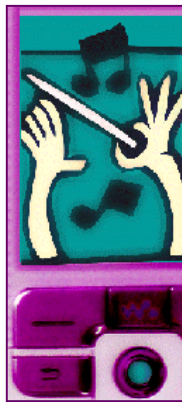




# The Regulatory Environment For Future Mobile Multimedia services

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**Multimedia mobiles services and  
the Protection of Individuals with  
regard to Privacy and Personal data**

**Marie GEORGES,**  
counsellor of the President, Commission Nationale de  
l'Informatique et des Libertés, France, [www.cnil.fr](http://www.cnil.fr)



# What should we be afraid of?

- ▣ The chain of involved suppliers collecting, sharing, profiling users on the basis of:
  - personal data including tel number, IP, URLs, TV shows, health, e mail, location data ...for example through the use of multimedia mobile.
  - And digital fingerprints and other identity data in a mobiles and RFID systems
- ▣ Spam by SMS ? by e mail, 85% here in Europe, benefiting US companies.
- ▣ Any people in a user's immediate surroundings can take pictures with their mobiles of users with boyfriends or girlfriends or mistresses.
- ▣ All internet users can read inappropriate materials published on blogs.

**What a situation! But everyone will continue to use these services because of economic and social development and because of their sheer convenience**



# A four-part solution is required

I -1 The universal system of Data Protection principles (OCDE 1980, COE 1081, UN 1991) have to be promoted as binding all around the world for all activities, e.g. public (e-government) and private (e-commerce), world DPAs' 2005 conference declaration of Montreux for a global convention:

-**Responsibility** of the person collecting/processing data

-**Transparency** through information transparency and right of access/correction,

-**Purpose** of a data processing should be specified and **legitimate** (secondary purposes are subject to user consent )

-**Data** collected, processed...should be **relevant and not excessive** in quantity or in the **period of storage** (anonymity in certain cases and when data is required, those that are not necessary must be explicitly made optional, e.g. through the symbol “\*”)

-**Security(CIA)**: Confidentiality, Integrity, Authentication



# Four-part solution (cont'd)

I- 2 [principles to be] developed in a coherent way,

**EU directives of 1995 (General Directive on Data Protection) :**

- **legitimate purposes** = user consent or data is required for a contract, legal obligation, legitimate purpose where there is no overriding individual right
- **re-enforced protection** = in case of sensitive data, profiling

**EU complementary directive of 2002**

- on electronic communication, and notably the security of the network end to end:
  - **opt in against spam**
  - **opt in case of location-based services**
  - **no “spyware”** (full disclosure of information and consumer choice)



# Four-part solution (cont'd)

**I- 3 Developed** also where there is still room for interpretation by:

- national level **DPA recommendations**
- EU level by the **Art 29 Group of EU DPAs**
- international level **through recommendations by the world conference of DPAs**

e.g. **location based services “consent”**,

- services for “tracking” children
  - When “tracked” they must be informed and they may have the right to oppose (minors as of a certain age: must be assured a period of learning autonomy)
- services for “tracking” moving workers:
  - possibility to disconnect after working hours, and information given to this effect



# Four-part solution (cont'd)

**II - The system has in fact to include** the so called “EU model” of **Data Protection Authority** (since the 80s also in Canada, Australia, New Zealand, more recently Korea, Argentina, Burkina Faso, bill in Senegal...), with effective powers:

**A) Monitoring of new technologies,**

**B) Advising after consultation on practical implementation of the principles,**

e.g. CNIL guidelines on traffic data retention, tracking service/children and driver employees, RFID, blogs etc.

**C) Where B not enough , suggest specific legal provisions or amendments , for example, an opt-in against spam and use of location data on EU level**



# Four-part solution (cont'd)

## II- DPA's powers (cont'd)

**D) In the case of a governmental proposal for derogation to the purpose principle, fostering public debate, and indicating a solution proportional to the current situation,** (e.g. anti terrorism laws which currently imply the obligation of keeping data for law enforcement: at a minimum, debate should relate to what data, for how long it should be kept, when and how it would be accessed, and the control of this access)

**E) Cooperating with foreign DPA/international complaints, declarations...**

**F) Sanctioning**

**Today 43 countries with independent DPAs (25 in EU, 18 outside EU), compared with 153 regulators of telecommunications! But with the commitment of the Heads of States in Latin America (2003) and Francophone countries (2004), we are heading towards a total of 100 DPA Countries**



# Four-part solution (cont'd)

## III- Large and coherent national and international programmes for information and education on

- **Rights**

- **Duties**

- e.g. the large number of people publishing blogs and taking digital pictures (consent for making available to others)....
- DPA's duty to promote awareness
- But operators, ISPs, Teachers, NGOs etc... are also concerned

## IV- Exemplary sanctions and Police cooperation

- where required, international policing, sanctions and investigation ie spam



# Two questions remain

**WSIS outcome :** Tunis Agenda focuses more on spam than it does on the question of Data protection and privacy in general (paragraph 46). However, it must be recalled that any spam is a breach of the fair collection principle of data protection, and thus cannot be considered in isolation from general principles. Why has it been so?

**Relating to the general data protection principles, which international organization** should be responsible for, in collaboration with the Council of Europe (convention 108), the much-needed world convention to promote and support national efforts in this area – and to make them binding?



**Thanks for your attention**

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