



International Experiences in Regulating Access to Information & Privacy

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What is Freedom of Information (FOI)?

- ✦ Right of access by citizens/media/orgs/ companies to information held by government bodies.
- ✦ Sources:
 - ✦ Intl agreements
 - ✦ Constitutions
 - ✦ National Laws (comprehensive and sectoral)
 - ✦ Sub-national laws



Access to Information Laws Around the World



*Not all national laws have been implemented or are effective. See freedominfo.org/survey.htm for an analysis of the laws and practices



Common Elements of Comprehensive Laws

- ⊕ Right to Access
- ⊕ Exemptions
- ⊕ Appeals mechanism
- ⊕ Oversight
- ⊕ Duty to Publish



Electronic Freedom of Information

- ✚ Most new FOIA laws require creation of web sites and publish information
- ✚ Inexpensive
- ✚ Reduces requests
 - ✚ EU Council 2003 "if the number of documents directly accessible to the public increases, the number of documents requested decreases."
- ✚ Promotes support/awareness of policies
- ✚ Move towards e-government and e-governance



Privacy & Data Protection

✚ Two trends

✚ Global trend of adopting comprehensive laws on protecting personal privacy

- EU, COE, OECD

✚ At same time, increase in communications surveillance and developing networks

- US, EU, COE, G8



Communications Surveillance

- ✦ Desire to monitor electronic communications in same manner as traditional communications
- ✦ “Technology neutral”
- ✦ “Data retention”
 - ▣ requiring communications providers to collect information on users activities automatically no matter if the person is suspected of committing a crime- Everyone is a criminal
- ✦ Intercept capable
 - ▣ CALEA, ETSI



Problems

- ❖ Vast additional information collected
 - ❖ Before - telephone number
 - ❖ Now. Who you talked to, subject, web sites visited etc.
- ❖ New information often received less protection than previously
- ❖ Technical, legal and security issues of collection, storage and use of information



New Paradigm

- ❖ All Communications data needs to be treated with same level of controls as previous interception levels
 - ❖ Data preservation, not retention
 - ❖ Approved by judges based on individual suspicion

- ❖ Principles of minimization