Privacy, Data and Consumer Protection

Dr. Alexander Dix
Berlin Commissioner for Data Protection and Freedom of Information
Chairman of the International Working Group on Data Protection in Telecommunications

Statement at the ITU WSIS Thematic Meeting on Cybersecurity
Geneva, July 1, 2005
Outline

- Privacy as a keystone for trust-building
- Privacy and Security
- Data Protection as a „red herring“
- The International Working Group on Data Protection in Telecommunications
- The Group`s contributions to the debate
- Privacy and the fight against cybercrime
- Summary

Berlin Commissioner for Data Protection and Freedom of Information
ITU WSIS Thematic Meeting on Cybersecurity
Geneva 1 July 2005
Privacy as a keystone for trust-building

- **Warren/Brandeis: The right to be left alone (1898)**
- Applies to the offline and to the online world
- Increasingly people „live“ and express themselves online
- They have a legitimate expectation (trust) not to be put under constant surveillance in cyberspace
- They exercise other human and political rights (freedom of expression, political opposition) on the Web
- In some countries the Internet is the only medium to communicate with the outside world uncontrolled
- Principles B5 of the Geneva WSIS Declaration 2003
Ambient intelligence

- Increasingly virtual living rooms are created online (intelligent homes, digital music lockers)
- Intelligent agents act on behalf of users
- The Internet becomes increasingly a medium to help organising daily life (distant controls for domestic appliances, heating, fridge etc.; the fridge organizes the food supply)
- The „Internet of things“

Berlin Commissioner for Data Protection
ITU WSIS Thematic Meeting on Cybersecurity
and Freedom of Information
Geneva 1 July 2005
The Privacy – Security Paradox

- Privacy and security (of data) are to some extent complementary
- On the other hand they are not identical and may even lead to conflicts
- The increasing risk of insider attacks on IT-systems does not justify routine surveillance of the entire staff

Berlin Commissioner for Data Protection  ITU WSIS Thematic Meeting on Cybersecurity and Freedom of Information  Geneva 1 July 2005
Data Protection as a „red herring“

- Protection („fencing in“) of existing data is not enough to ensure privacy
- It also becomes increasingly impossible
- Series of security breaches in the U.S., culminating in the Cardsystems case
- Necessary: strict data minimization and identity management systems which ensure the autonomy of the data subject.

Berlin Commissioner for Data Protection and Freedom of Information
ITU WSIS Thematic Meeting on Cybersecurity
Geneva 1 July 2005
The International Working Group on Data Protection in Telecommunications

- Founded in 1989 in the framework of the International Conference of Data Protection and Privacy Commissioners („Berlin Group“)

- Object: to improve privacy and data protection in telecommunications and media

- Global approach (not eurocentric)

- Influential Statements and Working Papers
  
  Berlin Commissioner for Data Protection and Freedom of Information  
  ITU WSIS Thematic Meeting on Cybersecurity  
  Geneva 1 July 2005
The International Working Group on Data Protection in Telecommunications (II)

- Budapest-Berlin Memorandum 1996 on Data Protection and Privacy on the Internet
- Data Protection and search engines (1998)
- Essentials for privacy-enhancing technologies (e.g. P3P) on the WorldWideWeb (1998)
- Privacy and copyright management (2000)
- Registration of domain names (2000)
- Freedom of expression and right to privacy regarding online publications (2004)

Berlin Commissioner for Data Protection and Freedom of Information
ITU WSIS Thematic Meeting on Cybersecurity
Geneva 1 July 2005
Ten Commandments to protect privacy in the Internet world (I)


- Informational separation of powers
- Telecommunications secrecy
- Data austerity (minimisation)

Berlin Commissioner for Data Protection and Freedom of Information
ITU WSIS Thematic Meeting on Cybersecurity
Geneva 1 July 2005
Ten Commandments to protect privacy in the Internet world (II)

- Right to anonymity
- Virtual right to be alone
- Right to security
- Restriction of secondary use
- Transparency
- Subject access to personal data
- International complaints resolution

Berlin Commissioner for Data Protection and Freedom of Information
ITU WSIS Thematic Meeting on Cybersecurity
Geneva 1 July 2005
Privacy and the fight against cybercrime (I)

- Cyberspace is not a lawless space
- Nation states can regulate the pillars of the global infrastructure ("sliproads" to the Information Highway) within their jurisdiction
- Problems of transnational enforcement
- Cybercrime Convention (2003)
  Concept of "fast freeze and quick thaw"

Berlin Commissioner for Data Protection and Freedom of Information
ITU WSIS Thematic Meeting on Cybersecurity
Geneva 1 July 2005
Privacy and the fight against cybercrime (II)

- Instead of ratifying the Cybercrime Convention EU governments are now planning for routine data retention

- Cyberspace would thus be turned into a network of surveillance and an instrument to create suspicion (rather than act on suspicious facts in a particular case)

Berlin Commissioner for Data Protection and Freedom of Information

ITU WSIS Thematic Meeting on Cybersecurity

Geneva 1 July 2005
Summary (I)

- Cybersecurity rests on the respect for the privacy of users (citizens and consumers)
- A network under constant surveillance would create insecurity and deter users (individuals and companies)
- There are intelligent ways to fight (cyber)crime and to respect the human right to privacy on the Internet at the same time
Summary (II)

If a new UN Agency on Internet Governance is created the international privacy community (Commissioners and civil society) should be represented in order to help implementing principles B 5 (35-37) of the Geneva WSIS Declaration of 2003
Summary (III)

- “The question we have to ask ourselves is what architecture of the internet do we want to promote? What are the values we want from that architecture?”
  
  Bernard Benhamou

- “The role of government is freedom-securing rather than freedom-intruding.”
  
  Jonathan Zittrain

Quotes from Oxford Internet Institute Governance Forum 6 May 2005
Contact:

- dix@privacy.de

You will find the papers of the Berlin Group at
- http://www.privacy.de