

BOOKENDS

"Managing Privacy: Information Technology and Corporate America" - H. Jeff Smith

This book provides the reader with a number of valuable insights into privacy policies and practices, as well as attitudes, of major US corporations. The study is based on interviews and questionnaires with representatives from several banks, health and life insurance organisations and a credit card issuer. The book has grown out of the author's doctoral thesis at the Harvard Business School.

The author concludes on the great sensitivity of privacy protection to many industries: "Executives were often unwilling to discuss their own companies' policies and practices or to subject them to the scrutiny of research."

The study revealed that although everybody agrees that personal data has become a valuable commercial property, many companies lack comprehensive policies regulating access to and distribution of the personal data they have collected. Even where stated policies do exist, actual practices often conflict. Furthermore, different divisions within a single organisation often have different perspectives on the importance of privacy protection.

Few organisations are willing to become leaders in developing privacy protection policies. Instead, they reassess and reform their practices only as a result of pressures from consumers, media or legislation.

The author suggests a way forward for US corporations:

- a short-term audit to establish and evaluate the existing "privacy environment" and
- a long term programme for maintaining a healthy "privacy environment."

He believes that a "decision on how the USA will address privacy problems in the future lies to a great extent in corporate hands: will they (the organisations) voluntarily address

the problems in a responsible fashion or will they force legislators to do it for them?"

Apart from industry initiatives, the author also believes in and advocates the establishment of a Data Protection Board and a set of "generally accepted privacy principles."

H. Jeff Smith is Assistant Professor of Business Administration at Georgetown University, Washington, USA.

Managing Privacy: Information Technology and Corporate America, by H. Jeff Smith, pp. 297, 1994. Available from: The University of North Carolina Press, PO Box 2288, Chapel Hill, North Carolina 27515-2288, USA.

\$17.95 paperback, \$45 hardback.

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The OECD report on privacy and data protection

The OECD Report - *Privacy and Data Protection: Issues and Challenges*, prepared by Professor Greg Tucker, (Monash University, Australia) presents and analyses the results of a survey he conducted in the OECD Member States in order to determine the present situations and trends in privacy and data protection in these countries and the extent to which the OECD Guidelines of 1980 have been followed. The report also reviews selected current issues in privacy and data protection, such as:

- *telecommunications and privacy*, including subscriber billing systems, telemarketing, caller line identification systems, mobile telephones, telephone cards, transborder data flows and directories
- *self-regulation*, including a checklist of a set of minimum criteria for an industry/company code of practice and
- *transborder data flows*, including a review of relevant cases and statistics.

The OECD Guidelines have undoubtedly been influential as a basis for draft and adopted regulation and legislation in non-European countries, for example, Hong Kong, New Zealand and Japan. The report concludes by asking: "what are the means of evaluating the

practical consequences of the endorsement of the Guidelines by companies and other entities?" Its answer is that "it is in the interest of data users and collectors to be able to demonstrate that they observe proper privacy and data protection practices... The evidence of compliance should be concrete and transparent. Claims of adherence to the Guidelines cannot be used as a refuge for lack of protection in this area."

Although published in 1994, the information in the report was collected in 1992.

Privacy and Data Protection: Issues and Challenges, prepared by G. Tucker.
Available from: OECD Publications, 2 rue André Pascal, 75775 Paris Cedex 16, France, reference: ISBN 92-64-12096-4 - No. 47007 1994, pp. 71. Price £8. Also available in French. In the UK, the report can be obtained from HMSO, P O Box 276, London SW8 5DT.

Tel: + (44) 171 - 873 0011

Fax: + (44) 171 - 873 8200.

The US Direct Marketing Association's Fair Information Practices Manual

The US Direct Marketing Association (DMA) has this year released a useful and attractively presented *Fair Information Practices Manual*, a direct marketer's guide intended to give answers to the most commonly asked questions about implementing corporate fair information policies and complying with the DMA's self-regulatory programs.

1. The manual's first section explains the background to self-regulation.
2. The second section focuses on the development and implementation of corporate fair information policies and actions, covering topics, such as fair information policies, employee training programs and data security.
3. The third section contains the Fair Information Practices Checklist offering companies an opportunity to evaluate their compliance with the fair information principles detailed in

DMA's Guidelines for Personal Information Protection.

The pack also includes the DMA's Guidelines on: personal information protection; mailing list practices; marketing by telephone; and ethical business practices.

The "direct" approach to privacy management: the top ten steps

These effective ten steps in complying with good data protection principles have been developed by the US Direct Marketing Association for the benefit of their members. However, in an edited version, they could easily apply to any other user of personal data.

1. Recognise and respond to consumer privacy expectations
2. Know the rules! Legal and self-regulatory responsibilities
3. Develop a corporate fair information policy statement
4. Use the Mail Preference Service and Telephone Preference Service
5. Establish an in-house suppress programme
6. Disclose list rental practices
7. Protect your data - protect your customers. Use: decoys; security programmes; advertising review procedures
8. Stand up and be counted! Communicate your commitment to: customers, media, lawmakers
9. Demand similar standards of your peers
10. Train - train - train!

Fair Information Practices Manual, Direct Marketer's Guide to Effective Self-Regulatory Action in the Use of Information.

Available from: US Direct Marketing Association, 11 West 42nd Street, New York, NY 10036-8096, USA.

Tel: + (1) 212 768 7277.

Fax: + (1) 212 599 1268

Swiss Data Protection Law

This book covers a wide field and presents texts in several languages. Its added value is represented particularly by the following:

1. the Swiss Federal Data Protection Act of June, 1992 in German, French, Italian and English
2. the related Swiss Federal Data Protection Ordinance of September, 1993 in German, French, Italian and English
3. A commentary, in German and French, by the authors on the Swiss ordinance
4. A copy of the registration form which must be completed by certain categories of data controllers and submitted to the Swiss Federal Data Protection Commission, with explanatory notes in German and French
5. A copy of the separate registration form which must be completed and submitted to the Swiss Federal Data Protection Commission, in certain circumstances, by data controllers who intend to transfer personal data outside Switzerland, with explanatory notes in German and French.

Nearly half of the book is taken by the above sections and represents the best reasons for buying the book.

The rest of the book includes the texts, in French and English, of the Council of Europe Convention on Data Protection (no.108), and the Council of Europe Recommendations on Personal Data used for: Scientific Research and Statistics; Direct Marketing; Employment; Payment and Other Related Purposes.

The book continues with the text of the European Union draft directive on data

protection, published in 1992, in German, French, Italian and English.

The final section gives the text of the model contract to ensure equivalent data protection in the context of transborder data flows and the explanatory memorandum, published in 1992 by the Council of Europe, the Commission of the European Union and the International Chamber of Commerce. The final two pages give a list of arbitrators proposed by the Member States of the Council of Europe which includes the principal author of this book, Urs Maurer. He is well qualified for the task as he worked for a time in Switzerland's Federal Ministry of Justice on the data protection bill. He obtained an LL.M. degree in the USA, is a member of the New York Bar and currently works at the law firm, Bär & Karrer, in Zurich.

Mr. Maurer tells *Privacy Laws & Business* that his next book, a commentary on the Swiss data protection law, is scheduled to be published in March 1995 by the same publisher. The publisher might consider combining in one volume the material on the Swiss Data Protection Act and Ordinance contained in both the 1994 and the 1995 books and leave the other material for a separate publication. The benefit to the reader would be that the format and print could be larger, making the volume easier to work with. Also, by mid-1995, the 1992 text of the EU draft directive is likely to be superseded.

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by Urs Maurer and Nadine Faruque.
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