

# GLOBAL BUSINESS DIALOGUE ON ELECTRONIC COMMERCE



## PROTECTION OF PERSONAL DATA

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# Introduction

## **Establishment of Minimum Principles for Personal Data Protection Programs**

Recognizing the importance of electronic commerce now and in the future, the GBDe seeks to establish a set of minimum standards for the protection of individually-identified or identifiable data (Personal Data) collected in the electronic commerce business/consumer relationship. As electronic commerce becomes more widespread, consumers will seek out businesses that can assure them that their personal information is secure. The five GBDe Principles are:

- Adoption and Implementation of a Personal Data Protection Policy - enforcement in the form of a compliance program and education of executives and relevant employees
- Collection of Personal Data - purpose specification and opt-out mechanism
- Use and Distribution of Personal Data - in principle, use/distribution of personal data in accordance with the purposes for which it was originally collected
- Data Security - assurance of reliability and protection of Personal Data
- Data Quality and Access - assurance of accuracy of Personal Data and data subjects' rights of disclosure, correction, and deletion

These principles are intended to provide minimum standards for the protection of Personal Data. However, it is also imperative to protect the free flow of Personal Data across borders in order to promote the expansion of electronic commerce. Where some governments may desire to impose restrictions on data exchange, the adoption of the GBDe Principles would not only promote international compatibility and uniformity, but also demonstrate that an adequate level of protection has been implemented. In this way, security concerns regarding transborder data flows would be alleviated.

## **Self-Regulatory Enforcement**

The GBDe recognizes that, due to the evolving nature of electronic commerce and communication, businesses directly involved in the development of electronic commerce are in a better position to practice protective measures than are governments. In this light, the GBDe endorses two forms of self-regulation in the Personal Data protection field:

- Third-Party Enforcement Program (Seal System): Use of a seal program, with an easily-recognized mark, to denote that a business/organization is utilizing a GBDe-standard Personal Data protection policy. Awarding of the seal would be by trusted parties, such as trade associations or private organizations.
- Self-Declaration System: Businesses which have already acquired public trust, e.g. through trademark recognition, declare independently that they

utilize a GBDe-standard Personal Data protection policy or other criteria which businesses deem adequate for Personal Data protection purposes.

## **Recommendations**

### **Business and Government Should Cooperate to Promote the GBDe Principles and Implement Personal Data Protection Policies**

#### *Business action required:*

- Personal Data protection will become a principal concern for consumers as electronic commerce continues to grow. Businesses will have a strong reason to respond to this concern, and should choose the method of data protection that works best for their industry. Each should use the GBDe Principles as a guide toward fair and reasonable means of data protection.

#### *Government action required:*

- Government regulation will not necessarily provide the most adequate protection of Personal Data in the fast-moving world of electronic commerce. Moreover, it is imperative that governments not adopt any measures that would limit or interrupt the free flow of data across international borders. Any restrictions on transborder data flows would have a negative effect on free trade and commercial development.

#### *Joint Business and Government action required:*

- In order for consumers to understand and recognize the importance of Personal Data protection, businesses and governments should work jointly to educate and promote the GBDe Principles, and to ensure implementation of Personal Data protection policies by companies working in electronic commerce.

### **Promote the Development and Use of Self-Regulation Mechanisms**

#### *Business action required:*

- Each business would be individually responsible for choosing either the Seal System, or the Self-Declaration system, depending on its own circumstances. A self-regulatory system should have a methodology to deal effectively with customers' complaints. Any system without an adequate structure to meet customers' expectations will be forced out by the market. Thus, it is up to businesses individually to implement the highest feasible level of protection.

*Government action required:*

- Government action in this field should be limited, as the focus of self-regulation is upon business action. While governments play an important role in the promotion and encouragement of self-regulation, they should not apply stricter rules on data protection in the online environment than those that apply in the offline world.

*Joint Business and Government action required:*

- Business and governments should cooperate to develop self-regulatory mechanisms that are internationally-recognized and that provide both business and consumers with the necessary confidence in the protection of Personal Data in electronic commerce.