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# Transatlantic Privacy Issues: *Scope for Co-operation or Conflict?*

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# Outline of Presentation

- EU Data Protection
- Transatlantic Privacy
- US Safe Harbor
- PNR and SWIFT
- Other issues?
- Common standards



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# EU Data Protection

- Article 8 ECHR
- CoE Convention 108
  - Basic principles, subject rights, independent supervision
- EC Directives 95/46 and 97/66 (2002/58)
- Article 286 EC Treaty
- Regulation (EC) 45/2001
  - Community institutions and bodies, Community law
- ECJ Österreichischer Rundfunk
- EU Charter > Reform Treaty



# Transatlantic Privacy

- 1970-1980: “**overlapping values**”
  - Sweden, Germany, HEW report
- 1980-1990: “**different perspectives**”
  - Government, market, legislation
- 1990-2000: “**bridging the gap**”
  - Internet, self-regulation, FTC
- 2000-2010: “**dealing with trauma**”
  - Purpose, proportionality, safeguards
- 2010-20xx: “**working globally**”



# US Safe Harbor

- Creative solution
  - EU Directive > Self-regulation > FTC
- Teething problems
- Growing scope
- Practical impact
  - Corporate Privacy Policy
  - A Single Framework?
- Long term effects



# PNR

- Unilateral measure
  - US legislation > PNR agreement
- Adequate protection?
- Constitutional problems
  - EP > PNR decision ECJ
- Provisional extension
- Growing discomfort
  - 2007 PNR agreement
- Long term solution?



# SWIFT

- Secret surveillance
  - UST 2001-2006
- Institutional failures
  - Central banks < > DPA
- Explosive publicity
- Finding solutions
  - SWIFT initiatives
  - UST representations
- Safer infrastructure?



# Other issues?

- “Echelon” Surveillance
- Sarbanes Oxley
- Search Engines
- Pre-trial Discovery
- Et Cetera .....



# Common Standards?

- Scope for Transatlantic Framework
  - Principles and specification
  - Mechanisms for compliance
- Feasibility of Global Standards?
- Developing Compliant Practices
  - Binding Corporate Rules
- London Initiative (November 2006)
  - “Communicating DP and Making It More Effective”
  - Global Privacy, Montreal, September 2007



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## More information:

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