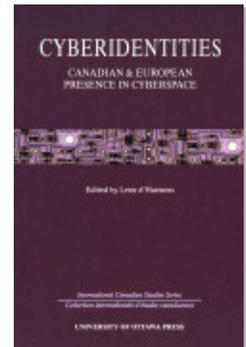# Cyberidentities

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ELECTRONIC COMMERCE POLICY AND THE EUROPEAN COMMISSION

by Paul TIMMERS[1]

I   INTRODUCTION

The Internet and electronic commerce currently enjoy enormous interest. Citizens are curious and for many of them e-mail has already become an additional means to communicate with friends and relatives. Business is keen to explore the new opportunities but are still wary of perceived risks. Governments are mobilizing efforts to examine the validity of their legislation for the new electronic forms of business. Hotly debated are the rules for global electronic commerce, which for many today means business over the Internet (although electronic commerce also includes the use of closed networks).

Europe is fully participating in this debate. The European Commission has been especially active in the emerging global discussion. Europe's interest is understandable: as elsewhere in the world, electronic commerce is seen as critical to competitiveness but, moreover, many of Europe's specific characteristics are put in a new light in the open world of global information networks. Can Europe exploit but also protect its rich cultural and linguistic diversity, and a variety of business practices? Can Europe leverage internationally its experience in building an *acquis communautaire* – i.e., the whole body of legislation that together constitutes what the European Union is today, including the Single Market? Will the global information networks become an unparalleled challenge to the industrial and social structure in Europe, where labour rules are at times perceived as rather rigid, while enshrining strong European values like solidarity? Can electronic commerce help to overcome the persistent, structural, high level of unemployment in many countries? And finally, can global information networks facilitate the process of preparing to enlarge the European Union with the inclusion of other Eastern European and Mediterranean countries?

II   ELECTRONIC COMMERCE AND THE EUROPEAN COMMISSION[2]

In 1995 the European Commission hosted the Global Information Society conference in Brussels. On that occasion it was decided to launch 11 global pilot projects. One of those, the G7 project "A Global Marketplace for SMEs,"[3] deals with promoting electronic commerce for small- and medium-sized enterprises (SMEs), and is being led jointly by the US, Japan and the European Commission. At the same time a range of R&D projects, supported by the European Commission, were exploring the Internet

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[1]The views expressed in this article are those of the author and do not necessarily represent the position of the European Commission.
[2]For general information about electronic commerce and the European Commission, see http://www.ispo.cec.be/ecommerce/
[3]See http://www.ispo.cec.be/ecommerce/g7init.htm.

for business use, addressing basic technology development as well as business organization (e.g., "virtual" or networked forms of enterprise organization). The G7 project, particularly in Europe, organized many consultations between the private and public sectors.

This dialogue, along with feedback from industry in the R&D projects and consultations with industry in the context of regular policy development (e.g., on copyright management, and telecommunications liberalization), clearly identified the critical importance of electronic commerce for Europe's competitiveness in the global marketplace. A consensus has been gradually emerging on key issues, contributing to making the global information society a reality for business and consumers. Awareness building, creating trust and confidence, providing for a clear legal framework, and understanding business "best practice," were and still are among those key issues.

In addition, it became increasingly clear that a coherent policy approach was needed as well as a profound international dialogue. Within the European Commission a catalytic role was played in this thinking by a regular meeting of a core group of relevant competencies. This led to the formulation of the *European Initiative in Electronic Commerce*, a policy paper adopted in April 1997 by the European Commission. In May 1997 a similar policy document was issued by the Japanese Ministry of International Trade and Industry (MITI), and in July 1997 the White House officially published its *Framework for Global Electronic Commerce*, of which drafts had been available a number of months earlier. Finally, also in July 1997, over 30 European countries adopted the Bonn Declaration on the Global Information Networks. Currently, many countries have published or are working on information society/electronic commerce projects (The Netherlands, Italy, United Kingdom, Canada, Mexico, to name a few). This flood of policy work demonstrates that electronic commerce, as the foremost application of the Information Society, has moved high on the political agenda. It also is a good illustration of a growing awareness that electronic commerce is a global phenomenon.[4]

It is interesting to note that there are strong similarities in the principles and observations explicitly or implicitly underlying policy making in Europe, the US and Japan. These are:[5]
- electronic commerce is of critical importance;
- the Internet is causing a major shift;
- urgency to act;

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[4]The pace of policy discussions and developments has not slowed down. A number of recent key developments, until December 1997, include the Global Standards Conference in October 1997, the Trans-Atlantic Business Dialogue Rome Declaration in November 1997, the OECD Turku Conference "Dismantling the Barriers to Electronic Commerce," also in November 1997, and the EU-US Joint Declaration in Electronic Commerce of December 1997.

[5]Patrick Vittet-Philippe, European Commission, Brussels; Jim Johnson, Global Information Infrastructure Commission, Washington.

- market-driven development;
- global dialogue is essential;
- governments have to ensure a predictable but minimal legal framework;
- governments have a catalyst role to play;
- interplay of technology – legislation – self-regulation/codes of conduct;
- where possible monitor rather than intervene.

Despite the appreciation that this policy work is capturing a moment in time, in a field where things are moving very fast, and today's understanding is necessarily limited, it is generally felt that there is an urgency to act. The European Commission, for example, has taken the year 2000 as its deadline for adapting legislation and other actions (see below). Acting fast matters because of the speed of technological development, the exponential rise in the use of the Internet, the risk of globally incompatible legislation being introduced at the national level, and the perceived dangers of misuse of the new environment.

III   EUROPEAN INITIATIVE IN ELECTRONIC COMMERCE[6]

The aims of the electronic commerce policy adopted by the European Commission are to promote the vigorous growth of electronic commerce in Europe, to increase the competitiveness of industry in Europe, and to ensure that business and consumers benefit from global information networks. To that end, the initiative highlights three interrelated high-level objectives to be addressed within a context of international co-operation and dialogue:

1. ensuring access to the global marketplace;
2. creating a favourable regulatory framework;
3. promoting a favourable business environment.

These three objectives are broken down into specific actions and programs within a range of policy domains. In all objective areas there are three recurrent themes:
- electronic commerce policy development cannot be done in isolation but needs to be compatible with a global approach to doing business;
- building trust and confidence is key to winning over businesses and consumers to electronic commerce;
- policy areas are highly interrelated and technology, legal, and support actions should re-inforce each other.[7]

The first objective, ensuring access to the global marketplace, addresses the relatively high cost of telecommunications and the limited availability of broadband networks

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[6]See http://www.ispo.cec.be/ecommerce/initiat.htm.

[7]"Building trust and confidence" illustrates the interrelationship: it requires secure and usable technologies, a clear legal framework with protection against inappropriate use (see e.g., http://www.ispo.cec.be/eif/policy/97503toc.html), and "soft" trust-building through the development and recognition of "good practice."

throughout the European Union. Action is proposed at the European level to improve the usability of technology and electronic commerce services for consumers and small companies, and to deliver new forms of competitive advantage through research and development. Interoperability of electronic commerce technology and solutions is identified as a key issue, for which flexible and market-driven approaches will be promoted and developed.

The second objective, creating a favourable regulatory[8] framework, sets out to define principles for the legal framework. Most importantly it opposes "regulation for regulation's sake," indicating that, "any regulation must be based on the Internal Market freedoms" (free movement of goods, persons, capital, services, and freedom of establishment). This expresses, on the other hand, the desire to not constrain the potential of electronic commerce with burdening legislation, and on the other, to take maximum advantage of the assets of the Internal Market in the European Union for this new way of doing business. A response to electronic commerce is necessary for all the steps in business transactions, from the establishment of business to electronic payments, as well as for horizontal issues like security, data protection, taxation, etc. Partial answers already exist and have been or are being implemented, while a review of the current framework is still needed. Issues addressed include:

- electronic payments (July 1997 Recommendation);
- contracts at a distance, contract law;
- copyright (Draft Directive December 1997);
- regulated professions;
- commercial communications;
- accountancy;
- security and encryption;
- data protection and privacy;
- direct and indirect taxation ("no bit-tax");
- public procurement.

The third objective area, promoting a favourable business environment, addresses awareness among consumers and businesses, and establishes confidence through information and recognition of quality in electronic commerce. Enhancing understanding of electronic commerce through the development and promotion of "best practice" is considered key. Public administrations are called to become pro-active users of electronic commerce, to stimulate the take-up, and create confidence. The lack of skills is considered to be a major barrier to the development of the Information Society at large, and to electronic commerce in particular. Finally, a broad and open-minded societal dialogue is strongly advocated, in order to prevent Europe from becoming a fragmented society with information "have-nots" and "want-nots," as

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[8]For some the word "regulatory" has negative undertones, contrary to "legal." In the current context, however, regulatory framework can be read as legal framework.

there are no certainties as to how electronic commerce will and should develop in Europe.

IV   CONCLUSION

During the last year significant progress has been achieved in mapping out the issues in global electronic commerce, and even in reaching a certain degree of consensus on principles between major players. The challenge is now to take the discussion to a truly global level, involving all parties and interests: that is, countries and regions, as well as businesses, citizens, and public bodies.[9] The road from principles to practical solutions that promote electronic commerce rather than stifle it is still to be discovered on many issues. New ways of doing business and technological innovation require a constant review of policy frameworks. The impact of electronic commerce on our ways of living and working, indeed, on the organization of society at large, is still poorly understood, and will require much more experimentation and study. What is clear already is that electronic commerce, as the first mass application of the Information Society, profoundly affects the way policy making is being done. Beyond new ways of doing business, we therefore also need new policy-making approaches capable of dealing with the interplay of factors and new roles of the players involved: business, governments, and citizens.

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[9]The Commission recently adopted a policy paper, "Globalization and the Information Society – the need for strengthened international coordination" that addresses this challenge (http://www.ispo. cec.be/eif/).

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