

Reading the readers

Bits of Freedom, Sjoera Nas
Guaranteeing Media Freedom on the Internet
27 August 2004

Agenda

- About Bits of Freedom / EDRI
- US Readerprivacy campaign
- Anonymity and the European privacy-directives
- EU Council plans for mandatory data retention: reading the readers mind?

Bits of Freedom

- Founded in 2000
- NGO, funded by private parties
- Themes: privacy, freedom of speech, spam, e-voting, copyright
- Big Brother Awards
- EDRI - European Digital Rights

US Readerprivacy campaign

- Under the post 9/11 Patriot Act, the FBI may access library and bookstore records.
- Famous courtcase in 2002: Tattered Cover bookstore rightfully protested against the hand-over of a customer record.
- when a person "buys a book at a bookstore, he engages in activity protected by the First Amendment, because he is exercising his right to read and receive ideas and information."
- Librarians, writers and concerned citizens involved in campaign to limit these powers.



Campaign for Reader Privacy

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Amend Section 215 of the Patriot Act



Your First Amendment Needs YOU

The traditions of liberty and freedom bequeathed to us by the Founding Fathers are in danger.

The Government now has the power to obtain secret court orders to learn what you read in libraries, and buy in bookstores. This power has not made one American family safer, and threatens the cherished freedoms American soldiers have fought and died for since 1776.

BITS OF
FREEDOM

Anonymity in Europe

- No constitutional protection (not in ECHR)
- No legal provisions or case law that explicitly recognize a right to remain anonymous
- But: European institutions acknowledge the importance of anonymity in the digital environment
- And: together the European privacy directives create a level of protection in which the contours of an individual right to anonymity can be recognized

Privacy-directive 1995

- General rules on the lawfulness of the processing of personal data
 - Article 6: Principles relating to data quality
 - Article 7: Criteria for legitimate data processing
- Principle of transparency
- Right of access to data
- Right to object
- Voluntary disclosure of personal data **allowed only** when necessary for the purposes of the **legitimate interests** pursued by the controller or by the third parties, **except** where such interests are overridden by the interests for fundamental rights and freedoms of the data subject, in particular his **right to privacy**

Privacy-directive 2002

- Preamble: Anonymous means of accessing the telecommunication network and services should be made available.
- Traffic and location data must be erased or made anonymous when no longer needed for transmission or billing.
- Exception: Article 15 allows for legislation on data retention “to safeguard national security (i.e. State security), defence, public security, and the prevention, investigation, detection and prosecution of criminal offences”

More EU defenses of anonymity

- Art 29 Working Party Data Protection Authorities: "The ability to choose to remain anonymous (inc. anonymous access to the internet and anonymous payment) is essential if individuals are to preserve the same protection for their privacy online as they currently enjoy offline." (November 1997)
- E-commerce directive, recital 14: This Directive can not prevent the anonymous use of open networks such as the Internet. (June 2000)
- Council of Europe: "In order to ensure protection against online surveillance and to enhance the free expression of information and ideas, member states should respect the will of users of the Internet not to disclose their identity." (May 2003)

Reading the readers?

- New plan for mandatory retention 12-36 months all telecommunication traffic data, i.e. who has been contacting whom, what and where (telephony, sms, e-mail, chat, websurfing)
- Concerns the social contacts and intimate reading behaviour of 450 million EU citizens, previously held innocent until proven guilty
- Evidence probably seldom used and tested in courtcases, mostly serves general data-mining purposes
- Are we sleepwalking into surveillance society?

(DARE TO) READ MORE?

www.bof.nl

www.edri.org

www.readerprivacy.com

www.privacyinternational.org/retentionreports