



German DPA meets new challenges with amendments to data law

The German Data Protection Authority issued its 16th Annual Report this spring. The detailed report, which covers all areas of their activities, also looks at the possibilities that the EU Data Protection Directive gives for reform of the national law.

The report emphasises that the legal framework for the next decade should include new concepts such as smart cards, the Internet and multimedia. Only by including the latest developments can the law survive in the future.

The German Commissioner, Dr Joachim Jacob, last year delivered a position paper to the German Government detailing the aspects needing consideration regarding implementation of the Directive and modernisation of the existing law. In response to domestic criticism in previous years of the German data protection law, he states that many aspects of the German law can be found in the text of the Directive.

Private sector poses new questions

New challenges in the private sector mentioned in the report, are, amongst others, smart cards, video surveillance and private health cover.

The ever-increasing use of smart cards requires specific rules to ensure that only the minimum amount of personal data will be transferred.

The same goes for video surveillance; currently there are no rules covering the placing of cameras and the use that is made of the film. In addition, the widespread use of the Internet poses new questions to Data Protection Authorities. The German DPA's annual conference arranged a

workshop on the Use of the Internet in Public Administration as a response to a knowledge gap.

Telecoms now under DPA jurisdiction

Many changes within the telecommunications and postal sectors have kept the authority busy. The new Telecommunications Act of 1st August 1996 brought private telecommunications companies into the authority's area of responsibility. Liberalisation of the postal services brought new challenges, as the existing level of protection (postal secrecy) needed to be preserved under the new regime of licensed private companies.

Multimedia law

The new Information and Communication Services Act, known as the *Multimedia Law* has been widely discussed. The law, which was at its draft stage at the time of the publication of the Annual Report, entered into force on 1st August. Its stated purpose, "to establish uniform economic conditions for the various applications of electronic information and communication services," has forced the legislators to explore new areas: namely the responsibility of providers for content, area-specific data protection and digital signatures.

Of particular importance is the provision governing the responsibility of providers of teleservices, for example, access providers to the Internet. Providers are not to be held responsible for any third-party content to which they only provide access. However, providers can be prosecuted for illegal or offending content if they knew about the material, and could have blocked access to it with a "reasonable" amount of effort.

Report available on disc and CD Rom from Der Bundesbeauftragte für den Datenschutz, Postfach 20 01 12, 53131 Bonn, Germany Tel: (49) 228 819 95 10

Privacy overrules press freedom in Germany

Breaching individuals' privacy can become costly, as experienced by a German television station earlier this year. A decision of the German Supreme Civil Court stipulates that freedom of the press does not extend as far as to protect the media against compensation claims.

The television station was sued by a German doctor whose professional reputation and career had been destroyed by false accusations in their current affairs programme. The programme, entitled "The scandalous operations of Dr ..." suggested that the doctor in question had repeatedly made professional errors, resulting in loss of earnings.

The programme makers had relied on just one information source, namely the doctor's colleagues who were willing to challenge the skills of their senior doctor, who had migrated from East Germany in 1988.