

BILETA 2005

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**Today is the tomorrow we should have
worried about yesterday**

*A proposal for an Italian law regulating usage, retention and deletion of
georeferenced and chronoreferenced automatically collected data containing
unique user identifiers.*

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The Winston Smith Project (WSP)

The WSP is an organization of people concerned with issues of privacy in the context of new digital technologies. Founded in 1999 with two goals:

- 1) Promote a privacy culture on the Internet, through dissemination of documentation and software;
- 2) Represent a living proof of concept and a test of feasibility in managing an organization, whose members are anonymous, through technological instrument;

Are you in the right place ?

- ◆ **Data retention & privacy**
- ◆ **Data collection technologies**
- ◆ **Legal landscape in Italy**
- ◆ **“Engineering” a legal solution**
- ◆ **The law proposal**
- ◆ **Conclusions**

Data Retention & Privacy in the Digital Age

The “information age” has many advantages, but also poses many threats.

The same technology that makes “information at your fingertips” possible allows massive collection of personal and sensitive data.

We are already living in a *panopticon* which law systems hardly regulate – it is too fast-moving.

Collections of sensitive data is still dispersed – but technology allows for easy and cost-efficient cross-comparison and data mining from multiple sources.

Data collection technologies

Radio Frequency Identification (RFID)

“Natural evolution” of bar codes.

**Transponder tag + reader device =
remote identification and tracking of tags
(and entities tags are attached to)**

Clear advantages for logistics and supply chain management

Tags which are not deactivated may be read by “rogue” readers

People are often unaware they are actually “tagged”

Hyper-Text Transfer Protocol (HTTP)

A difficult name for a common action: browsing the WWW

Each time a browser visits a web page, such action is logged by the web server.

Logs usually allow (at least) to know:

- 1) The address of the computer which made the request
- 2) The date and time of the request
- 3) The precise web page which was requested
- 4) The web page from which the requester is coming
- 5) The type of program the requester is using

GSM

The cell phones we use rely on a technology (cell transfer) by which each cell phone, as soon as it is powered on, “binds” with a GSM cell.

GSM Network = thousands of GSM cells

The GSM network control devices write in a log file the unique identification number (IMEI) of the specific cell phone which is binding.

A GSM Network tracks the position of each and every cell phone binding to one of its cells.

Legal landscape in Italy

Which laws regulate Data Collection and Retention in Italy?

- 1) Codice delle comunicazioni elettroniche Dlgs 259/2003 (Law on Electronic Communications)
- 2) Codice in materia di protezione dei dati personali D.L. 196/2003 (Law for the Protection of Personal Information)
- 3) Special anti-terrorism laws of the late seventies and early eighties

The “Ufficio del Garante per la Privacy” (created as per art. 28 of European Directive EC 95/46/EC) is the Italian Privacy Authority having the power to ask for corrections to laws, audit application of D.L. 196/2003, and prosecute privacy violations.

Recent changes in composition of the Authority are likely to undermine the independency of the Authority from the Government

“Digital” laws ?

Do we need “special” or “digital” laws to regulate privacy on the Internet?

NO

We need laws regulating data (no matter whether “digital” or “analog”) in ways that balance the obligation to store and retain data.

We need clear and practical rules to implement the principle embodied in D.L. 196/2003

The obligation to DELETE automatically collected data

The WSP law proposal

The WSP tried to “engineer” a compact law proposal in a minimalist way, to increase the probability of an acceptance.

- simplicity (four articles, most are definitions)
- insertable as a plug-in in existing laws (D.L. 196/2003)
- economicity; use the same roles, procedures, responsibilities, sanctions of D.L. 196/2003
- allows easy implementation in the world of today (ISPs, carriers, etc)
- allow for additional technical norm to decrease his, already low, social cost.

TWO SIMPLE RULES

Automatic collected data can freely be stored only for a limited time (60 days)

If more time of storage is needed, this can be done providing all the process is traceable, and there are persons responsible for data storage and future deletion.

The deletion is the rule, not the exception

Thanks for your kind attention

Questions?

For further info:

the Winston Smith Project – unplug the Big Brother

<http://www.winstonsmith.info/pws/index-e.htm>

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E-privacy 2005 -Florence, 27-26 may 2005: meeting site

<http://e-privacy.firenze.linux.it/index-e.html>