

SUMMARY OF CONGRESSIONAL HEARING ON DATA PROTECTION
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Equifax Vice President John Baker told a Congressional panel April 10 that a U.S. data protection board could help industry and consumers improve privacy protections, but expressed concern that a current proposal would create a "worrisome" venture capable of using its investigatory powers to "sensationalize or simply harass" corporations.

Testifying before the House Government Operations Subcommittee on Government Information, Justice, and Agriculture, Baker also discussed the results of last year's Lou Harris survey; steps Equifax has taken recently to improve its data protection policies; and the company's decision to abort plans for the controversial "Lotus Marketplace: Households" product, which would have put data on 120 million Americans on a set of CD-ROMs.

Bob Wise (D-WVA), subcommittee chairman and sponsor of the data protection bill, previously said a federal privacy board might have helped a company like Equifax avoid investing millions of dollars in a product like Marketplace that ultimately was dropped because of privacy objections.

Baker agreed. "A board could have provided analysis in a very confidential manner; that it could have considered consumer interest -- not filtered -- but directly from consumers; that it would recognize the extensive privacy initiatives that were in fact in place and being upgraded continuously; that it could provide technical analysis of desktop marketing systems and CD-ROM technology and provide a balanced, practical viewpoint," he said.

"If such a board were a positive and creative force, highly accountable to consumer opinion and the needs of the economy, as well as privacy principles, if board members and staff were knowledgeable about information systems and business transaction values and were able to work closely with other government agencies, then such a board might well be a good idea," Baker said.

"In addition, it could be a symbol to other countries of our commitment to data protection and a conduit for other countries, particularly the European Community, to hear about the extensive privacy protections that do on fact exist in this country through a combination of specific federal and state legislation, constitutional protections, common law, and industry fair information practices."

"If, however, the board's primary missions were to investigate complaints," he continued, "issue privacy theory edicts, [and] sensationalize, rather than finding solutions to problem issues, then I think the result may be a step backwards by causing polarization, not resolution of the competing interests of privacy and information needs."

Baker stressed that the "nuts and bolts" of how such a board would work are crucial. In his prepared statement, Baker specifically objected to vesting it with powers to investigate complaints about alleged violations of data protection rights, as well as the power to compel the testimony of witnesses, and production of books and records.

Appearing with Baker was Columbia University Professor Alan F. Westin, a pioneer in U.S. privacy theory, architect of the Lou Harris survey and consultant to Equifax. (The Lou Harris survey, like others before it, showed a majority of Americans want stronger legal protections and some form of data protection board. It also showed some consumers were willing to permit use of their personal data when informed of benefits.)

Noting that many of the 30,000 individuals who objected to Lotus Marketplace did so through electronic mail systems, Westin said one should not overestimate the significance of the incident.

"I think what you saw was a response from a particular people who, as advanced users of technology, feel especially strong about how computers are used in areas that effect privacy," Westin explained.

"But I think it helps put into perspective the claim that 30,000 communicated through the E-mail system. When the National Rifle Association pushes a button, it can get five million people to write in and deluge you [Congress] with their views. So I don't quite view this as a great breakthrough necessarily in expressing the will of the people, and in the perspective of what we know to be letter-writing campaigns and telephone campaigns which groups that are interested in an issue are capable of mounting. I think we shouldn't overestimate the response to this," he said.

Westin said the survey's classification of three categories -- "privacy fundamentalists (25 percent), privacy pragmatists (57 percent) and unconcerned (18 percent) -- carried important lessons as to how the politics of privacy will unfold in the 1990s.

"Whenever the pragmatists feel that fair information practices are being provided in a given area -- credit, insurance, and Caller ID, etc. -- they will join with the 'unconcerned' and you get a 75 percent majority who will say that voluntary action as a safeguard, combined with existing laws, represents a wise solution," he said.

"However, when the pragmatists do not feel that fair information practices are being met, when they feel technology use is outracing the capacity to control, or the security is not adequate or that information goes to different compartments that do not respect the boundaries, then they join the fundamentalists and you get a 75-80 percent majority in favor of regulatory intervention and outright bans of certain kinds of information uses," he said.

Westin said a major challenge for industry, one made possible by advancing technology, is to "customize" privacy choices by tailoring offers of consumer services and prices according to consumer preferences about uses of their personal data.

For instance, he said retail credit or insurance firms could offer a discount to customers willing to provide their Social Security numbers for identification purposes.

Wise said that while he did not see his data protection board measure "moving immediately," he did see growing interest in the issue and predicted it would continue to build. The subcommittee will likely hold additional hearings on the subject later this year.