabMD to endure an entire administrative proceeding before addressing the FTC’s authority.

The FTC has brought more than 60 data security actions in the last 10 years, claiming that companies failed to implement reasonable security controls. Many companies argue that such actions are unfair when the FTC has not put companies on notice of the standard by which companies will be judged. FTC Commissioner Maureen Ohlhausen later commented at the conference that she believes federal data security legislation “would be useful for the reiteration of the FTC’s authority to acquire reasonable standards for data.” Some speculate that the standards promulgated by the National Institute of Standards and Technology will eventually become that standard, but, as currently written, the standards are voluntary and

not mandatory. In the meantime, the FTC has stepped up its marketing campaign to maintain authority over cybersecurity enforcement.

## Categories

Corporate Governance

Cybersecurity, Privacy & Data Protection

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