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## Big data has its pluses, but concerns over its minuses are growing

Suddenly, big data is everywhere. Whether it's the controversy created by Edward Snowden's release of classified documents from the National Security Agency, which put a glaring spotlight on the U.S. government's collection and use of information on its own and foreign citizens, or apps that covertly collect and transmit data from phones and tablets, big data is in the headlines.

What's the big deal about big data?

Big data — which generally refers to the vast and ever-increasing quantity of diverse data about individuals that can be collected, stored, accessed, analyzed and used as a result of the Internet and advances in technology — is a big deal because of the tremendous benefits and uses that this ever-expanding ocean of information affords those that can figure out how to use it.

Big data also raises the specter of Big Brother — the government collecting metadata on phone calls or businesses using information to gain a competitive advantage with consumers by collecting information about individuals related to anything from their health to their spending habits.

Recognizing the use of big data has serious implications for government, business and individuals on a global — not merely national — scale, the Obama administration requested a 90-day study of big data. In May, the White House advisory council tasked with that study released "Big Data: Seizing Opportunities, Preserving Values."

The 85-page report details areas where the public and private sectors may harness big data for the public good — from improving law enforcement to analyzing large samples of medical outcomes — and highlights areas of concern including constitutional and privacy worries. The report also advances recommendations for legal, policy and regulatory initiatives to protect citizens — both in the U.S. and globally — from potential abuses.

### Government

The report highlights the potential for federal, state and municipal governments to use technology and

data to improve their services in many areas, including health care, education and crime prevention and detection, as well as streamlining the administration of services. However, the report also notes the potential risks and consequences to the collection and use of data that is often of a very personal nature.

The report includes a specific section on the implication of big data on privacy law, including constitutional concerns (specifically equal protection and the Fourth Amendment right against unwarranted searches), and suggests that balancing the beneficial use of big data within individual legal and privacy rights requires ongoing evaluation and effort.

### Private sector

At the outset, the report acknowledges that big data has the potential to drive big opportunities for the U.S. private sector across the global economy. At the same time, however, the lack of transparency and knowledge that consumers have about the data being collected, analyzed and used suggests the "potential for a disquieting asymmetry between consumers and the companies that control information about them," according to the advisory council.

The advertising industry has been a driver in the development of e-commerce and the use of big data, assisted by data service

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providers or data brokers that collect, analyze and provide information from consumer data for "perfect personalization" (which the report describes as the fusion of many small bits of different kinds of data, processed in real time, to create a clear picture of a person to predict preferences or behaviors).

The report notes the advantages of these detailed personal profiles including enabling advertisers to deliver exactly the right advertising message, product or service to



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consumers, often before they seek them.

It also highlights concerns with the collection, use and control of data by advertisers and data brokers including an apparent lack of consumer awareness and choice, despite the advertising industry's self-regulatory efforts and the challenges surrounding the implementation and use of do-not-track settings on Web browsers.

Chief among the concerns the study identifies is the lack of regulation over the data services industry (other than services regulated by the Fair Credit Reporting Act), especially in light of the powerful capacity the private sector now has to collect information and

employment and education based on data-derived assumptions about race and socioeconomic status.

The persistence of data in the digital world and the lack of individual control over vast quantities of data that can be captured, copied, shared and transferred at high speed and retained indefinitely at increasingly lower costs, and with increasingly more sophisticated technologies, also poses the risk that an enormous amount of consumers' data, some of it personal, will be controlled by others — including unregulated data brokers.

### Recommendations

In addition to highlighting the benefits and risks of big data, the report advances a number of recommendations including passing legislation providing for a single, national data breach standard and amending the Electronic Communications Privacy Act to "ensure the standard of protection for online, digital content is consistent with that afforded in the physical world."

The report also recommends advancing the White House Privacy Bill of Rights, empowering the federal government's civil rights and consumer protection agencies to prevent the use of data in a discriminatory fashion and extending privacy protections to non-US citizens.

The report and its recommendations indicate a growing concern by the White House and federal agencies that the growth of big data has not only outpaced development of a legal and regulatory framework governing its use, but that this situation negatively and significantly affects the U.S., its citizens and its place in the global economy. There is no doubt that the privacy and data security headlines — whether Snowden's revelations or the latest breach, be it Target or Michaels or eBay — have put the U.S. behind the privacy eight-ball with the rest of the world.

Whether and to what extent the recommendations in the White House report on big data will be implemented remains to be seen, but the need for the U.S. to address and strengthen privacy and data protections to regain the confidence of other countries is clear.