

GLOBAL BUSINESS DIALOGUE ON ELECTRONIC COMMERCE



AUTHENTICATION AND SECURITY

SEPTEMBER 13, 1999

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Introduction

The GBDe believes that the principles of protection and promotion are of decisive importance for the development of authentication mechanisms and of security in electronic commerce:

Protection: It is important to promote trust in electronic commerce by protecting transactions against any unauthorized access or illegal attack. The private sector needs to offer electronic commerce services in a secure manner. Governments should provide the minimum necessary legal framework, such as ensuring equivalency between electronic authentication and traditional handwritten signatures and personal seals, and providing legal mechanisms to protect against misuse.

Promotion: It is also vital to promote the growth of an environment for the use of authentication and security in electronic commerce in which the players can enjoy the benefits of industry-led global development and a highly competitive open market. The private sector has developed and is implementing authentication and security infrastructures, and electronic commerce is already being conducted using this infrastructure. Governments should build on the achievements of business and provide globally-harmonized principles on authentication and security, by ensuring the free use of and trade in encryption products.

Recommendations

Recommendations to Governments on Electronic Authentication

Cooperation Between Governments for an International Framework

Many local, national, and regional initiatives have been developing licensing schemes, regulations and guidelines for authentication practices that could be barriers to global electronic commerce. Therefore, it is critical to promote international coordination between and within the private and public sectors to avoid conflicting policies and to establish a stable, but flexible framework. Such a framework should be technology-neutral, recognize the validity of contracts, and avoid premature solutions from region to region or nation to nation. The GBDe encourages decision-makers to cooperate on an international framework based on the following principles:

- harmonization of existing rules and minimal adoption of new rules;
- freedom of contract;
- user choice of appropriate technology or authentication mechanisms;
- neutrality of technology and implementation;
- non-discrimination - equal treatment to providers and users of similar services based on objective criteria;
- the presumption that all authentication technologies and business methods may be evidence of authenticity.

Legal Effect of Electronic Signatures, Freedom to Contract and Other Recommendations

Electronic signatures should have the same legal effect as a handwritten signature or a personal seal. Legislative action should be taken to attain this goal and thus provide users with the necessary legal security.

- Governments should adopt policies that continue to promote, or do not infringe upon, freedom of contract between parties regarding the use of authentication that users trust.
- Regulation, when necessary, should be technology-neutral in order not to hinder the development of new technologies.
- The private sector must be free to create and offer authentication services in a highly competitive environment without trade barriers.
- There must be a variety of authentication services available to meet users' needs, and users' freedom of choice should be guaranteed.
- There should be transparency of the level of authentication offered, and industry should be free to develop and market a variety of authentication levels to match the needs of the marketplace.
- Mechanisms must be created to ensure the cross-border legal validity of authentication products and services.

Recommendations to Private Sector on Electronic Authentication

Development of Authentication Systems and Services

Electronic authentication products and services are indispensable for secure electronic commerce. Consequently, the development of secure, trusted authentication systems and services will enhance the growth of electronic commerce and the confidence of users. The following principles are important in order to realize these objectives:

- Industry-developed, voluntary accreditation schemes may be helpful to ensure user confidence.
- Industry must develop, according to market needs, operational guidelines or voluntary consensus-based standards.
- Both international and domestic considerations should be taken into account by industry when establishing guidelines and standards.

Recommendations to Governments on Cryptography

Free Development and Use of Cryptography

Strong cryptography is essential to the security of the information society. Regulating its development, use, distribution or export endangers the privacy of individuals and the legitimate security requirements of businesses. Therefore, we strongly recommend the following:

- Removal of restrictions on the cross-border distribution of cryptography products and services;
- Users should be free to select the type and strength of encryption according to their needs without interference.
- There should be no indirect or direct mandates by political authorities for key recovery and trusted third party escrow features, and law enforcement access must be done only with the consent of the key owners or by court order.
- Governments should adopt and implement the specific principles in the OECD guidelines regarding user choice, industry-led, market-driven development of products, services and international standards that users trust.

Additions

Measures to Enhance Confidence in the Security of Electronic Commerce

Additionally, we think the realization of the following principles would provide strong additional incentives for the development of electronic commerce:

- Governments should use their procurement powers to further the growth of secure, market-driven authentication mechanisms.
- A Global Support System for emergency situations such as big earthquakes and terrorist attacks should be developed.
- Educational efforts for the public that emphasize the merits rather than the risks of Electronic Commerce should be undertaken.