



News from around the world

US Robotics fine and costs for non-registration on UK DPR's web site

US Robotics, which has recently merged with 3Com, was earlier this year found guilty of holding personal data without being registered as required by the UK Data Protection Act.

The company, (one of the world's leading designers and manufacturers of modems and remote access services), had collected customer sales information from its web site, and used the information for mail shots. The prosecution started as a result of a complaint to the Data Protection Registrar. Having investigated the company's data handling practises, the Registrar prosecuted the company for an offence of non-registration. The company has since registered. However, as the offence of non-registration is an absolute one, the company was ordered to pay a fine of £2,000 and legal costs of £700. The prosecution is listed, with others, on the UK Data Protection Registrar's web site (<http://www.open.gov.uk/dpr/report97>). US Robotics did not want to comment on the matter to *PL&B*.

Ministers urge rules on Internet use

A ministerial conference on Global Information Networks took place in Bonn this summer. Although unable to produce a concrete action plan, the conference agreed on several key principles on the use of networks.

The conference, organised by the European Commission and the Federal Republic of Germany, was attended by ministers from 29 European countries. The USA, Russia, Japan and Canada attended as guests.

A declaration made by the European ministers stressed that security and confidentiality already play an important role when building users' confidence in global information networks. Ministers affirmed that personal data should be collected only when the user has given informed consent or where such collection or processing is permitted by law. Industry was called on to implement technical means to ensure anonymous browsing on the Internet, and secure payment facilities.

Providers bear little responsibility for content
On the question of responsibility of content on the Internet, it was recommended that intermediaries, like network operators and access providers should, in general, not be responsible for content.

The ministers recognised the need for strong encryption technology for electronic commerce, and took note of the recently agreed OECD Guidelines on Cryptography Policy as a basis for international co-operation.

Digital signatures, another security measure, were also mentioned. Ministers emphasised the need for a legal framework at European and international level, and promised to take steps towards the removal of barriers to the use of digital signatures.

International co-operation needed

With regard to the problem of misuse, the ministers saw international co-operation as the best way to tackle the issue. There was support for the establishment of international hot-line networks, and the recent OECD initiative to study the extent of illegal content on the Internet.

The approach is yet another step towards the creation of international instruments to fight the misuse of computer networks. A Council of Europe Committee of Experts on Crime in Cyberspace, which began its work this summer, is currently drafting an international treaty to fight Internet crime. The treaty, due by the end of 1999, would authorise searches in foreign computer networks and thus facilitate cross-border on-line investigations.

Users and industry worried

The conference was also attended by representatives from industry and users. Both groups produced their own declarations. Industry stressed that the EU Data Protection Directive should not be used to establish new trade barriers which could hinder international data flow. Users, on the other hand, demanded that the existing data protection principles should be applied and where possible, tightened, as there is a threat of potential misuse of personal data gathered from web sites and newsgroups.

Finland appoints new DP Ombudsman

Finland's new Data Protection Ombudsman is Mr Reijo Aarnio, who had previously worked as a departmental head of a credit reference agency,



and replaces Dr Jorma Kuopus at the beginning of November. Aarnio is on Finland's Committee for the Transposition of the EU DP Directive.

Council of Europe calls for privacy

The world-wide shock after the tragic death of Diana, Princess of Wales, has acted as a stimulus for the Council of Europe to consider new privacy measures.

A British MP, David Atkinson, together with the Political Affairs Committee, tabled a motion at the Parliamentary Assembly at the beginning of September for a European Convention on Privacy. The Assembly referred the matter to its Legal Affairs and Human Rights Committee. For the drafting of the Convention to begin, the Assembly has first to formally adopt the proposal. This is not likely to happen until January next year. The rest of the process will also be slow. As and when the formal proposal has been adopted, the working group of experts is likely to spend more than a year preparing a draft convention. It is thought that the new convention could be an elaboration of Article 8 of the European Convention on Human Rights. Mr Plate, Secretary to the Legal Affairs and Human Rights Committee, took the view that it is far too early to say what relationship the two conventions would have. "Article 8 would be enough as it is if it were respected," he said.

In the UK, the Press Complaints Commission has taken immediate action by starting to review its Code of Conduct for journalists. The changes are expected to include a formal definition of harassment.

Council of Europe strengthens principles for protecting medical data

The Council of Europe has adopted a Recommendation on the Protection of Medical Data. The new Recommendation of February 1997 supplements the Council of Europe Convention on the Protection of Personal Data, and replaces a 1981 Recommendation on automated medical data banks.

The text is a response to recent developments which pose new data protection problems - the extensive computerisation of the health sector, the progress made in medical science (especially in genetics) and the use of health data in other sectors, such as insurance.

The Recommendation is based on the standard requirements for fair information practice, such as informing the data subject, allowing subject access and rectification of data, and seeking informed consent. According to the Recommendation, medical data refers to all personal data concerning the health of an individual. It also states that, in principle, only health care professionals or those working on behalf of health care professionals, should be allowed to collect and process medical data. Controllers of files who are *not* health-care professionals should collect and process medical data only subject to confidentiality rules similar to those of the profession.

Scope extends to unborn children

The scope of the Recommendation covers both the collection and automatic processing of medical data, although member states of the Council of Europe may decide to apply the provisions also to manual data. The Recommendation covers new ground as it also protects genetic data and medical data of unborn children. The same level of protection is given to an unborn child, regardless of its stage of development, as would be guaranteed for a minor.

A useful tool for future development

The member states are requested to ensure that the principles will be reflected in their national laws and practices. The implementation of the EU Data Protection Directive will, of course, provide for protection in EU Member States. The Recommendation is, however, much more focused on data protection problems related to the actual work processes in the health sector.

Dr Barry Barber, a former consultant to the UK National Health Service, thinks that the Recommendation is a step in the right direction. "The Recommendation is much more relevant than the Directive, and I hope that it will become some sort of a *Highway Code* for the health sector. After all, it is almost a Guideline and has been agreed on a governmental level."

He points out that the Recommendation is not in conflict with the provisions of the Directive. On the other hand, he does not think that the Directive will be amended to reflect the Recommendation.

When it is published, the Recommendation will be available from The Stationery Office, PO Box 276, London SW8 5DT Tel: 0171 873 0011