



Germany's new multimedia law regulates privacy issues

The German Information and Communication Services Act, known as the "multimedia" law, brings new developments in technology under the data protection regime. The law addresses a wide range of issues from on-line shopping to digital signatures and protection of minors.

The law, which entered into force last August (PL&B Oct. '97 p.18), applies to all electronic information and communication services which are designed for individual use by means of telecommunications. These teleservices, which are interactively designed on-demand services, include, for example, tebanking, services providing access to the Internet and telegames. On-line shopping falls under the provisions when it is being utilised by an individual.

The new law does not apply to services provided by mass communications, nor to those regulated by last year's Telecommunications Act, nor broadcasting. On the other hand, it extends regulation to Internet service providers. Rules on the providers' responsibility for content state that they are not to be held responsible for any third party content to which they only provide access.

Strict privacy rules for teleservices

The German law's data protection principles for teleservices (Article 2) include rules on the collection, processing and use of personal data.

- These operations are only possible if permitted by the Act or some other regulation, or if the individual has given his consent.
- Consent may be given electronically if the provider of the service ensures security of communication, and may be withdrawn later.
- He also has the right, free of charge, to inspect data collected on him.
- Other obligations on the provider include the responsibility to inform the user about the type, scope, place and purposes of collection, processing and use of his personal data.
- The provider shall also provide for anonymous use and anonymous payment of teleservices. Such a service must be provided to the extent it is "technically feasible and reasonable."

An important principle in the law is protection against third parties with regard to the individual's use of teleservices. The provider must not provide any information on use to third parties. Personal data relating to the use of different teleservices must be processed separately, unless the matching of data is required for accounting purposes.

At the Data Protection Authorities' 19th International Conference in Brussels in September 1997, the German Data Protection Commissioner emphasised a certain limitation in the new law. The law says that the design and selection of technical devices to be used for teleservices shall be orientated to the goal of collecting, processing and using either no personal data at all or as little as possible, which introduces an important principle. According to the Commissioner, Dr. Joachim Jacob, this principle of *minimal collection* can be seen as a declaration of belief by the state in privacy-enhancing technologies.

Digital signatures for better privacy

Article 3 of the Information and Communication Services Act establishes general conditions under which digital signatures can be considered secure. Digital signatures are electronic signatures which are based on public key cryptography. They are used to improve the safety of electronic communication on networks by enabling the checking of the authenticity of a document or message.

The German model outlines the registration and monitoring procedures, as well as the technical components for digital signatures. Technical components manufactured or marketed in EU Member States, or other countries that provide the necessary security, are also permitted.

Protection of minors also included

The Act addresses the problem of harmful content by introducing amendments to existing legislation. One of the measures establishes *youth protection commissioners*. Providers of electronic information and communication services need to examine whether they should appoint a youth protection commissioner to give advice on questions related to harmful content and the protection of minors.

The Information and Communication Services Act is available at <http://www.iid.de>