

HOW DATA PROTECTION COMPLEMENTS AND COMPLICATES EDI

Electronic data interchange's (EDI) potential benefits for a company, lie not only in simple monetary savings, but also in strategic reorganization at all levels of the company's activities. But how is the growth of EDI going to have an impact on a company's data protection policy? Ian Walden reports.

What is EDI?

EDI is the computer-to-computer exchange of business information to ~~an agreed technical standard.~~

Such a definition covers the entire range of business communication, from unstructured electronic mail messages which are based on a specific communication standard, to the use of electronic funds transfers (EFT) and Computer Aided Design/Computer Aided Manufacturing (CAD/CAM) techniques.

EDI is carried out either through a direct connection between trading partner's computers, or via a third party network. In effect, EDI replaces the movement of paper documentation, either intra-company or between trading partners.

Why EDI?

The use of EDI is currently undergoing an impressive rate of growth in the UK. It is now used by about two hundred companies, with a market growth of nearly three times in the last two or three years. To date, this growth has been based mainly on user groups already established within sectors, such as the car and chemical industries.

Such growth is primarily due to the wide range of benefits that EDI technology can bring to a business. These include greater operational efficiency, through "just-in-time" production; an increase in the speed and accuracy of information exchange, and generally providing companies with a competitive advantage, through cost savings and improved customer service.

EDI & Data Protection

The growth of EDI has a number of implications for company data protection policy:

1. Development of EDI to include name-linked data

At this stage in the development of EDI, business data reformatted for electronic exchange has primarily been formal trading documents, such as invoices and purchase orders, which are unlikely to contain personal data. But data protection laws are becoming increasingly relevant:

- * Norway, Austria, Iceland, Luxembourg and Denmark have all

enacted data protection legislation that covers both natural and legal persons (i.e. companies). Therefore,*EDI transfers to those countries will be subject to their data protection legislation.

- * As the benefits of EDI are realised, businesses will include an increasing range of documents and messages that are a part of normal trading, within their EDI systems. A large proportion of this data is likely to fall within data protection legislation, such as marketing information containing names of customers and prospects.

2. Threat of TDF restrictions

As EDI develops in the next few years as a vital form of business communication within Western Europe, it will face the increasing threat of regulations governing transborder data flows (see p.2).

While states are concerned to ensure the free flow of information necessary in an international market, the growth of EDI will also raise the possibility of regulations in order to raise tax revenue from this expanding form of trade, and/or to protect individual privacy.

The free flow of information could be restricted by the absence of data protection legislation in a number of West European countries, like Belgium, Italy, Switzerland, Spain, Portugal and Greece, which may become "data havens."

3. EEC Harmonization

In 1987, the European Commission established the Trade Electronic Data Interchange Systems (TEDIS) project to promote the growth and development of EDI, especially in the context of the "single market" by 1992. Part of its current work has focussed on making an inventory of legal rules that exist within the Community to inhibit the growth of EDI, and to put forward recommendations for legislative changes at either the national or Community level.

The existence of differing forms of data protection legislation within the Community could be seen as an obstacle to the development of EDI, and may therefore give greater weight within the Commission for the call for harmonization. This is already being considered in the Legal Advisory Board of Directorate-General 13, as it is concerned with the growth of the European Community's Information Market.

4. Need for Computer Security

The most important common feature behind the implementation of effective data protection techniques and the use of EDI in business is the need for stringent computer security. Companies using EDI, should pay particular attention to the following:

- * **Limit access:** Companies using EDI, either through a direct computer link between company A and B, or via a network, need to ensure that access is strictly limited to those who need the data, to maintain confidentiality.
- * **Ensure secure transmissions:** The potential strategic position that EDI may have in a company, requires that transmissions are secure from the possibilities of communication failure, mistakes, fraud and data corruption.
- * **Follow the agreed communication protocol:** EDI contracts, or "interchange agreements," usually specify how each party must abide by an adopted communication protocol, so that the parties are able to ensure the integrity of messages, through "verification" and "confirmation of receipt" messages.
- * **Maintain a data log:** Trading parties are normally required to maintain a complete "trade data log" of all transmissions, sent or received, to provide evidence in a case of dispute. Such a record would be of great use to company data protection officers who wish to carry out an audit of the computer system.

The need for strict security measures within an EDI system will give data protection officers added authority when they have to persuade their company of the need to put resources into computer security. Finally, EDI and data protection will also prove a useful fund of experience for a company wishing to formulate a computer security policy, which takes into account the major changes in business communications likely to occur in the next ten years.

PL&B will continue to monitor this issue particularly in the EEC context. ~~Ian Walden is editor of EDI and the law to be published by Blenheim Online in the fourth quarter of this year in conjunction with a two day conference in London on October 3/4.~~

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