

E-mail us

Get Technology Live

Subscribe with RSS

Get IM Alerts

Get Tech Live in your inbox

« Coffee Break: Jan. 28 | Main | PC game sales slip »

Data-theft victims in Monster, Heartland cases may not be notified

Like this story? Share it with Yahoo! Buzz



Don't expect a letter from Monster or Heartland Payment Systems letting you know they've lost your data. The breaches at Monster.com and Heartland Payment Systems are raising questions about the efficacy of data-loss disclosure laws enacted in at least 45 states.

Back in 2007 we wrote about how the financial services industry lobbied hard to block proposed federal rules requiring organizations to notify individuals whose data they lose, and to permit consumers to freeze their credit histories.

States such as California and Massachusetts have passed laws giving consumers these rights. But the Monster and Heartland capers have brought weaknesses in the legislation to center stage. I asked Lisa Sotto, head of privacy and information management at law firm Hunton & Williams, about this:

Q: Heartland and Monster told me they intend to comply with all state laws. That said, they have not announced plans to notify individual victims. Is that OK?

A: In the state breach notification laws, it is permissible to delay notification if a law enforcement agency determines that notification would impede a criminal investigation. If such a delay is requested by law enforcement, notification must be made after the law enforcement agency determines that notice would not compromise the investigation. I do not know if these companies received a delay request from a law enforcement agency.

Q: Monster says it chose not to email individual victims because the bad guys could then replicate that message and use it as a phishing template. That makes sense. But is that allowed by state consumer protection laws?

A: There are now 45-plus state laws and they are not uniform. Typically, notice is provided via first class mail, but there are provisions in the state laws allowing for electronic notice as well.

Q: The only official notices from Heartland and Monster so far has been one-page disclosures posted on a web site. Does that cover them?

A: There are provisions in the state laws allowing for "substitute notice" if the number of individuals required to be notified exceeds a certain number (which differs by state), if the cost will exceed a certain dollar amount (which also differs by state), or if the business seeking to notify does not have sufficient contact information for the affected individuals. If substitute notice is used, the notifying party generally must send an email to the affected individuals if the notifying party has email addresses, post a notice on the web site page of the notifying entity, and notify media.

By Byron Acohido
Photo: Sotto. (Hunton & Williams)

Posted at 04:02 PM/ET, January 28, 2009 in Security | Permalink

Like this story? Share it with Yahoo! Buzz

Recent Posts

- 25 things about you: latest Facebook wave
Introducing the world's smallest full-page printer
Coffee Break: Jan. 30
Watch the preview: Guitar Hero Metallica
Free online games soar in popularity
Former employee allegedly plants computer virus at Fannie Mae
Coffee Break: Jan. 29
Google test to measure Internet blockers
PC game sales slip
Data-theft victims in Monster, Heartland cases may not be notified

Categories

- About this blog
Apple
Business
Cameras
Coffee Break
Computers
E3 2008
Electronics
Facebook
First Look
Google
Greentech
Home theater
Internet
Mailbag
Microsoft
Mobile
Music
MySpace
Policy
Security
Software
Talking Tech
Video games
Yahoo
YouTube

Archives

- January 2009
December 2008
November 2008
October 2008
September 2008
August 2008

- August 2008 •
- July 2008 •
- June 2008 •
- May 2008 •
- April 2008 •

By posting a comment, you affirm that you are 13 years of age or older.

### Other USA TODAY blogs

- Better Life •
- Community Center •
- Faith & Reason •
- Gallup Guru •
- Game On •
- Hotel Hotsheet •
- Idol Chatter •
- Interactivity •
- Lifeline Live •
- Listen Up •
- On Deadline •
- Pop Candy •
- Prep Rally •
- Science Fair •
- Technology Live •
- The Cruise Log •
- The Golfer's World •
- The Huddle •
- The Oval •
- The Weather Guys •
- Today in the Sky •
- USA TODAY On Politics •

### Worth reading

- TechCrunch •
- Lifehack •
- VentureBeat •
- GigaOm •
- Techdirt •
- Engadget •

More blogs about **technology**.



---

[Subscribe Today: Home Delivery of USA TODAY - Save 35%](#)