

Rising Star: Mayer Brown's Kendall Burman

By **Steven Trader**

Law360, New York (March 31, 2016, 11:02 PM ET) -- From guiding the Obama campaign's use of data, to serving at the U.S. Department of Commerce during the early stages of the Safe Harbor dispute with Europe, to her current role as a privacy counselor at Mayer Brown, Kendall Burman has earned her place on Law360's list of top privacy attorneys under 40.

As the Commerce Department's chief policy expert for the office of general counsel from 2012 through 2014, the Law360 Rising Star had a front row seat to the aftermath of Edward Snowden's leaks of National Security Agency documents in mid-2013, which almost immediately sparked concerns by the European Commission over how its citizens' data was being used by U.S. companies under the Safe Harbor agreement.

It was Burman's role to engage with officials there and take their complaints under consideration, while at the same time assuring them that the U.S. government and the roughly 4,000 companies that transferred data under the Safe Harbor were equally committed to upholding citizens' privacy.

"The biggest challenge at that moment was how to explain to the European audience the U.S. approach to privacy, because unlike Europeans, we don't have a comprehensive data protection law, but we do have one of the most effective enforcers of privacy in the Federal Trade Commission," Burman said. "Explaining to them how the U.S. system enforces the commitments of companies who adhere to Safe Harbor framework through FTC was a really important element of those discussions."

Understanding the "levers and mechanisms" of how the government handles privacy issues began for Burman in 2008, when she took on the role of adviser to then-Senator Barack Obama's campaign as it broke new ground in its use of data to connect with voters through text messaging tools and social media, forcing her to walk the line between innovation while at the same time complying with privacy laws and the trust of the campaign's supporters.

"At that point, there was no clear guidebook on some of the privacy issues, so it was a lot of thinking

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Kendall Burman
Mayer Brown

about other areas of the law and using good judgment,” Burman said. “It really hooked me in terms of the complexity and interest in these issues, and those are the same types of issues that all sorts of companies are grappling with now.”

Her public sector experience, along with her firsthand knowledge of the Safe Harbor framework, made for an easy transition to the cybersecurity and data privacy team at Mayer Brown in November.

Among her roles as a counselor is helping companies navigate the “gray areas” in rules for overseas data transfers, which Burman said businesses are basically “left to interpret for themselves” after the old Safe Harbor was struck down in October, while the new proposed U.S.-EU Privacy Shield agreement reached in February has yet to be approved.

Another is talking through cybersecurity issues and drafting policies for companies as they wade into Internet commerce for the first time.

“One of the first things I say is don’t think of privacy and cybersecurity in silos; think of them as connected issues,” Burman said. “You see this with any entity or business that’s gone through a cyber breach and private data’s been made public, or where a company doesn’t consider the privacy implications of some of the data they’re collecting. These are issues that are really interrelated at this point, so don’t think of them as one or the other.”

As a New America Foundation fellow, Burman is also involved with a project to help bring more women into the field of cybersecurity, making sure there’s a toolkit for businesses to help them attract more women into these roles and help women understand that there are a lot of different ways to come into the cybersecurity profession, law included.

“Certainly my bio supports the fact that you don’t necessarily need to fit what you might think is the stereotypical path to being a cybersecurity professional in order to get a lot of value and enjoyment out of it,” Burman said.

--Editing by Philip Shea.
