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■ I am a Lobbyist. Am I Evil?

I spent the last two days lobbying with folks on Capitol Hill about legislation to protect private information—credit card numbers, financial records and the like—that big companies store about customers. The proposed laws focus on what should happen when bad guys access large databases of sensitive consumer information. Should the company notify the press? Notify the consumer? Pay a fine? Should someone go to jail? And what should companies do to protect against theft? There's been a lot of progress since the [last time I visited](#), six months ago.

It was fascinating to hear so many perspectives. I talked with staff people from both Senate and Congress, both Republicans and Democrats, and I also talked with two lobbying groups that focus on digital privacy and security.

There are currently at least 23 states with protective laws and another 17 or so have legislation in progress. As a result, consumer protection advocates feel pretty good. They see some benefit to a nation-wide law, but they are uninterested in a compromise that weakens existing state laws. They feel that if a federal law is going to preempt the states, it ought to be stronger than any existing state laws, to make up for the fact that states will be losing the ability to regulate further.

On the other hand, companies are horrified at the idea of having to deal with 23 (never mind 50) different sets of regulations. The last thing a company wants during a crisis is to have fifty parallel sets of laws to obey, each with a different set of procedures they have to follow. In my mind, this is probably the strongest argument in favor of a federal law that preempts state laws. Talking with CIOs and VPs of Storage at large financial institutions, I get the sense that they would be thrilled to have a single federal law, even if it were stronger than any of the existing state laws.

However, lobbyists from these companies mostly argue that the current state laws are too strong, and they don't want a federal law unless it's weaker. Also, financial institutions also worry about a new regulator watching over them. They have so many regulators already, so even if there are new rules, they hope they can be enforced by the same regulators that they have now, even if different regulators would be better for other companies.

The House and Senate Judiciary Committees want to make sure that notification requirements don't screw up law enforcement. They worry that if the press is notified too quickly, it could tip off the bad guys and give them a chance to run away before the FBI or police can catch them.

NetApp is in a subtle situation. From a purely self-interested perspective, the stronger the laws, the more encryption equipment we are likely to sell. That tends to align us with the consumer. On the other hand, many of our largest customers are lobbying for weaker laws, and it seems like a bad plan for us to lobby against our own best customers. So why is NetApp visiting the Hill at all? We want to be a technical resource with information about encryption and the role it can play in

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protecting consumer data. This is a perfect job for me, because I enjoy describing technical issues in ways that non-technical people can understand.

One Senate staffer said, "I am skeptical of encryption. I've got this IT consultant working for me—he's really, really good—and he told me that he can break any code, even the strongest encryption in the world, within eight minutes. So I'm not sure it's safe."

I told him that, no offense, but if this was true then this guy should have a job at the [NSA](#), not wiring networks in a Senate office building. I tried to give him a sense of the ways that the Military and Intelligence communities use encryption, the things they trust it for and the kinds of testing and regulations they have around it. If military-grade encryption is strong enough to satisfy the paranoid people (and I mean that in a good way) at the NSA, then it ought to be good enough to protect credit cards numbers.

Through all of this, it was interesting to track my own feelings. How do I feel about all of this lobbying from all these special interests (including NetApp)? Never mind what's good for NetApp or our customers, what makes sense to **me**—as a person and not as a corporate officer? Am I evil for lobbying without having answered this question?

Here's something can say: Almost all of the different positions I heard had at least some merit. I definitely support strong protection for private data, but it also seems fair for companies to share their view as well. I do see a problem making companies deal with 50 separate sets of laws every time data is lost. In addition, I was impressed with how much time and effort the congressional staffers were putting in to understanding the issues and figuring out the right answer. I talked with some seriously smart people. It was especially encouraging to see how much better informed they were now than at my last visit six months ago. Since these guys are working hard to balance all of these different issues, maybe it's fair for me to talk only about the areas that I know about, and leave the other issues to experts in those areas.

Perhaps I'm in denial, but I think I might not be evil. At least I didn't pay anybody off.

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