

DAIMLERCHRYSLER

Current challenges for data protection in the world economy

Prof. Dr. Alfred Büllesbach

Social changes

- New orientation in the society: Focus on knowledge management and the need to guarantee the quality of information to cope with overwhelming amount of information
- Development and application of new information and communication technologies lead to challenges for data protection in the industry and for the state
- Increasing awareness and sensitivity among the people
- More attention and sensitivity for issues linked with data protection as a consequence of the legislation concerning terrorism after 09-11-2001

Prof. Dr. Alfred Büllesbach / 16.09.2004

2

Data protection in times of globalization of the economy and society

- Globalization and convergence of data protection as a consequence and a condition for the acceptance of a worldwide establishment of data protection
- Self-regulation as an adequate and flexible means of regulation in data protection law
- Data protection as a part of consumer's protection in business relations and as a part of quality management
- **International harmonization of principles of data protection in order to enable international data transfers in global markets**

Prof. Dr. Alfred Büllesbach / 16.09.2004

3

Transborder data flow in the world economy

→ Aim: Internationally coordinated legal conception

- Worldwide similar valuation criteria for data flows
- Minimizing obstacles for transborder data flows

Prof. Dr. Alfred Büllesbach / 16.09.2004

4

Different approaches in the legal conceptions

APEC-/OECD-principles ↔ EU-Data Protection Directive

- | | |
|--|--|
| <ul style="list-style-type: none"> ■ Non-binding principles ■ Possibility to apply the principles in total or only in parts ■ No specific requirements for the implementation with regard to the national regulatory approach | <ul style="list-style-type: none"> ■ Directive is binding for the 25 member states ■ Complete implementation into national law is necessary ■ Implementation requires a comprehensive regulatory approach |
|--|--|

Prof. Dr. Alfred Büllesbach / 16.09.2004

5

The current situation in Europe (I)

- The data protection Directive has almost completely been implemented in all member states and thereby has created a common legal basis
- Efforts of harmonization carried out until now show the desired effects and have proven worthwhile; yet there remain practical problems especially due to the different administrative requirements in the EU member states
- Data protection is established as a fundamental right in the EU-Charter and the draft version of the EU-Constitution

Prof. Dr. Alfred Büllesbach / 16.09.2004

6

The current situation in Europe (II)

- Recognition of self-regulation measures as a means to create an adequate level of protection:
 - Safe Harbor Principles
 - Contractual clauses
 - Codes of Conduct:
 - The data protection authority of the "Bundesland" Berlin has presented the DaimlerChrysler Codes of Conduct to the working group of the national data protection authorities of the EU states.
 - On 28.05.2004 the French data protection authority (CNIL) was assigned by the committee to coordinate the approval procedure for the DaimlerChrysler Group in all EU member states.

The current situation worldwide

- The current state of data protection regulation: Most states in the world have different data protection regulations (comprehensive data protection laws, sector-specific regulations, self-regulation)
- Approaches of harmonization:
 - Some states use the EU-Directive as an orientation for their national legislation (e.g. Japan, Canada, Argentina, New Zealand)
 - Other states base their legislation on the OECD-Guidelines (also see draft version of APEC-Guideline))

New challenges for the world economy (I) → Anti-terrorism-laws as a special problem

- New dangers for global companies due to an increased transborder access for secret services to data of companies providing financing, telecommunication, mail or travelling services; e.g. economic espionage with regard to trade secrets and company strategies
 - Problems linked to the implementation of new legal obligations, e.g. respecting the lists of persons of the UN or the EU-decrees
- New dimensions of data protection risks for employees and customers due to transfer or control duties that diminish the level of protection set out in the company regulations.

New challenges for the world economy (II) → Growing density of regulations

- „Blind spots“ on the data protection map become less. A growing amount of data protection laws is to be observed. Particularly in the details the data protection legal situation becomes more and more heterogeneous.
- Increasing expenditure for global companies to comply with all regulations.

New challenges for the world economy (III): → Increasing interconnection between data sources

- Convergence of information and communication technologies enables worldwide networking and standardization
 - Marketing and sales idea: systematic structuring of the markets
 - Using existing data sources to categorize customers for the purpose of CRM (e.g. scoring-procedure, data mining)
- Growing significance of international data transfers and centralized data storage

New challenges for the world economy (IV): → Mechanization of Everyday Life

- Ubiquitous Computing
 - RFID and Mobile Devices
 - Magnetic Random Access Memory (MRAM)
 - Ambient Intelligence (personalized configuration of environments)
- Increasing need for a configuration of technologies that gives consideration to data protection
- Need of education concerning new potentials in monitoring and new dangers for privacy

New challenges for the world economy (V):
➔ New models of economy

- Shortage of money results in the development of new models of economy and co-operation
 - Value-added services are made available as an additional sources of revenue
 - Local factors of identification gain importance within the global competition
- ➔ Intense use of customer data, overlapping different branches and companies
- ➔ Personalized relationship between customers or employees and the company

New challenges for the world economy (VI):
➔ Different options to react

- Creating an internationally accepted data protection basis for the global economy
 - ➔ International coordination and cooperation, elaboration of international standards (e.g. by the world conference) for the recognition and acceptance of self-regulation measures, such as Codes of Conduct.
- Giving effect to data protection by consequent and voluntary implementation of data protection principles and international data protection standards
 - ➔ Integration and implementation of data protection principles in projects throughout the worldwide economy

Tasks for global companies

Our challenges:

- Expectations and demands of our customers
- Growing sensitivity of our customers
- Heterogeneous data protection regulations
- Data protection in transborder data flows
- Adequate data protection level in the company
- Corporate identical image in the competition
- Integrative data protection and data security management

Our solutions:

- ➔ Global approach
- ➔ Adequate data protection level by means of self-regulation
- ➔ Data protection is a qualitative and a competitive advantage
- ➔ Internal data protection organization
- ➔ Internal Law Enforcement
- ➔ Integration of data protection and data security in the products and services

Our maxim:

