





Global Email Marketing Compliance:

Risk management for today's ESP



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Agenda

- Challenge
- Compliance landscape
- ESP risk management basics
- “By Design” methodology
- Actionable First Steps
- Questions

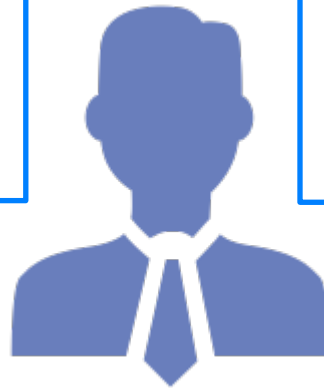
CHALLENGE

- ❖ Email senders are increasingly global...
- ❖ And increasingly data-driven
- ❖ ESPs and Senders need to go beyond deliverability management

Commonly asked questions

How can we collect personal information and engage within **"X" jurisdiction**?
What **can** we do? What **should** we do?

How can we make our interactions more **intelligent** in today's era of **decreasing attention** and **increasing regulation**?



When data privacy, security and fraud are top concerns, how do we **build trust with consumers and privacy regulators**?

How can we optimize marketing operations to avoid **privacy pitfalls** that can **damage our brand**?

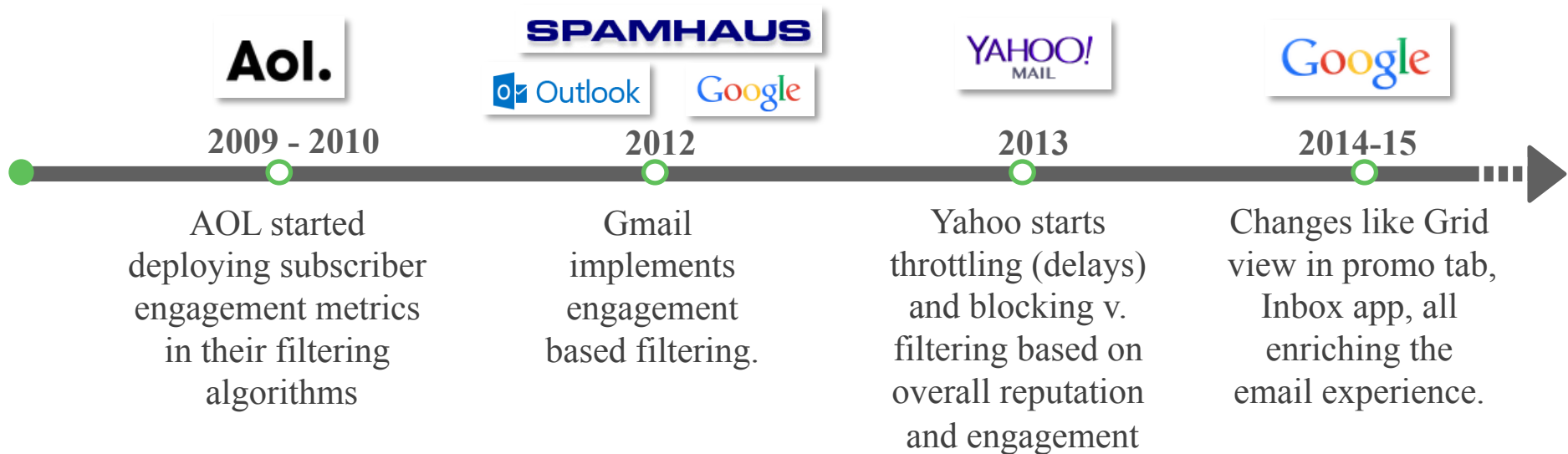
COMPLIANCE LANDSCAPE

77+ jurisdictions with kaleidoscope of privacy laws and marketing regulations.

Industry codes of conduct, ISP AUPs and contracts, ESP T&Cs.



ISPs are giving consumers voice



So are governments...



- **FTC rebranding itself as Federal “Technology” Commission**
- **FCC flexing muscles with opt-in privacy rules**
- **EU General Data Protection Regulation as global ‘King of the Hill’ privacy regime**
- **CASL as ‘King of the Hill’ anti-spam regime**
- **Privacy Shield challenged in courts**
- **APAC working on mobile, IP addresses, OBA, Spam issues.**

ESP RISK MANAGEMENT BASICS

Integrating risk governance disciplines

- ❖ Privacy built into products and services**
- ❖ Global compliance controls and operations**
- ❖ Lines of defense with Compliance, Deliverability (Ops + Strat) and Legal**

“Companies will be better off if they stop viewing customer engagement as a series of discrete interactions [i.e. campaigns] and instead think about it as customers do: a set of related interactions that, added together, make up the customer experience.”

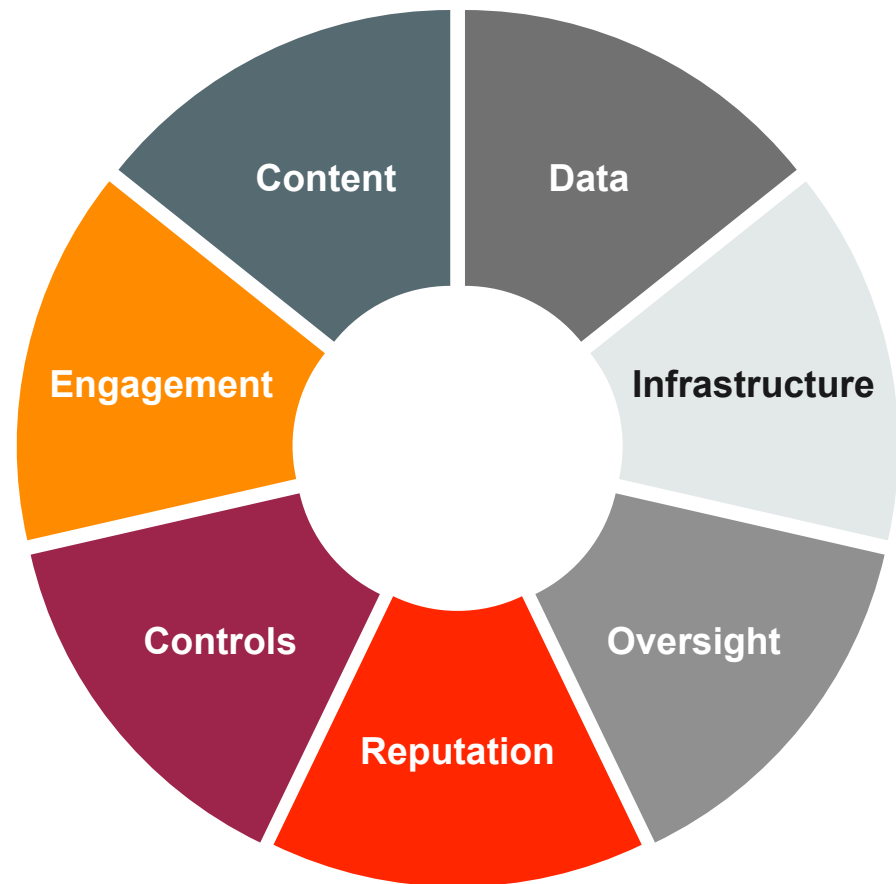
McKinsey&Company

Privacy as a customer experience

- **Personal Information is now complex**
 - More Personal Information in more regulated verticals
 - For ESP, more data = more headaches
 - For Clients, more data = more noise
- **It is more regulated across borders**
 - Data origination + email destination!
 - Expanding definition of 'Personal Information'
- **And more integrated across channels**
 - Programmatic decisions and advanced analytics
 - Unexpected consequences from mixing data
- **Build trust through transparency and good data stewardship!**

Risk ecosystem

- Deliverability is the whistleblower
- Privacy/Compliance issues can stem from one or more of the same root causes.
- *Where there's smoke there's fire?*



Risk Assessment Methodology

■ Example categorization of content risk

CAN-SPAM

- Minimal Risk
- Low Risk
- Medium Risk
- High Risk

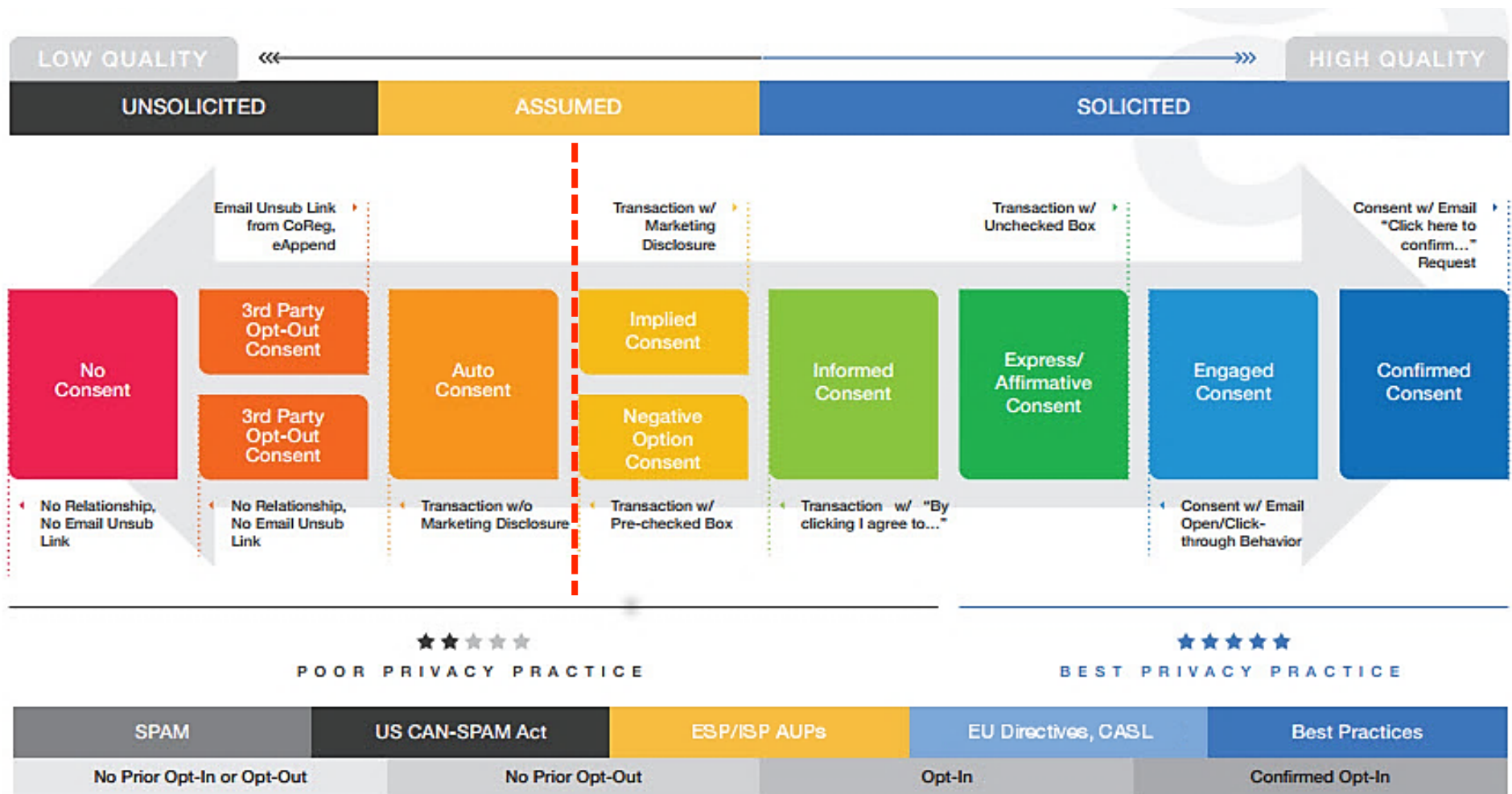
All factual content
Some promotional content
Mostly promotional content
All promotional content

CASL

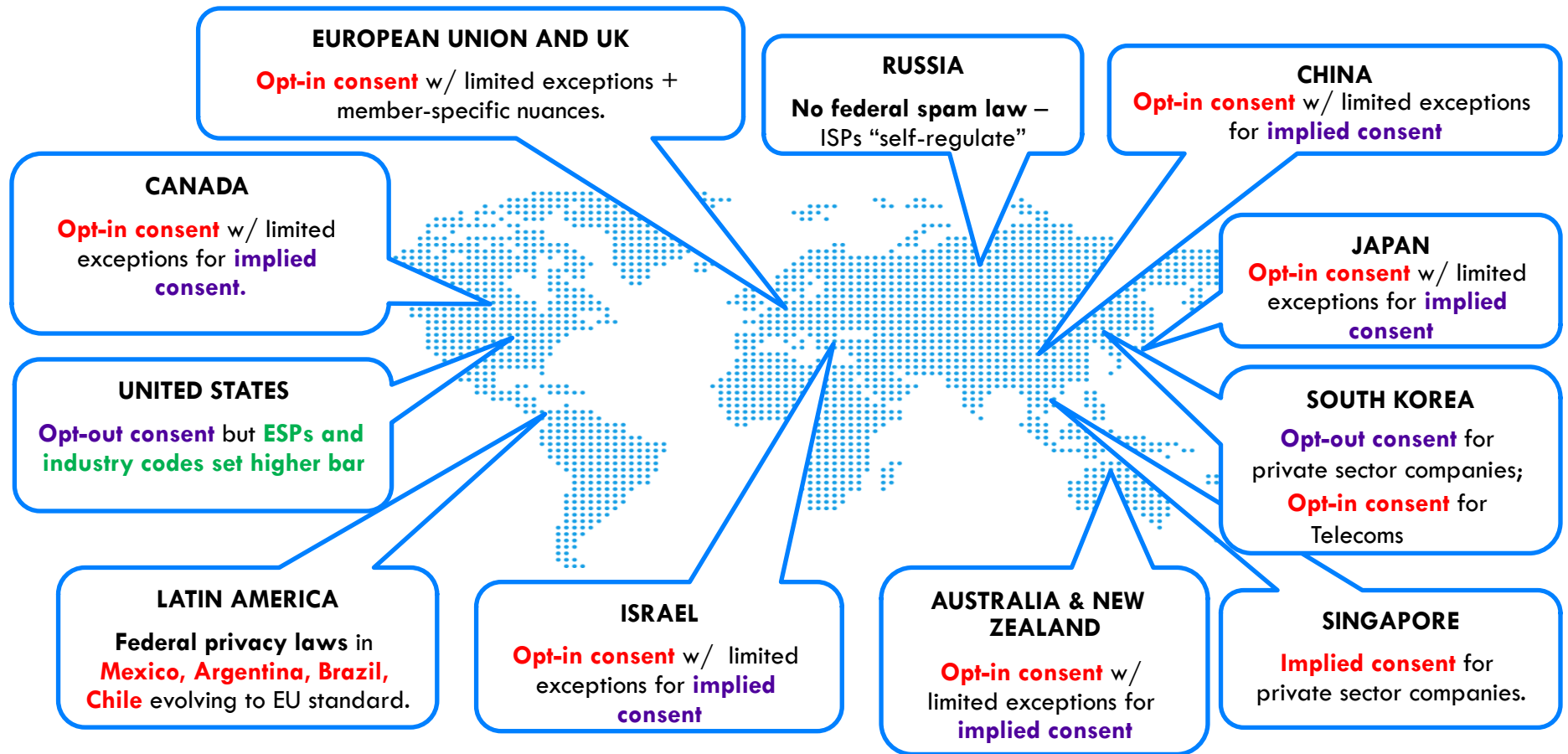
- Minimal Risk
- Low Risk
- High Risk

All factual content
Corporate content
Any promotional content

Consent Continuum



U.S. is an outlier – your T&Cs matter!



COMPLIANCE 'BY DESIGN'

**Risk governance starts with Deliverability,
ends with Corporate Accountability**

- ❖ **What areas should you cover?**
- ❖ **What is your approach abroad?**

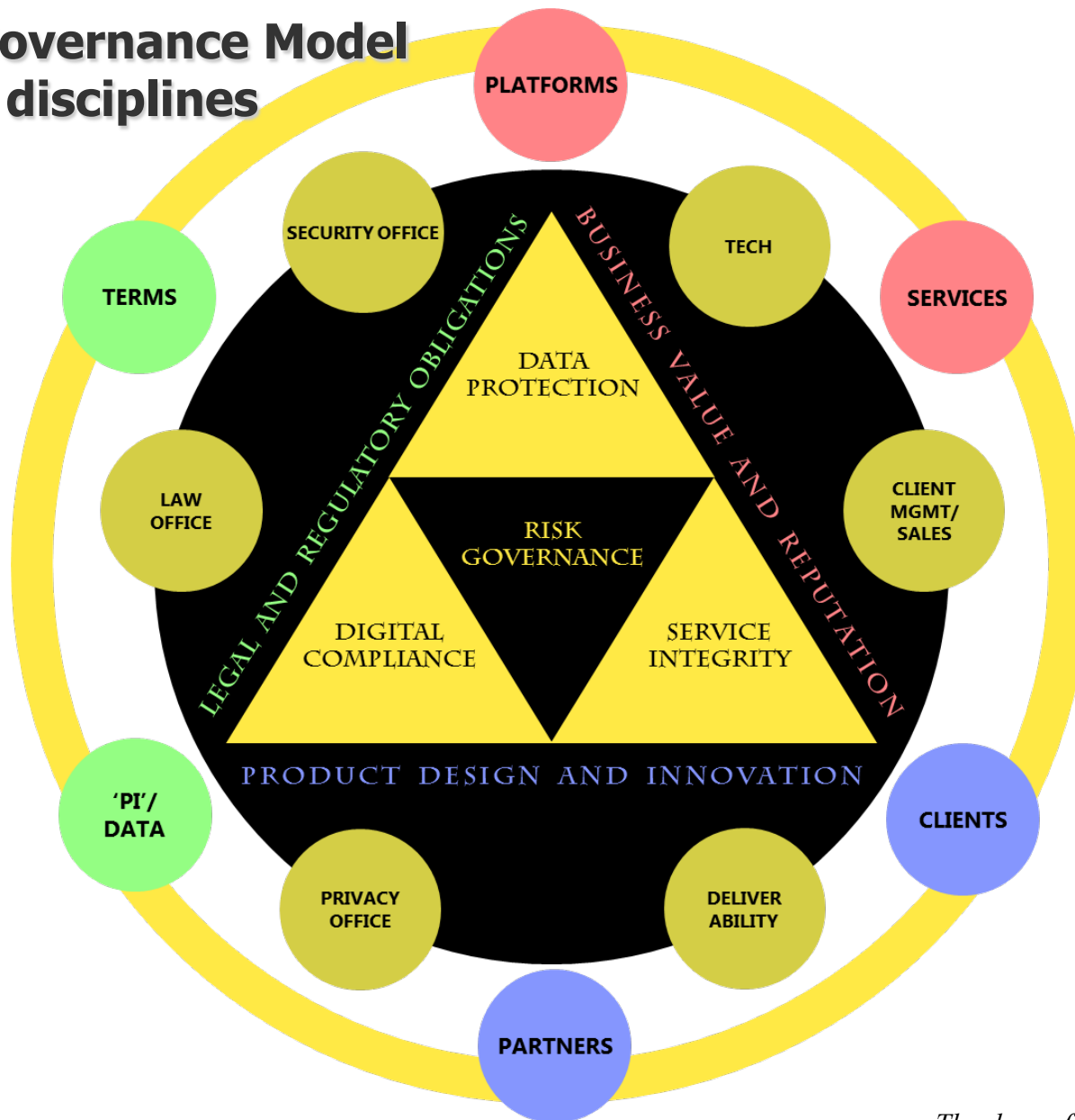
House built to EU specs?

- Program should be built from the ground up
 - **Foundation.** Strong information security controls and privacy policies
 - **Ground floor.** Uniform client and client data management practices
 - **2nd Fl.** Blended security, privacy and digital compliance operations
 - **3rd Fl.** Regular privacy and compliance impact assessments
 - **Sun deck.** Integrated “Privacy By Design” product development discipline and culture of accountability
 - **Roof.** Certifications, external assessments, training and education



ESP Risk Governance Model

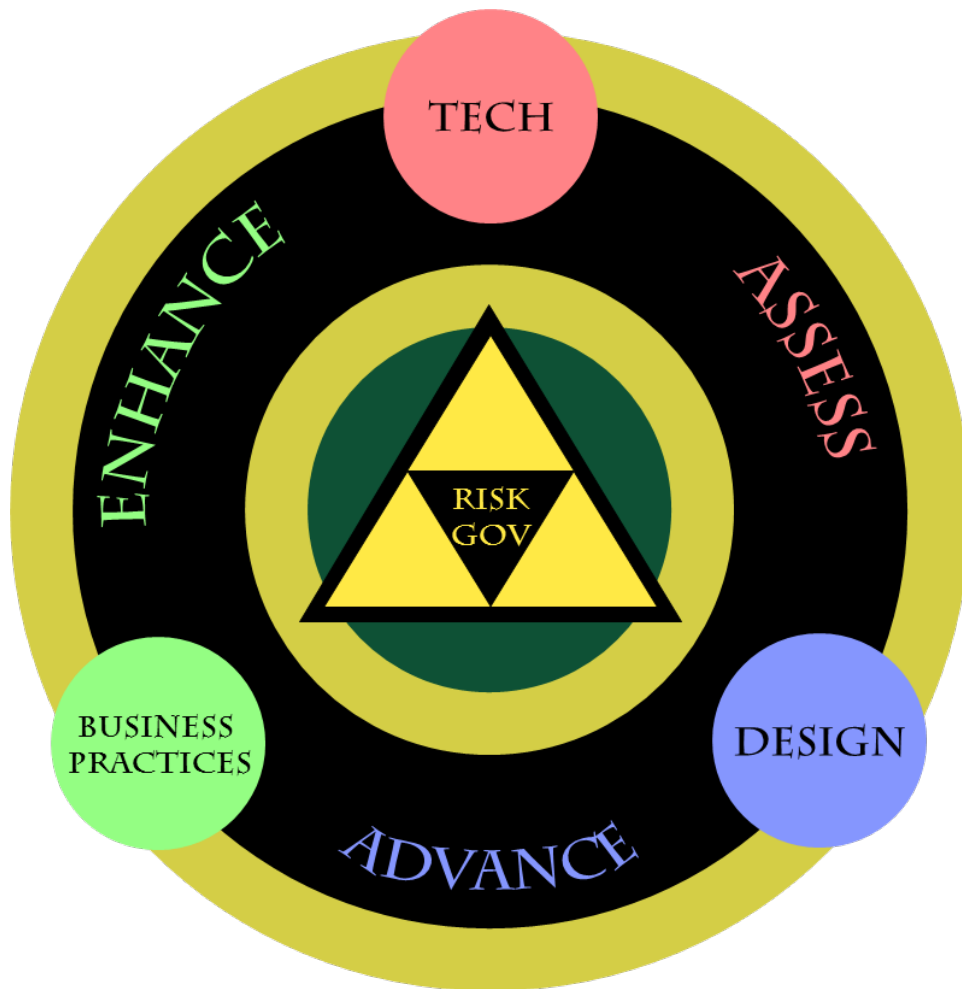
'Links' key disciplines



Thank you for the inspiration, Nintendo

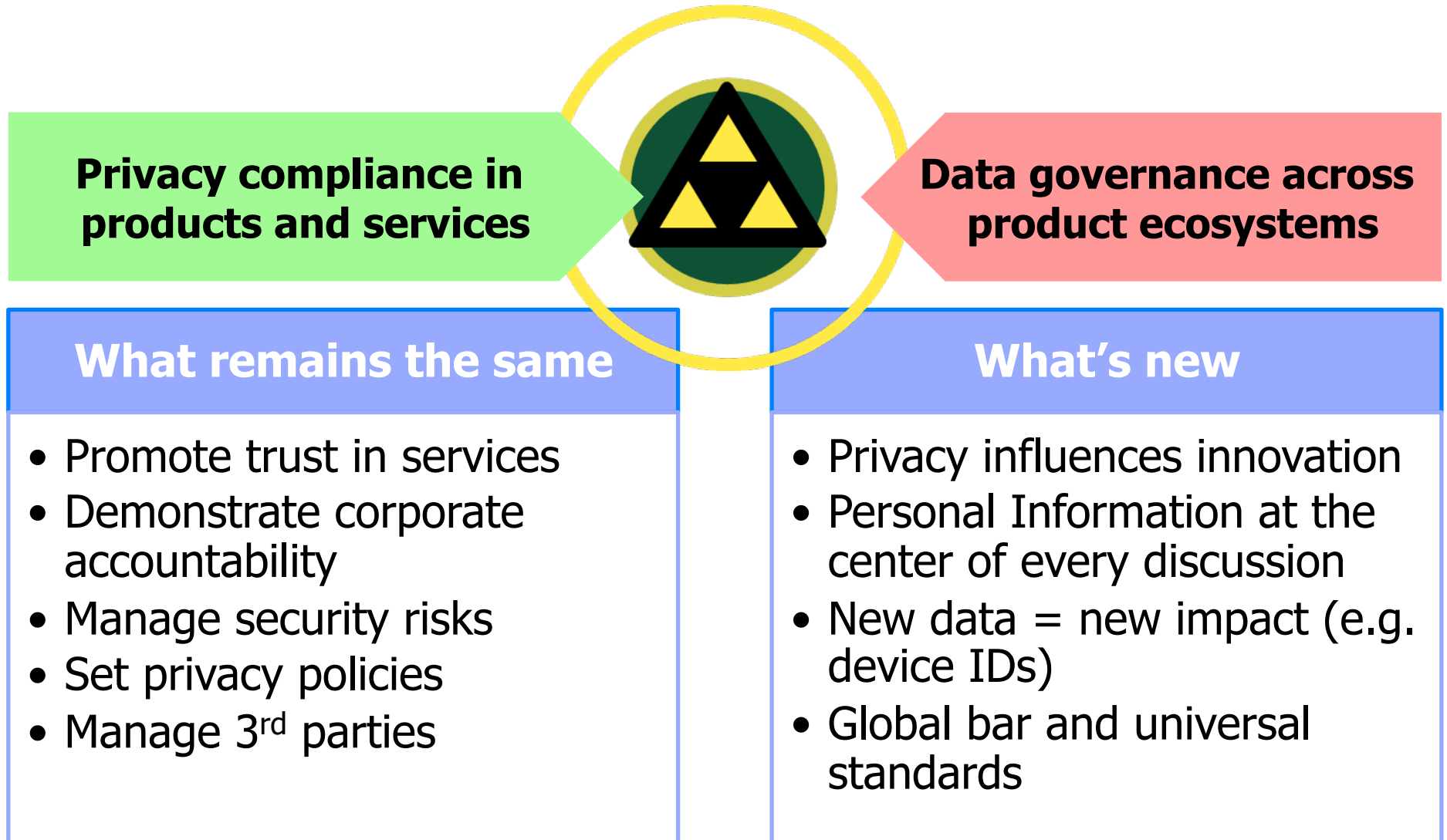
Email Sender & Provider Coalition

Privacy by Design's "Trilogy of Applications"

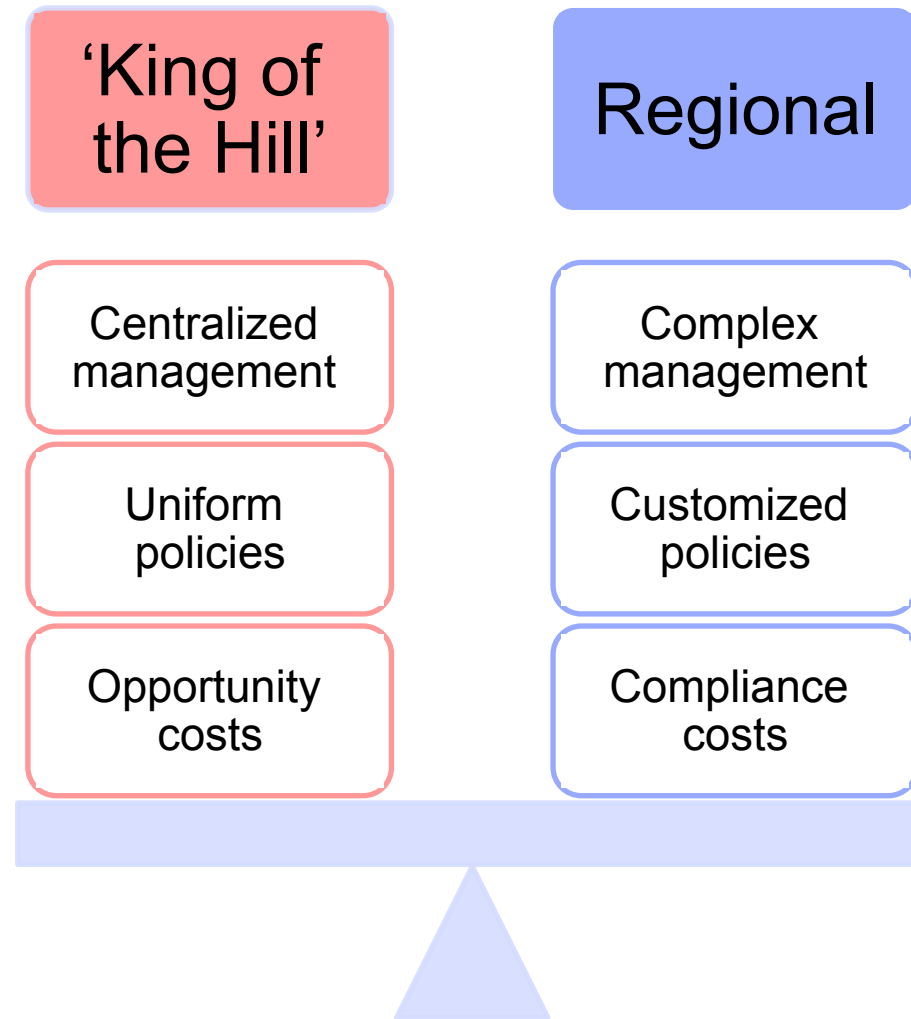


1. **Business practices and product designs** should address privacy compliance requirements
2. **As technological innovations** continue to pose new threats to privacy, **privacy-enhancing technology and practices** (i.e. encryption) can minimize these threats.
3. **Privacy should be treated as a business issue**, not solely a compliance issue. Achieve a competitive advantage by developing and maintaining accountable business practices.

Mind 'Personal Information' in custody



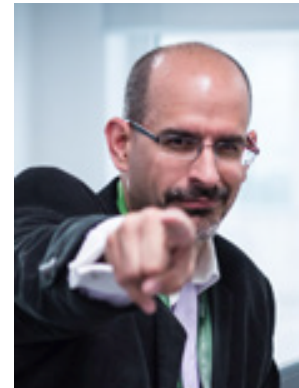
Choose your privacy compliance strategy



Email Sender & Provider Coalition

EU GDPR impacts ESPs as 'data processors'

- The introduction of mandatory privacy risk impact assessments
- New data breach notification requirements
- The right to be forgotten
- The international transfer of data
- Data processor responsibilities
- Data portability
- Privacy by design
- One-stop shop



Courtesy of James Koons

Integrated tactical & strategic functions (same goals, different roles)

strategic consulting business reputation thought leadership
risk management protection best practices

Deliverability

Privacy /
Compliance

Deliverability Guidance

Marketing Compliance and
Privacy Guidance

Monitoring & Testing

Compliance and Privacy Policy
Development & Enforcement

Abuse Mitigation

Contractual Controls

ISP Relations

Product Due-Diligence &
Privacy Assessments

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TOP 10 ACTIONS FOR ESP'S

1. Designate responsible individual(s) (DPO/CPO/CCO)
2. Accurately identify where clients operate + send to
3. Ensure clients have rights to share Personal Information with 'data processors'
4. Validate client touch points include needed disclosures
5. Enhance how your platform handles consent / recordkeeping
6. Invest into your Deliverability Team as a Compliance Line of Defense and integrated advisory function (custom services)
7. Protect data in custody – minimize and encrypt
8. Conduct Privacy Impact Assessment (per GDPR)
9. Operationalize individual's right to access/correct/delete their Personal Information
10. Review, update and communicate corporate privacy practices

Questions?