Dialogue on Diversity
Cyber-security and IT in a Free Society

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January 29, 2013
How does the U.S. and E.U. think about Cyber Security
U.S. v E.U.

- Consumer Rights
  - Federal Privacy Act
  - Commercial Law is Sector Based:
    - Federal Trade Commission
    - Federal Communication Commission
  - State Attorneys General
  - Obama Administration’s Framework on Consumer Data Protection

- Human Right
  - Universal Declaration of Human Rights (Article 19)
  - European Convention on Human Rights (Article 8-12)
  - Charter on the Fundamental Rights of the European Union (Articles 7-8)
  - Data Protection Directive 95/46/EC
  - Convention 108
  - The first Proposed EU Law is on Data Protection
U.S. Government’s View of Privacy and Cyber Security

• The Obama Administrations Consumer Bill of Rights
• Department of Homeland Security’s Chief Privacy and Civil Liberties Officers (Statutory)
• The Office of Director of National Intelligence Civil Liberties and Privacy Office
  – National Counterterrorism Guidelines for Access, Retention, Use and Dissemination by the NCTC
• Trustworthy Cyberspace: Strategic Plan for the Federal Cyber-Security Research and Development Program
• The Federal Privacy Act
U.S. View of Cyber Security = Critical Infrastructure

• Definition: Critical Infrastructure Protection Act 2001 [42 U.S.C. 51095(e)]
  – “critical infrastructure” means systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.
U.S. Challenge

- Internet communication routing system
  - Decentralized
  - Volume and types of devices connected
  - Discerning threats from non-threats
    - Botnets good v bad (both rely upon use of consumer computing devices)
    - ID Thieves (successful at stealing things of value)
    - Criminal rings and terrorist find this environment inviting
    - Low public awareness of good data hygiene
    - Learning how to make data security seamless, low-cost, easy to use for institutions and individuals
    - Growing an Internet user friendly social, cultural and economic model
What is Cyber Security to Consumers and Businesses?
What is Cyber Security to Law Enforcement?
What is Cyber Security to Intelligence Agencies and National Defense?
U.S. Policy Struggle Over Oversight of Cyber Security

• Civil Agency Control
  – Department of Homeland Security
  – Department of Justice

• Department of Defense Agency Control
  – Office of the Director of National Intelligence
  – National Security Agency/US Cyber Command
U.S. Administration vs. Congress

• What Happened in 2012
  – Secret Presidential Policy Directive 20
  – National Strategy for Trusted Identities in Cyber Space Standards Development Initiative

• What did not happen in 2012
  – Electronic Communication Privacy Act Reform
  – Cyber Security Legislation
  – Consumer Online Data Protection

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E.U. View of Cyber Security and Privacy

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What happened in the EU in 2012

• European Commission proposed to modernize Data Protection rules to simplify business compliance and establish new privacy rights for individuals

Proposed Privacy Law

- Article 2 page 40 National Security and Law enforcement carve out, monetary policy
- Article 4 Definitions page 41-43
- Article 5 Fair Information Practices Principles
- Article 6 Lawful Processing
- Article 7 Burden of proof of consent
- Article 8 Children below 13
- Article 9 Special Categories (race, ethnic, politics, religion, health, gender, criminal record, or security measures

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Chapter III - the Rights of Data Subjects [starts on page 47]

- Obligations of the data controller to the data subject (Article 12-13)
- Transparency to data subject (Article 14 [(g) allows data transfers to a third country or international organization under adequacy decision by the Commission]
- Information access to data subject (Article 15)
- Accuracy (Article 16)
- Right to be Forgotten (Article 17) [page 51]
Proposed Privacy Law Cont’d

• Right of Data Portability (Article 18)
• Section IV Right to Object and Profiling (Article 19 and 20 [page 53-54]
• Section V Options for each state to limit the power of national security, intelligence or law enforcement
• Article 23 – Privacy-by-design [page 56]
• Article 30 – Security [page 60-67]
• Section 5 – Out of Court Procedures (?)
Human Rights Perspective

• Fundamental Rights: Dignity, Freedom, Equality, Solidarity, Citizenship and Justice
• New Rights: Data protection, bioethics and the right to good administration
• Establishes the right of EU citizens to be heard and have redress of grievances
Popular Movements Against Surveillance

Freedom not Fear 2008
2008: Berlin 70,000 Protestors
The U.S. and E.U. Internet Policy Convergence?

- U.S. NTIA Multi-stakeholder Process to Establish new Privacy Protections
- The EU moving to codify its first law
- Need for linkage
  - The Internet has no borders
  - The Internet has no language
  - The Internet has no politics
  - The Internet has over 2.4 billion users [http://www.internetworldstats.com/stats.htm](http://www.internetworldstats.com/stats.htm)

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Cyber Security Challenge

- Deciding who will decide
- Tension between making software, firmware and hardware better (harder to breach, compromise or undermine)
- Better educated population on cyber security and good data hygiene
- Hardening weak links against other forms of attack e.g. social engineering, man in the middle, publicly available data exploits