

Privacy Protection as Consumer Protection

- User Requirements and Attitudes -

Dr. Thilo Weichert

German Association for Privacy Protection

Deutsche Vereinigung für Datenschutz

Independent Centre for Privacy Protection

Schleswig-Holstein, Germany

Unabhängiges Landeszentrum für Datenschutz



Privacy Protection in State Data Processing

- 70ies 1st Generation Privacy Protection Acts in Germany against Data Misuse of „Big Brother“
- 80ies Federal Constitutional Court: Census Decision
- 90ies 2nd Generation Privacy Protection Acts and Security Law with far reaching Competences to Interfere with Privacy
- 2001 New Anti-Terrorist Acts
- 2003 3rd Generation Privacy Protection Acts?



Privacy Protection against private Data Misuse

since the 70ies

Data Collection by Information Services
and Direct Marketing

since the 90ies

New Forms of Data Collection in the
Internet

Instruments of Self-Privacy Protection

- Technical Instruments
Virus Checking, Encryption, Firewalls, Anonymizer
- No Legal Instruments



Modernisation of German Privacy Law

German Government plans a new Federal Data Protection Act
Bundesdatenschutzgesetz 2. Stufe

Engagement of the German Consumer Protection Federation
Verbraucherzentrale Bundesverband (vzbv)

Economic Sector: „Privacy sells“ (Aspect of Competition)

Conditions for Privacy Competition

Demand by the People

Economic Sanctions an Positive Stimulus



Measures to Promote Privacy as an Aspect of Competition (1)

- **Capable and Independent Supervisory Authorities**
with the Right to Economic Sanctions and official Objection
 - **More Consumer Power in the Market**
Transparency (Procedures, Software)
Opt-In instead of Opt-Out
Explicit Informed Consent
Right to Compensation of Damages and Enrichment
- > Commercialisation of Consumer Data



Measures to Promote Privacy as an Aspect of Competition (2)

Activities of Privacy and Consumer Organisations

- Consultation of the Concerned Consumer
- Information of the Public
- Juridical Consumer Lawsuits
- Product Comparison („Stiftung Warentest“, Big Brother Award)
- Seal of Quality



Measures to Promote Privacy as an Aspect of Competition (3)

Privacy Protection Audit and Seal of Quality

- Procedure under the Authority of the State
- First Practical Experiences in Schleswig-Holstein
- Right to Advertise for Products with Seal of Quality or Services with Audit
- Confidence of the Consumer
- Costs paid by the Processing Body



Perspectives

Amendment of the European Privacy Directive
referring to Aspects of Competition

European Regulation on Privacy Protection Audit and Seal of
Quality

Privacy Regulation concerning Risks of Bio-Technology

> Privacy: an Central Fundamental Right in a
Democratic Information Society



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Where?	Unabhängiges Landeszentrum für Datenschutz 24103 Kiel, Holstenstraße 98
Telephone?	0431/988-1205
Telefax?	0431/988-1223
E-Mail?	weichert@datenschutzzentrum.de
Internet?	www.datenschutzzentrum.de (ULD) www.aktiv.org/DVD (DVD)

