

# **Privacy, Data and Consumer Protection**

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**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**

# 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“**

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# 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**

# 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.**

# 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

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# 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)

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# **Ten Commandments to protect privacy in the Internet world (I)**

## **Common Position on the Incorporation of telecommunications-specific principles in multilateral privacy agreements (2000):**

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

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# **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**

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# 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“**

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# 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)**

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# 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*

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**You will find the papers of  
the Berlin Group at**

- <http://www.privacy.de>