



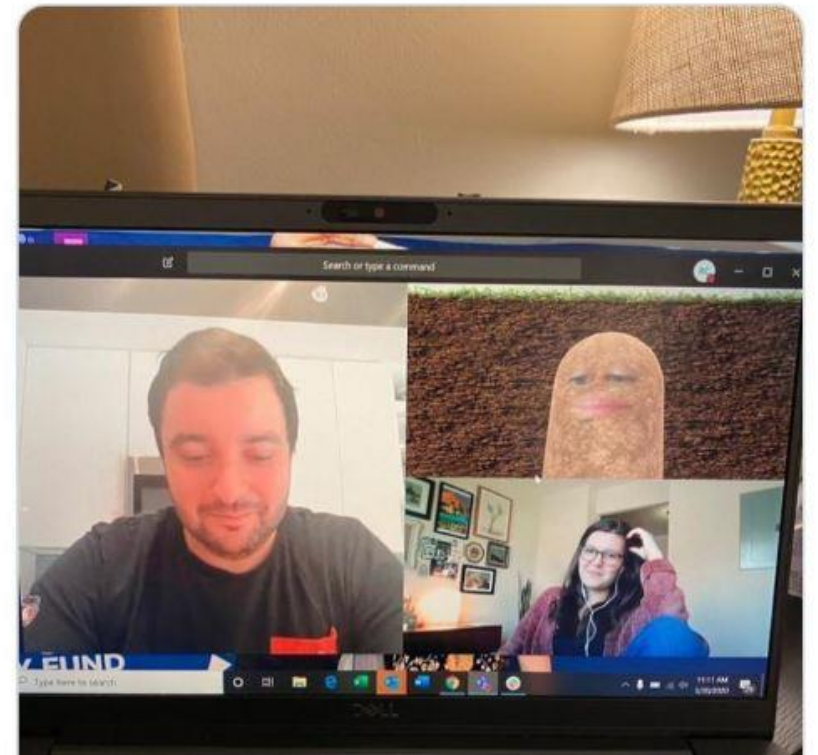
# CANADA'S PRIVACY LAWS

November 26 2020

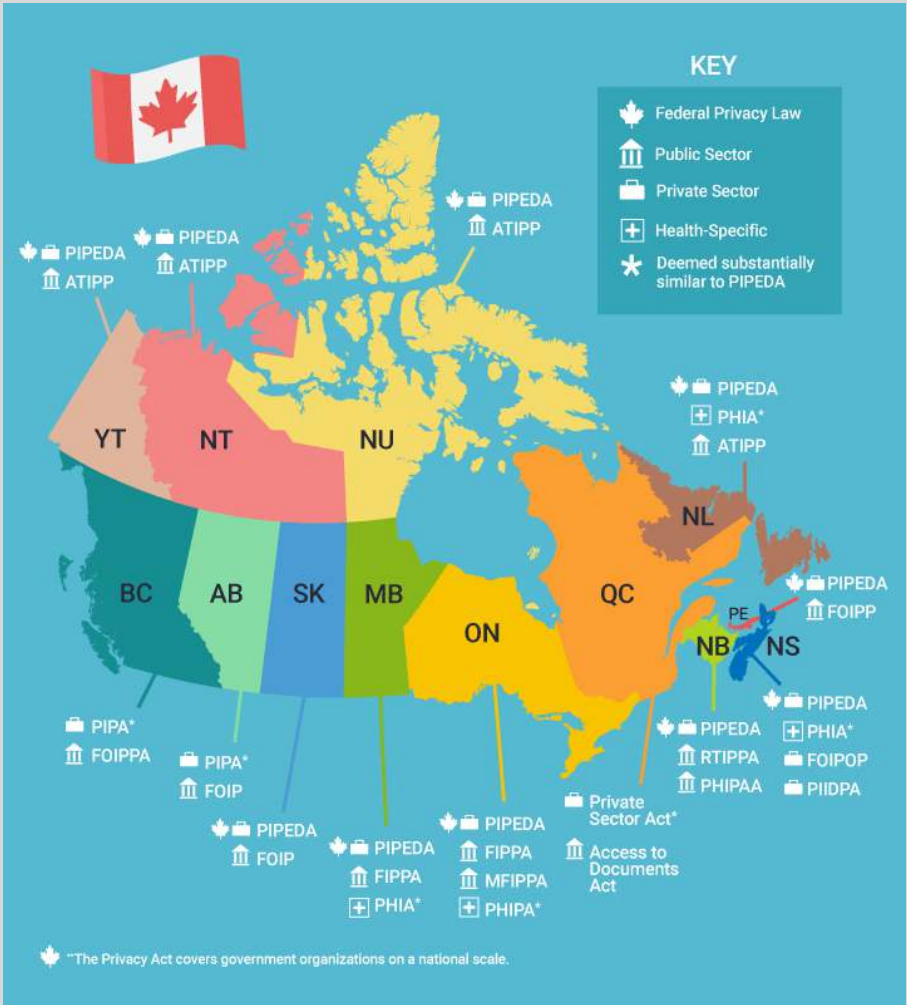
# Video calls.....



my boss turned herself into a potato on our Microsoft teams meeting and can't figure out how to turn the setting off, so she was just stuck like this the entire meeting




# Canada's Privacy Regulatory Regime

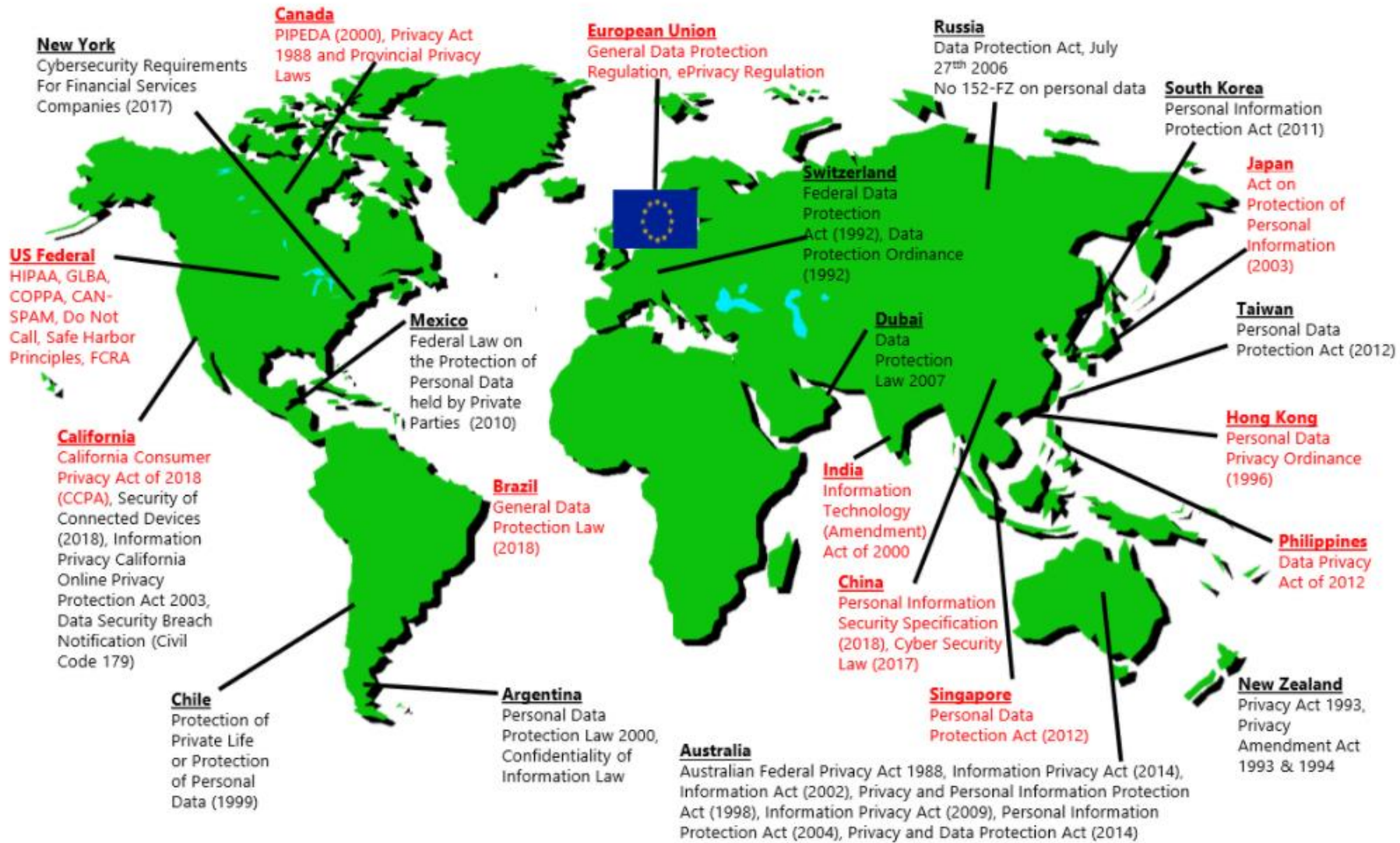




# Privacy as a human right

	Jurisdiction	Year privacy law last updated	Defining privacy as a human right	Rule-making authority	Demonstrable accountability	Order-making powers	Administrative monetary penalties	Private right of action
	Canada (PIPEDA)	2015	X	X	X	X	X	X*
	Argentina	2018	✓	✓	✓	✓	✓	✓
	Brazil	2018	✓	✓	✓	✓	✓	✓
	European Union	2018	✓	✓	✓	✓	✓	✓
	United Kingdom	2018	✓	✓	✓	✓	✓	✓
	Australia	2012	✓	✓	✓	✓	✓	✓
	Mexico	2016	✓	✓	✓	✓	✓	X
	South Korea	2018	✓	✓	✓	✓	✓	X
	New Zealand	2020	✓	✓	✓	✓	X	X
	Singapore	2012	X	✓	✓	✓	✓	✓
	Japan	2015	X	✓	✓	✓	✓	X
	California (California Consumer Protection Act)	2019	X	✓	X	X	✓	✓

June 2020



# Why does it matter – Privacy by Disaster

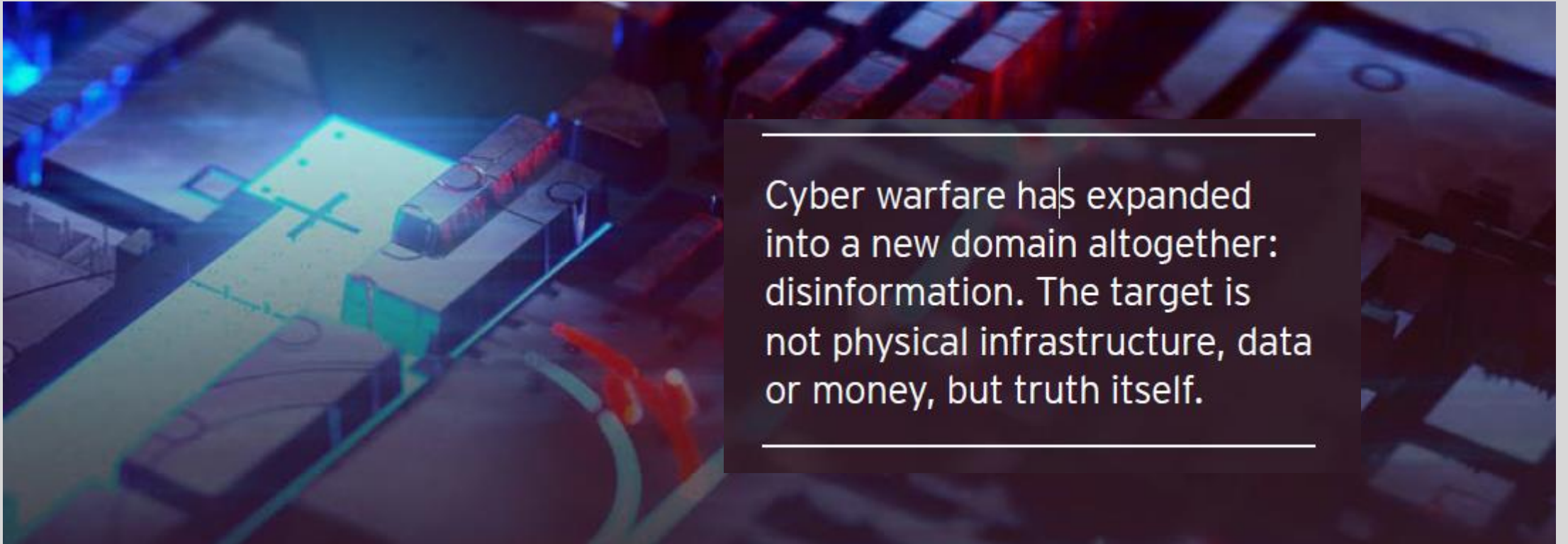
2017.....



- Equifax breach affected many Canadians – yet the Regulator did not have the powers to apply appropriate sanctions
- Yahoo admitted billions of compromised email accounts (\*difficult for Canada to protect the privacy rights of its citizens)
- US voters (nearly two hundred million) personal details “accidentally” leaked due to Deep Root Analytics
- Uber attempted to conceal a breach that affected fifty-seven million accounts.



# With competition increasing – Trust is key



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Cyber warfare has expanded into a new domain altogether: disinformation. The target is not physical infrastructure, data or money, but truth itself.

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# What do organizations need to protect

- ★ Customer information
- ★ Business Partner information
- ★ Employee information

## How to protect your personal data?

Essential questions you should ask before providing your data

**WHO?**  
You are looking for who, alone or jointly, determines the purpose and means of the processing of your data – identification of who is accountable.

**WHAT?**  
What data is being requested? You want to know what exactly it's been requested to assess whether it is adequate, relevant and limited to what is necessary.

**WHY?**  
Why they need this data for? You are looking for the purpose of the processing of your data, and its legal basis.

**HOW?**  
How will the data be processed? You want to know about automated processing: basis and logic; all the recipients of your data; and, how your data is backed-up and secure.

**HOW LONG?**  
For how long will the data be retained? You want to know the set period of time that your data will be stored or the criteria to determine that period.

Quality Legal Content  
**LAW**infographic.com  
<https://www.lawinfographic.com/>

- Privacy of a person
- Privacy of communications
- Privacy of thoughts, feelings and beliefs (convictions)
- Physical privacy : facial features, biometrics etc.
- Privacy of behaviors and actions
- Privacy of data and images (photos, videos)
- Privacy of association
- Privacy of location and space (territorial)



# What are the pain points

- 3<sup>rd</sup> party vendors that do not have the same level of privacy protections and measures
- Other risks that 3<sup>rd</sup> party vendors encounter (jurisdictional)
- Canadian jurisprudence – tort of intrusion upon seclusion
- Interpretation of the possibility of harm in the Canadian courts (class action law suits)
- Redress for Canadians – a very hot topic (addressed with the new proposed Digital Charter and subsequent legislation – Personal Information and Data Protection Tribunal Act)
- Adequacy status plays a huge role: Canada must demonstrate an equivalent level of protection and redress as the GDPR expects
- Additional accountability and rigor in contracts (audits, certifications etc)
- Privacy by Design – is becoming increasingly important (and needs to be demonstrated)\* - definitely indicating a higher level of privacy program maturity expected

# Unintended consequences



## Unintended-----→ Consequences

- Surveillance
  - Interrogation
- Breach of Confidentiality
  - Exposure
  - Disclosure
  - Increased Accessibility
  - Blackmail
  - Appropriation
  - Distortion
- Aggregation
  - Insecurity
  - Identification
  - Secondary Use
  - Exclusion
- Invasion
  - Decisional interference
- Reidentification
  - Breach of C
  - Interception & Distortion

# CHANGE IS THE ONLY CONSTANT

- Certain industries are highly regulated
- Threat Risk Assessments and Data Protection Impact Assessments are mandatory & NEW \*Transfer Risk Assessments & \*Transparency Risk Assessments
- Evolving business models need to be brought to market a lot faster to stay competitive

## ▼ CANADA

- PIPEDA's Mandatory Breach Notification Requirements
- CPPA
- Various provinces

## ▼ USA

- California's Privacy Consumer Act will come into force in 2020 to give Data Subjects more rights
- EU-US Privacy Shield SUSPENDED
- New York State's Cybersecurity Requirement Regulation
- CLOUD Act

## ▼ BRAZIL

- Brazilian General Data Protection Law in force

## ▼ SOUTH AFRICA

- Protection of Personal Information (POPI) Act's is closer to its effective data

## ▼ EUROPEAN UNION

- General Data Protection Regulation (GDPR)
- Brexit – UK Data Protection Act 2018

## ▼ INDIA

- Introduction of the Personal Data Protection Bill 2018

## ▼ JAPAN

- Act on the Protection of Personal Information – Adequacy Decision with EU

## ▼ AUSTRALIA

- Privacy Amendment (Notifiable Data Breaches) Act 2017

## STOP!!!

- Schrems II
- Canada “adequacy” & CPPA, PIDPTA Quebec Bill 64
- BREXIT!
- China PIPL
- Calif CPRA\*

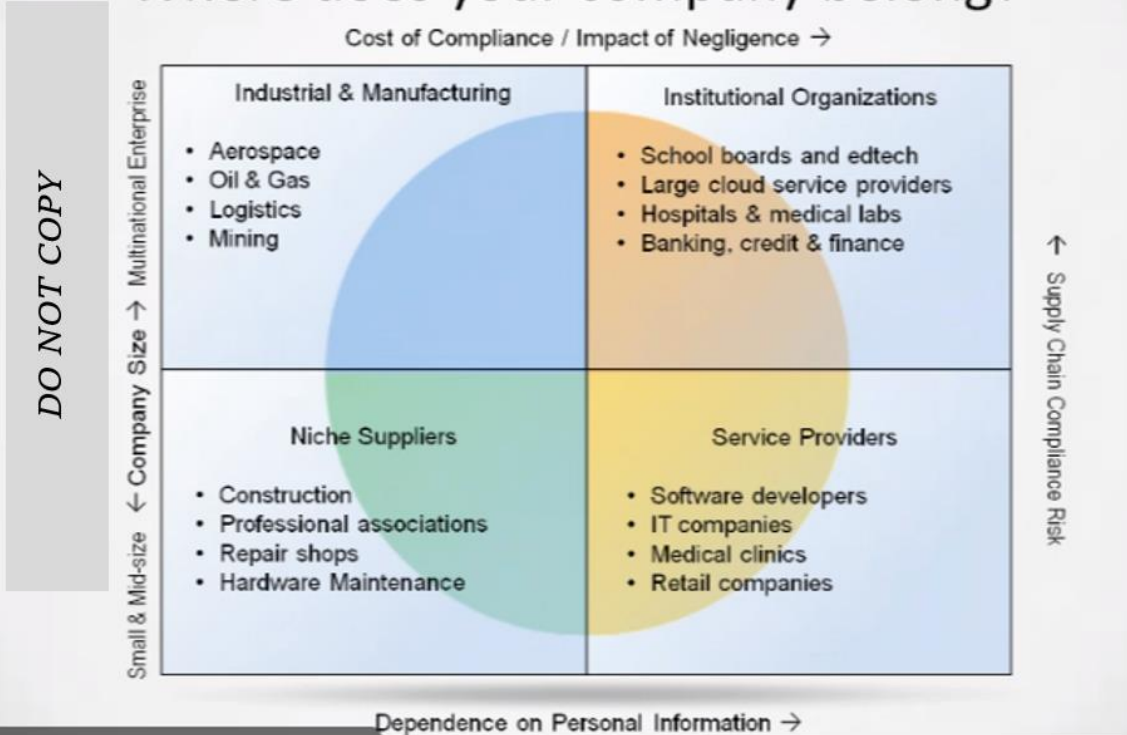


# Increased Accountability

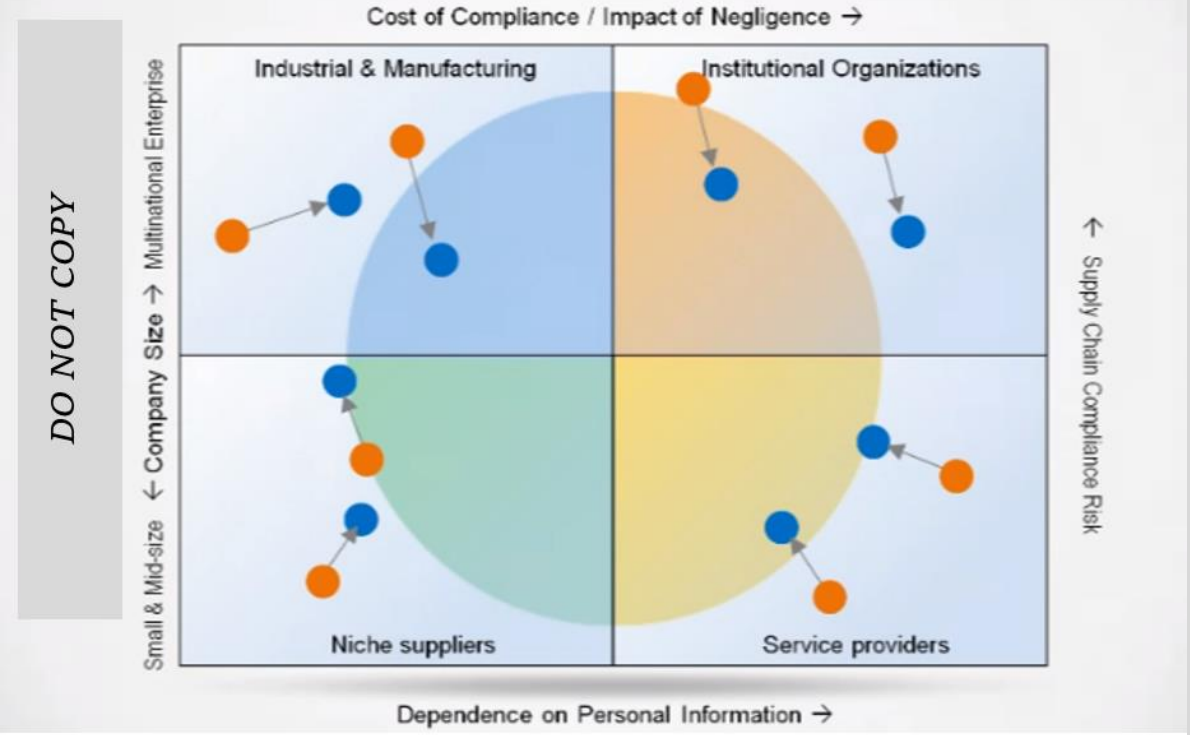
- CEOs and Boards are held to account for breaches (in some legislations they can even go to jail for breach of fiduciary duties)
- Companies are required (in certain industries) to report on their compliance status – with dire consequences on misrepresentation
- Privacy and security part of Corporate Liability
- Breach of contractual obligations
- Data breaches – Directors of the Board personal liability
- Breach of legislation – penal dispositions (GDPR, Privacy and other laws)
- Codes of Conduct\*

# How to navigate

## MPC Privacy Quadrant Where does your company belong?



## MPC Privacy Framework Quadrant



Managed Privacy Canada (MPC): [www.managedprivacy.ca](http://www.managedprivacy.ca)

# GET IN THE DATA PROTECTION 'SAFE ZONE'



TAKE ACTION. ASSESS  
YOUR RISK OF EXPOSURE



MONITOR. MEASURE.  
REPORT



BE PROACTIVE. DON'T  
WAIT FOR A REGULATION