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Agenda Item: 4

An Overview of Information Privacy Issues Relevant to the APEC Region

Purpose: Information
Submitted by: Japan



**APEC Symposium on Information
Privacy Protection in E-Government
and E-Commerce
Ha Noi, Viet Nam
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An Overview of Information Privacy Issues Relevant to the APEC Region

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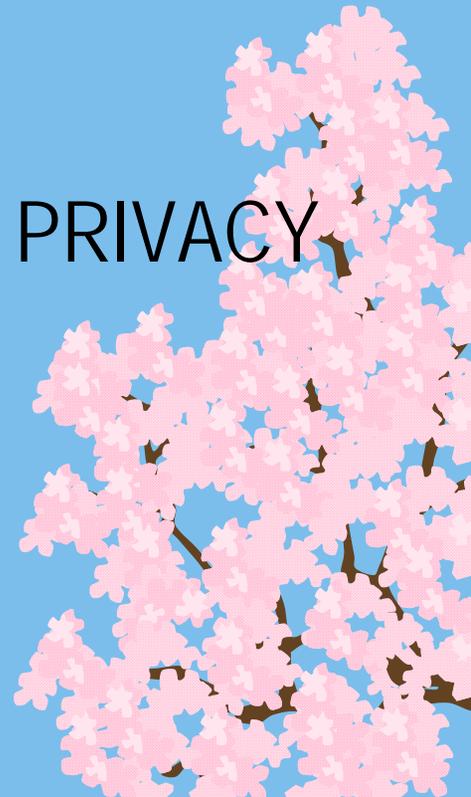
- ❖ Cultural notions of personal privacy vary within the APEC region
- ❖ See the film - "A Great Wall" (1985) by Peter Wong for cultural differences between Chinese from PRC and visiting Chinese-American relatives (first U.S.-China production made in China)
- ❖ The notion of privacy guaranteed by law also varies within the region
- ❖ Some economies are moving in the direction of providing privacy rights guaranteed by law, e.g. Japan
- ❖ Some economies are moving or attempting to move in the opposite direction with resistance from human rights groups, e.g. U.S., Australia, UK, often using the rationale of national security for the use of technology to erode traditional privacy rights from a non-digital age
- ❖ Some economies are actively working to preserve traditional privacy rights, e.g. Canada
- ❖ Some economies are new to the concept of privacy guaranteed by law, and actively use blocking, monitoring, filtering technologies, web cams to monitor who is using cyber cafes, etc.
- ❖ Some economies are affected by the Digital Divide and have not yet formulated privacy policies or laws

- ❖ E-government and privacy
- ❖ Trust us with your data = ????
- ❖ Attacks on critical information infrastructure
- ❖ Government databases, e.g. for medical records
- ❖ Data mining, data matching
- ❖ Government requests for and retention of traffic data, etc. – Google case

- ❖ E-commerce and privacy
- ❖ Issues for multinational corporations doing business across borders
- ❖ Intellectual Property protection
- ❖ National security issues
- ❖ Protection of individual consumer data
- ❖ 2005 was a bad year, with a proliferation of identity theft cases in the U.S., for example

A PARADIGM SHIFT DUE TO NEW TECHNOLOGIES?

- ❖ Susan W. Brenner comments
- ❖ Justice Sandra Day O'Connor comments
- ❖ PRESERVATION OF EXISTING CONSTITUTIONAL PROTECTIONS OF PRIVACY VIA USE OF TECHNOLOGY?
- ❖ K.A. Taipale comments



RESOURCES FOR FURTHER THOUGHT AND DISCUSSION

FILM: "A Great Wall", Directed by Peter Wang, Produced by Shirley Sun (1985). W&S Productions/Nanhai Film Co., MGM Home Entertainment –DVD 2002.

First American feature film shot in the People's Republic of China.

For a review, see www.timeout.com/film/70542.html

BOOKS

- ❖ J.C. Cannon, PRIVACY – What Developers and IT Professionals Should Know (Pearson Education, 2005) Catalog can be found at <http://www.awprofessional.com>
 - ❖ Jeffrey Rosen, THE UNWANTED GAZE – The Destruction of Privacy in America (Random House, 2000)
 - ❖ Tara M. Swaminatha and Charles R. Elden, WIRELESS SECURITY AND PRIVACY – Best Practices and Design Techniques (Addison Wesley- Pearson Education, 2003) [http:// www.awprofessional.com](http://www.awprofessional.com)
- Daniel J. Solove and Marc Rotenberg, INFORMATION PRIVACY LAW (Aspen Publishers, 2003)
Catalog can be found at www.aspenpublishers.com (U.S. perspective only)

❖ LAW JOURNAL ARTICLES

- ❖ Susan W. Brenner, "Symposium: The Search and Seizure of Computers and Electronic Evidence: The Fourth Amendment in an Era of Ubiquitous Technology," 75 Mississippi Law Journal 1 (Fall, 2005)
- ❖ Gayle Horn, "Note: Online Searches and Offline Challenges: The Chilling Effect, Anonymity and the New FBI Guidelines," 60 New York University School of Law Annual Survey of American Law 735 (2005)
- ❖ Jeremy Moseley, "Symposium on Security and Liberty: Note: The Fourth Amendment and Remote Searches: Balancing the 'Protection of the People' with the Remote Investigation of Internet Crimes," 19 Notre Dame Journal of Ethics and Public Policy 355 (2005)
- ❖ David Steinbock, "Data Matching, Data Mining and Due Process," 40 Georgia Law Review 1 (Fall, 2005)
- ❖ John T. Soma, Maury M. Nichols, Stephen D. Rynerson, Lance A. Maish, Jon David Rogers, "Balance of Privacy vs. Security: A Historical Perspective of the USA PATRIOT Act," 31 Rutgers Computer and Technology Law Journal 285 (2005)

- ❖ K.A. Taipale, "Data Mining and Domestic Security: Connecting the Dots to Make Sense of Data," *Columbia Science and Technology Law Review*, Volume 5, page 1 (2003)
- ❖ K.A. Taipale, "Technology, Security and Privacy: The Fear of Frankenstein, the Mythology of Privacy and the Lessons of King Ludd," 9 *International Journal of Communication Law and Policy* 8, (Winter, 2004/2005)
- ❖ NONPROFIT ORGANIZATION ARTICLE
- ❖ Ellen Alderman, "Homeland Security and Privacy: Striking a Delicate Balance," *Carnegie Reporter* (Carnegie Foundation of New York), Fall 2002, <http://www.carnegie.org/reporter/05/homeland/>
 - ❖ GOVERNMENT PUBLICATIONS
 - ❖ David Loukidelis, "Privacy and the USA Patriot Act: Implications for British Columbia Public Sector Outsourcing," available online and in Pauline C. Reich, General Editor, *CYBERCRIME AND SECURITY* (Oceana, a Division of Oxford University Press) (multiple volume looseleaf series) (CANADA)

- ❖ ASSOCIATION POSITION PAPERS RE: ONLINE PRIVACY
- ❖ Position paper from the Japan Federation of Bar Associations to the 11th United Nations Congress on Crime Prevention and Criminal Justice, March 17, 2005, <http://www.nichibenren.or.jp/en/activities/statements/20050317.html> (privacy and Council of Europe Cybercrime Convention concerns)
- ❖ American Bar Association- Letter from the President of the ABA to President George W. Bush February 13, 2006
- ❖ http://www.abanet.org/op/greco/memos/aba_domsurv_ltr_whthouse-0206.pdf (Patriot Act/government surveillance)
- ❖ American Library Association
<http://www.ala.org/ala/washoff/WOIssues/civilliberties/theusapatriotact/usapatriotact.htm>



RELEVANT WEBSITES

- ❖ Reporters without Borders
 - ❖ Privacy International
 - ❖ See Briefing for Members of the European Parliament on Data Retention Sept. 26, 2005 for a contrast with U.S. view [http://www.privacyinternational.org/article.shtml?cmd\[347\]=x-347-367988](http://www.privacyinternational.org/article.shtml?cmd[347]=x-347-367988)
 - ❖ Electronic Frontier Foundation
 - ❖ Electronic Privacy Information Center
 - ❖ Japan Federation of Bar Associations
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- ❖ LAWSUITS
 - ❖ American Civil Liberties Union et al v. National Security Agency/ Central Security Service, Complaint for Declaratory and Injunctive Relief, pdf file at <http://www.findlaw.com>
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- LAW
- Japan Privacy Resource
<http://www.privacyexchange.org/japan/main.html>