



It is uncertain whether future proposals to export personal data from the EU to a third country will be made by corporations who in each case attach similar importance to data protection principles as Citibank did here.

## 2. A level playing field

Moreover, personal data will not only be exported by large multinational corporations with their well-staffed legal departments which can draft sophisticated webs of contractual obligations. Small and medium-size enterprises will also play a role in the global market-place. Small and medium-size enterprises very often do not have the legal knowledge at their disposal to meet the requirements of Articles 26 (2) as interpreted by the Commission and the Member States. Only the national legislature can provide for equal conditions of competition.

## 3. Maintaining uniformity of standards

The creation of a national mechanism to oversee the private sector is essential in large data-importing third countries such as the United States and Canada. The contractual solution just described cannot provide for such a mechanism. On the contrary, it may lead to many different supervisory authorities from foreign countries initiating audits in the third country, thereby applying different instead of uniform standards.

## Conclusion: contracts cannot replace national law

Multinational corporations such as Citibank can and will play an important standard-setting role in the global market-place. It will take considerable time until an adequate level of protection in terms of general and sectoral rules of law has been ensured in all third countries importing personal data from Europe.

In this transitional period, standard contractual clauses may, in exceptional circumstances, prove to be useful. In any case they should at least contain the same safeguards as the German RailwayCard Agreement. However, contractual standard-setting by private corporations can only complement and support but never replace national legislation.

**This is an edited version of a presentation by Dr. iur. Alexander Dix, LL.M. (Lond.) Data Protection Deputy Commissioner Berlin, Germany who addressed the 18th International Data Protection Authorities Conference in Ottawa in September 1996. Contact details: Berliner Datenschutzbeauftragte, Pallasstrasse 25, Berlin, 10781 Germany**

**Tel: + (49) 30 7876 8828**

**Fax: + (49) 30 216 9927**

### **Privacy Laws & Business 1st Scotland Roundtable Dalhousie Castle, Bonnyrigg, Edinburgh - April 8th - 10th 1997**

#### **Day 1: Tuesday, April 8th, 1997 Data Protection Act Training and Awareness**

##### **Introduction**

**The UK Data Protection Act: Key points for newly appointed managers**

**Raising and maintaining awareness of the Data Protection Act among staff**

**The DPR's first prosecutions under the Data Protection Act's amendments on procuring, selling and advertising personal data**

**Managing computer security for Data Protection Act compliance**

**Computer based staff training for the UK Data Protection Act and. How the Halifax Building Society (HBS) uses Easy i's *Handle with Care***

**Data Protection Act training videos by the ODPR and Easy i. Using videos and other training techniques**

#### **Day 2: Wednesday, April 9th, 1997 Impact of the EU Data Protection Directive**

##### **Introduction to international data protection law**

**The European Union's Data Protection Directive: Implementation and planning ahead**

**impact of the European Union's Data Protection Directive in the UK**

**impact of the European Union's Data Protection Directive in other EU Member States and the wider world; European Union's Telecommunications Draft Directive update. The view from the European Commission**

**Design/update your company's data protection Code of Practice**

**International data protection and privacy worldwide web sites**

#### **Day 3: Thursday, April 10th, 1997 Fast Track Data Protection Act Compliance Using ISO 9000 (BS 5750) Quality Assurance Principles**

**The full programme is available from our office. Register for the day(s) you want.**