

LAW AND DIGITAL TECHNOLOGIES
INTERNET PRIVACY AND DATA PROTECTION

ePrivacy

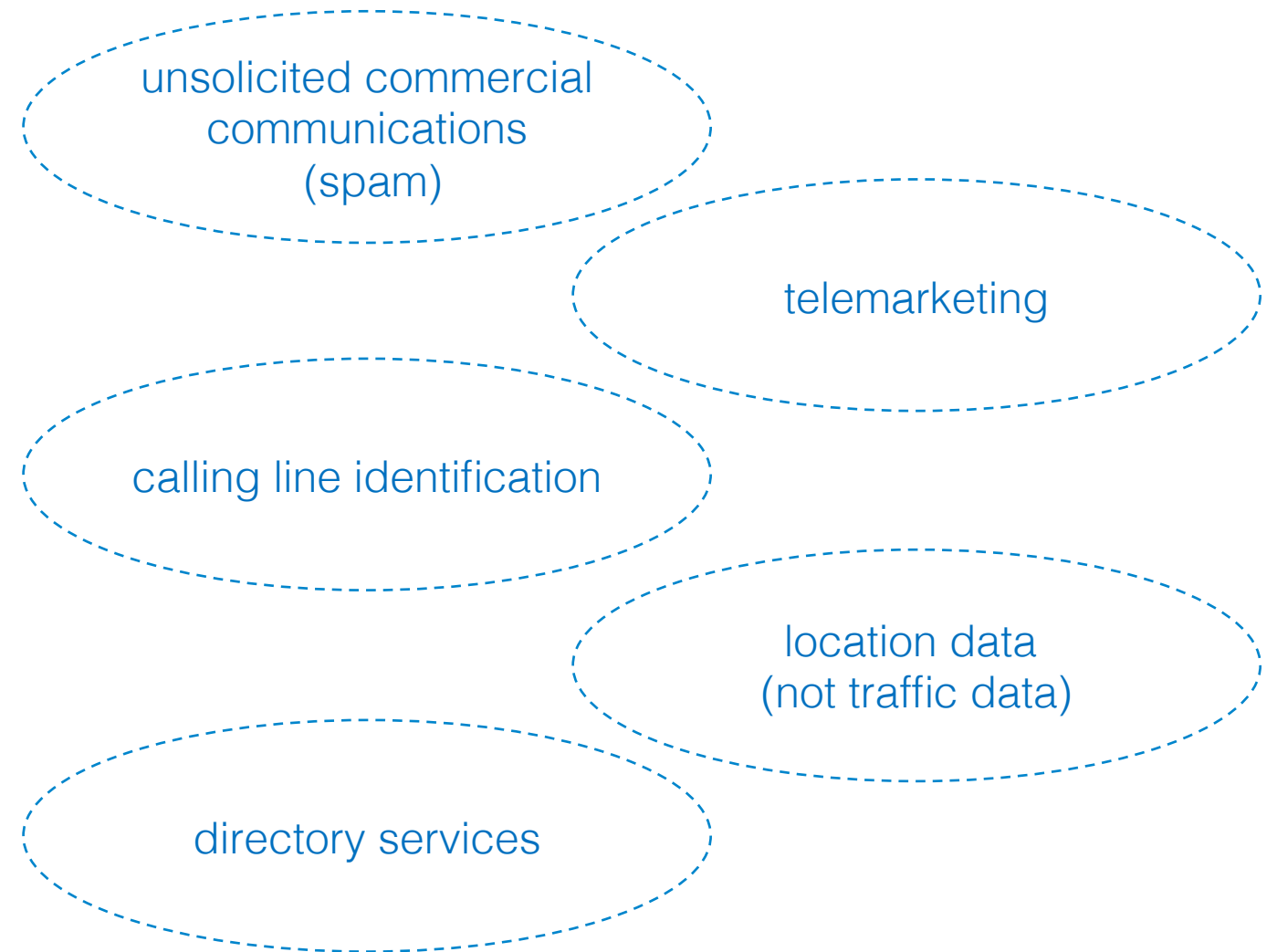
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Seminar 8
November 19th, 2014





electronic communications and privacy

- security and security breach notification
- cookies (and the like)
- traffic data (incl. data retention)



Art. 4 ePD

appropriate technical and organisational measures to safeguard **security** of the [electronic communication] services, if necessary in conjunction with the provider of the public communications network with respect to network security

what are public electronic communication networks and services..?

having regard to the state of the art and the cost of their implementation, these measures shall ensure a level of security appropriate to the risk presented.

electronic communications network:

- transmission systems (incl. switching or routing equipment) and other resources
- which permit the conveyance of signals by wire, by radio, by optical or by other electromagnetic means, including satellite networks, fixed (circuit- and packet-switched, including Internet) and mobile terrestrial networks, electricity cable systems,
- to the extent that they are used for the purpose of transmitting signals, [and]
- networks used for radio and television broadcasting, and cable television networks, irrespective of the type of information conveyed

electronic communications service:

- service normally provided for remuneration which consists wholly or mainly in the conveyance of signals on electronic communications networks
- incl. telecommunications services and transmission services in networks used for broadcasting,
- it does not include information society services, which do not consist wholly or mainly in the conveyance of signals on electronic communication networks;

excluding services providing, or exercising editorial control over, content transmitted

Art. 4(3) ePD

- notify the personal data breach to the competent national authority
- likely to adversely affect the personal data or privacy of a subscriber or individual, also notify the subscriber or individual of the breach without undue delay

what is a subscriber?

*24 hours? 72 hours?
what's the startingpoint?*

processed and stored by the provider of a public communications network or publicly available electronic communications service

Art. 6 ePD

traffic data relating to subscribers and users must be erased or made anonymous when it is no longer needed for the purpose of the transmission of a communication

with user or subscriber data may be used for the purpose of marketing electronic communications services or for the provision of value added services

processed and stored by the provider of a public communications network or publicly available electronic communications service

2006/24/EC



data retention obligation for the purpose of the investigation, detection and prosecution of serious crime



as defined by each Member State in its national law

CJEU 8 April 2014, Cases C-293/12
and C-594/12



*cookies! device
fingerprinting,
pixels etc..*

Art. 5(3) ePD

the storing of information, or the gaining of access to information already stored, in the terminal equipment of a subscriber or user is only allowed on condition that the subscriber or user concerned has given his or her consent, having been provided with clear and comprehensive information

*but functional or technical cookies are
allowed nevertheless*

“cookies”

pop-ups or banner..?

explicit or implied consent....?

commercial tracking cookies

cookie retention terms



questions?

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