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The Expanding Privacy Landscape

Privacy issues are all around us. Questions from this still nascent area of law have become intertwined with many of the significant legal and public policy issues of the day. As smartphone apps are used for COVID-19 contact tracing, questions have been raised about how to balance public health and privacy. Responses to the protests that erupted in the wake of the death of George Floyd have led to questions about whether government agencies are using smartphone data to improperly identify and surveil those who attend public rallies. Personal data has long flowed freely between the United States and the European Union, but a July 2020 European court decision has threatened to make all such data transfers—and the trade that goes along with them—invalid under European law, with no clear answer about how to satisfy the court's concerns. With remote school now the norm for many children, there have been new concerns about children's privacy and security online. And as antitrust issues in the technology industry have taken center stage, questions have been raised about whether new privacy restrictions would neutralize or instead exacerbate the competition concerns that have been voiced.

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