

die Unternehmen innerhalb einer vom Gesetz gesetzten Frist nicht Verhaltens-Codices etablieren. Im Datenschutzgesetz ist ein freiwilliges Datenschutzaudit vorgesehen, dass im Gutachten des Bundesministeriums des Innern zur „Modernisierung des Datenschutzrechtes“ weiterentwickelt wird.

Zudem wurden zwischenstaatlich garantierte Verhaltensregeln, wie z. B. die „Safe Harbour Principles“ etabliert. Hier handelt es sich um eine Vereinbarung zwischen der EU und den USA über die Frage des Datenschutzes im Fall der Datenübermittlung von personenbezogenen Daten aus Europa in die USA. Da die USA kein allgemeines Datenschutzgesetz und keinen adäquaten Datenschutzstandard haben, dürfen grundsätzlich keine personenbezogenen Daten in die USA exportiert werden, ohne dass ein adäquater Datenschutzstandard garantiert wird. Hier hat man sich auf ein Selbstregulierungsverfahren geeinigt. Es wurden Datenschutzprinzipien vereinbart, denen sich jene Firmen unterwerfen können, die Daten aus Europa erhalten. Das Department of Commerce führt eine Art Zertifizierung durch und nimmt die Aufsicht wahr.

6 Resümee

Selbstregulierungsverfahren gewinnen sowohl national als auch international an Bedeutung. Sie sind flexibler und sachnäher und global einfacher zu etablieren. Es gibt bereits eine Vielzahl von Instrumenten, die aber für den Kunden noch sehr intransparent sind. Wirksame Verfahren müssen sich erst noch etablieren. Erst dann entsteht ein Kundenvertrauen, das die bestehenden Akzeptanzhindernisse für die Nutzung des Internets verringern kann.

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The Global Business Dialogue on e-commerce (GBDe): Private Firms, Public Policy, Global Governance¹

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GBDe – the Global Business Dialogue on e-commerce – officially launched in January 1999 in New York – is one of the first global business groups to organize itself around public policy issues. It represents the global cooperation of companies worldwide, and as such the GBDe might serve as a prototype for ways in which firms and governments interact in the future. After a brief historical overview of the GBDe as an emerging private authority in the global e-commerce public policy debate, the article specifically addresses GBDe efforts to promote self-regulation in the area of consumer confidence. As it turned out, the specific issue group which was set up to solve the problem was confronted with difficult problems. This article focuses on the dominant U.S. - EU dimension of the organization, pointing out specific cultural distinctions and misconceptions which became evident during the deliberations. Today, the GBDe has emerged as an important private sector-led initiative to help define the rules of the internet and e-commerce and is recognized as a legitimate voice on the governance of e-commerce in the domestic, regional, and global realms. It turned out however, that the route to establishing rules for self-regulation in e-commerce proved to be very cumbersome and the GBDe firms themselves have yet to demonstrate and to implement the self-regulatory mechanisms they are advocating to the rest of the world.

1 Introduction

In recent years, the rise and demise of “dot.com” companies have focused government and industry attention on the growth of electronic commerce. Observers estimate that the annual volume of e-commerce is between \$ 100 and \$ 200 billion, and will continue to grow as the “old economy” increasingly uses the internet to deliver goods and sources to consumers (c.f. Litan and Rivlin 2000). At the same time,

e-commerce raises important challenges to “governance” and, in particular, to the ability of governments to shape the “new economy”. Elected officials and civil servants must now grapple with new topics (i.e. e-payments) as well as more traditional issues (taxation and jurisdiction) in previously unthinkable ways.

How does one determine taxation policy when a Japanese consumer purchases music online from a French media firm? How does one defend the intellectual property rights of an Indian company when one of its products is copied and then downloaded in Scotland? How does one ensure that the personal information of a Dutch citizen recorded by an American corporation is not later sold to a Canadian bank? How can a Mexican consumer be assured that the credit card information she gave to an online German firm will not be stolen by an outside source?

It is not merely the how questions that are pertinent, but the who: Who should be the rule-makers of e-commerce? (c.f. Johnson and Post 1998). “The rules of electronic commerce” as noted by one observer “will not be made by governments alone” (Harmon 1999). This article analyzes one private group’s efforts – the Global Business Dialogue on e-commerce (GBDe) – to develop norms, principles, and rules to shape the global public policy framework for e-commerce.

The GBDe merits attention for several reasons. First, from an empirical perspective, while there are examples of industry groups self-organizing to shape the governing principles in e-commerce domestically (see Spar 1999), the GBDe is one of the first truly global business groups to organize itself around public policy issues. The GBDe represents the global cooperation of companies from the Americas, Europe, Africa, Asia, and Oceania. As such, the GBDe might serve as “a prototype for addressing globalization” and the ways in which firms and governments interact in the future.

Second, from a theoretical perspective, the GBDe provides interesting insights into the novel literature on “private authority” in international relations (Cutler, Haufler, and Porter 1999). Governments, it is argued, are not the only holders of authority; private firms can also be recognized as “authorities”. (The theoretical component of the GBDe study is not discussed

here but can be found in the original working paper.)

Third, from a public policy perspective, the GBDe provides important insights into the ability of firms themselves to grapple with e-commerce public policy issues. If private actors – as opposed to governments – are to play an increasingly important role in the governance of the global economy, the GBDe provides an important example of how companies might fare. As suggested in this article, GBDe firms are in the forefront of e-commerce policy and are, in a sense, acting like governments. At the same time, they are also discovering just how difficult it is to negotiate across countries and industry sectors in an effort to develop global, overarching principles.

This article provides a brief historical overview of the GBDe as an emerging private authority in the global e-commerce public policy debate. More specifically, the article addresses GBDe efforts to promote self-regulation in the area of consumer confidence. While the GBDe is a global organization, this article focuses on the dominant U.S.-EU dimension of the organization.

2 The origins of the GBDe – “Born Global”?

In 1997, the United States, the European Union, and Japan all issued important policy papers that dealt in varying degrees with the promotion and governance of the internet and e-commerce. In April, the European Commission issued “A European Initiative in Electronic Commerce” (European Commission 1997). Noting that the internet was “born global”, the Commission document was relatively broad in that it addressed the liberalization of the telecommunications market, research and development programs, international industrial cooperation, regulatory frameworks, consumer protection, and public sector promotion of electronic commerce. Citing the development of divergent legislative approaches in the member states, the Commission called for the creation of “a coherent regulatory framework for electronic commerce ... at [the] European level”. This later would include the directive on data protection², the legal protection of databases, and on contracts negotiated at a distance.

The following month, the White House issued its own document, "Framework for Global Electronic Commerce" (White House 1997). The document was unofficially known as the "Magaziner Paper" after Ira Magaziner, the president's White House point-person on e-commerce who spearheaded the initiative. The U.S. document focused on a variety of issues such as customs and taxation, electronic payment systems, intellectual property protection, privacy, security, and information technology. The overarching principle of the U.S. document was that "the private sector should lead".

While a European Commission official estimated that the U.S. and EU papers overlapped by roughly 80%, U.S. officials saw distinct differences between the documents of the transatlantic partners (Vittet-Philippe 1997, Maxwell 1998). While both documents promoted a minimalist regulatory approach, the American paper advocated self-regulation whereas the European paper was open to regulatory action, if necessary. In addition, the European "expressed a sense of urgency" given the early formation and overall U.S. lead in e-commerce and the necessity for the Europeans to catch up (Maxwell 1998, p. 112). Thus, as one American commentator noted, perhaps "the internet may not have been 'born global' in the words of the European 'Initiative'" (Maxwell 1998, S. 122). Rather, it had the potential to become so over the years.

3 The Bangemann Charter

One of the most salient events of 1997 dealing with the governance of e-commerce was EU Commissioner Martin Bangemann's speech on September 8th at the Geneva Telecom Inter@ctive '97 conference. Bangemann called upon "governments, regulators, and industry to work together to establish a new global framework for communications for the next millennium" (as quoted in Hayward 1997). His proposal was to create some sort of international charter. According to Bangemann, industry should take the lead in drawing up a charter that would be based primarily on self-regulation and mutual recognition of national licenses (Reuter Information Service 1997).

The "Bangemann charter" received considerable attention in government and industry

circles, in newspapers and high technology sources, as well as on computer chatlines around the world. However, U.S. government and industry were at best suspicious of, and at worst utterly against, the idea of the charter (c.f. Vesely 1998). Given the U.S. government's general view that the Commission was all-too-ready to regulate e-commerce, a Commission-proposed global regulatory body was out of the question. Industry's reaction was similar. U.S. business representatives also were not convinced that Bangemann's ideas were truly reflective of EU industry concerns. From the American point of view, EU industry did not have "the same ability to access, discuss and contribute to legislation" as American companies did in the United States. Indeed, from their perspective, the EU legislators simply dictated their rules to EU industry.

The European Commission and EU industry leaders were baffled and frustrated by the American reaction. Bangemann, after all, was one of the more liberal members of the Commission. It was not in his philosophy to focus on government regulation. Moreover, the Europeans believed that the charter addressed principles supported by the Americans, but from a global dimension. From the EU point of view, there was "a lot of intentional misinformation" on the part of the Americans – because the charter idea could have come from the Americans, but didn't.

From the viewpoint of EU industry, Americans did not understand the role of the Commission and the Single Market process in Europe. Faced with fifteen competing regulatory systems at the national level, EU industry often welcomed a single regulatory framework at the European level. In order to deregulate and challenge member state laws, the Commission had to reregulate at the European level. The charter, with its emphasis on industry-led development, was a means to promote liberalization further.

In November 1997, Bangemann again raised the charter idea during the e-commerce session at the Transatlantic Business Dialogue (TABD) conference in Rome. (On the TABD, see Cowles 2001a, 2001b, 2001c.) Several months later, Bangemann began to make overtures to the Japanese, who expressed a willingness to sign up to the charter idea, and to the

reluctant Americans. In June 1998, the European Commissioner hosted a “global business roundtable” in Brussels. Over 100 industry officials attended, including approximately ten CEO-level officials from the EU, U.S., and Japan. The result of the dialogues was a two-page document announcing industry’s desire to create a Global Business Dialogue to be formally launched in the first half of 1999. Thus, the seeds for the Global Business Dialogue on e-commerce (GBDe) were planted.

Following the Brussels meeting, a group of sherpas from leading e-commerce firms met to discuss what would one day become the launch of the GBDe. It was agreed, for example, that the GBDe membership would be comprised of CEOs from leading e-commerce companies such as AOL-Time Warner, Vivendi, Telefónica, and Fujitsu. Moreover the firms would represent the complete value-chain of e-commerce – from Internet service providers (ISPs), to media/content producers, to equipment manufacturers, to high-end service providers. (Of course, the distinction between these groups is not always recognizable given that the operations of several major corporations include two or more areas of this value-chain.) It was also determined that the GBDe would be organized according to three regions (the Americas, Europe/Africa, and Asia/Oceania) and would include the developing world. In addition, the GBDe would focus its activities on various issue groups headed by individual companies. In 1999, for example, the companies selected nine issue groups with companies from each region chairing three of the groups (see Table 1).

The GBDe began rather inauspiciously on September 16, 1998, with the first formal planning session involving company sherpas. A second meeting held in Brussels on December 7, 1998, revealed considerable concern among some companies as to whether the GBDe would get off the ground. It also was not clear whether or not the U.S. government was supportive of the idea. Indeed, the U.S. government was “extremely suspicious” of the GBDe, wondering if the European Commission was “using the private sector as a front for its own agenda... as a puppet for the European Commission”.

Table 1: 1999 Issue Groups

<i>Issue</i>	<i>Company-in-charge</i>
Consumer Confidence	DaimlerChrysler
Content/Commercial Communication	Walt Disney
Liability	Telefónica
Authentication and Security	NEC
Jurisdiction	EDS
Tax and Tariffs	Deutsche Bank
Information Infrastructure	Nortel Networks
Protection of Personal Data	Toshiba
Intellectual Property Rights	Fujitsu

4 Launching the GBDe

The group’s formal launch occurred on January 14, 1999, in New York City. The decision to inaugurate the GBDe in New York was a strategic one – the Europeans wanted to assure the Americans that they were not going to run the show. In an official statement, the CEOs noted that “Governments around the world should recognize the dangers that regulation of the Internet would pose to their economies and societies” (GBDe 1999). As then-Time Warner CEO Gerald Levin stated in a press session following the meeting, “We have a role to play in the shaping of public policy, and we are truly capable of rising above ... narrow geographic issues” (Authers 1999).

While presenting a united front to the outside world, the CEOs encountered numerous difficulties in seeking to develop overall goals and processes. In many respects, the GBDe itself was like a start-up company – full of unknowns. The issues themselves were incredibly challenging as company public affairs officials, lawyers, and technical advisors sought to work through taxation, liability, and jurisdiction issues. Moreover, these same companies were competing “very harshly” with one another in the marketplace – yet were expected to cooper-

ate in the GBDe setting. Even the global nature of the discussions themselves was daunting as sherpas needed to come to appreciate various negotiating cultures of GBDe members.

Interestingly, as the GBDe agenda developed, regional differences proved not to be the key source of friction within the GBDe. True, as discussed below, there were significant disagreements over the American and European views on self-regulation and co-regulation. However, the real problems rose due to the different kinds of e-commerce industry represented in the GBDe. In the liability issue group, for example, strong differences existed between ISPs and content companies. With ISPs, media/content producers, equipment manufacturers, high-end service providers, and others all approaching the issues from different vantage points, developing agreed-upon global principles proved daunting. In the end, the early GBDe consensus – which is the coordination principle by which GBDe operates – was “driven hard by the content companies in Europe and the U.S. and by Fujitsu in Japan” (Riley 1999).

5 Paris and the legitimacy of the GBDe

Following over eight months of extensive discussion, the first GBDe conference featuring the CEOs and government officials took place on September 13, 1999. It was notable that in addition to the GBDe companies, other firms from around the world participated in the meeting – from Argentina, Australia, Brazil, Egypt, Estonia, Indonesia, Israel, New Zealand, and Thailand. All told, the Paris GBDe meeting brought together more than 470 business and government representatives.

The turnout itself gave the GBDe legitimacy in the eyes of several government officials. The fact that global industry leaders were able to develop positions in the nine different issue areas was significant to many. As one U.S. government official noted, “It was the first time that industry was taking a position on a global basis”.

Paris made perhaps the biggest impression on the GBDe companies themselves. Many sherpas were surprised at their companies’ willingness to come together to speak out on a global e-commerce framework. If firms had

been unsure of their role in the GBDe in earlier months, there was a “suspension of disbelief” after the Paris conference. But, as one delegate to the Paris conference noted, “the time for general principles [was] over. It [was] now time for the boring, difficult sweat, getting down to the detail of adaptation and self-regulation” (Riley 1999). Self-regulation – the efforts by companies to develop their own codes of conduct – would be critical in areas such as consumer confidence, data protection, and intellectual property rights. Could the CEOs lead the rest of the industry to a common understanding of self-regulation and the responsibilities that this entailed? The answer was not certain.

6 Miami, privacy, and data protection

By April 2000, the GBDe featured more than sixty companies in its ranks. With the expanded membership, it was necessary to create an Executive Committee comprised of the co-chairs from each region to oversee and coordinate the general operations of the group. At the request of the sherpa group, a mid-year meeting was also set up so that the CEOs could review the action plans delineated by the working groups and provide strategic guidance. In February 2000, approximately forty CEOs met in New York City, along with a small group of government officials.

The GBDe developed a new list of issue areas for industry to undertake. While originally identifying seven key issue groups, the GBDe expanded the list to include a total of ten issue groups in 2000 (see Table 2). One of the primary emphases of the 2000 GBDe leadership team, however, was not to develop new policies per se, but to implement, where appropriate, the self-regulatory mechanisms discussed in Paris (GBDe 2000). No where was this more important than in the Consumer Confidence issue group. According to key survey data, it appeared that consumers had serious reservations about conducting business online. Of course, more than any government regulator, the lack of consumer confidence in e-commerce could significantly hinder the growth of the industry. Consumers questioned, for example, how complaints would be handled in the borderless realm of the Internet. If e-

dress to the courts was necessary, where would the consumer turn – to the courts of one's own country, to the courts of the firm's country? What if one could not determine the geographical location of the firm?

Table 2: 2000 Issue Groups

<i>Issue</i>	<i>Company-in-charge</i>
Advocacy	Telefónica
Alternative Dispute Resolution (ADR)	DaimlerChrysler
Consumer Confidence	DaimlerChrysler
Cyber Security and Cyber Crime	Fujitsu
Digital Bridges Task Force	MIH
IPR	Walt Disney
Privacy	Toshiba
Tax	IBM
Trade	IBM
Trustmark	Fujitsu

The GBDe addressed these issues under the single rubric of Consumer Confidence in 1999, with DaimlerChrysler serving as the issue manager. A year later, the industry leaders decided to break the issue up into three distinct components: consumer confidence/alternative dispute resolution (ADR), trustmarks, and privacy. A trustmark is a label or seal that indicates that the e-commerce merchant is committed to complying with agreed-upon best business practices, codes of conduct, etc., in addressing privacy issues. The trustmark will usually include a "redress mechanism" that allows for the consumer to remedy an unsatisfactory situation. When there is a disagreement between a consumer and a merchant, there must be some sort of dispute resolution mechanism. However, instead of going to any single court system (i.e. the court of the consumer or the court of the merchant), industry has encouraged the use of ADR (alternative dispute resolution) mechanisms, found online.

Underlying trustmarks and ADR issues, however, was the issue of privacy and data

protection – the rules governing the collection and handling of personal data. Negotiations over self-regulatory privacy principles in the GBDe proceeded slowly as companies clashed not only between industry sectors but between regional interests as well. Americans and Europeans disagreed over the desirability of any privacy policy as well as over "self-regulatory approaches" versus "co-regulatory policies". At the same time, the GBDe did not undertake any meaningful consultation with other stakeholders – for example, privacy advocates and consumer groups – in the privacy debate.

The privacy issue came to a head at the Miami conference in September 2000. This event featured 72 companies as well as leading government figures from around the world. The event, with approximately 330 individuals in attendance, was smaller than the Paris meeting. At the same time, it was clear that the GBDe had moved ahead qualitatively with its work. Moving beyond the general principles articulated at Paris, the GBDe had successfully created credible documents in the areas of Trustmarks and ADR. However, the same could not be said of the statement on privacy. American and EU government officials alike chided the GBDe for failing to develop a more robust policy on e-commerce privacy. Simply put, the GBDe statement on privacy lacked legitimacy in government circles. As one GBDe member noted, "No one liked it. The Europeans disdained it".

7 The Self-Regulation vs. Co-Regulation Debate

In many respects, the failed Miami privacy document could be attributed to industry's preoccupation with commercial interests as well as industry's shortsightedness in the discussion of privacy and data protection. Yet, as suggested above, it is also the result of the underlying debate between "self-regulation", as promoted by the Americans, and "co-regulation" advocated by many Europeans. Here, culture, history and institutions all have shaped this debate.

For most American firms in the GBDe's initial years, there was no backing down from the idea that government should not be involved in regulating the industry. To begin, as

one U.S. GBDe representative noted, self-regulation is part of the “underlying (cultural) ethos that all American companies bring to the table – not just in e-commerce”. Industry should be able to act separately from the government. Second, historically, the American business-government relationship has been at “arms-length”, with business holding a general mistrust of the state (Vogel 1978). Third, there are institutional factors that facilitate self-regulation by making it more acceptable to consumers in the United States. Private institutions such as the Better Business Bureau (BBB), for example, serve as an avenue for consumer redress. At the same time, complaints can be brought to the Federal Trade Commission (FTC). Although this independent regulatory agency plays no role in the creation of corporate privacy statements, for example, it can prosecute those firms that conduct “unfair trade practices” by failing to uphold their self-regulatory privacy statements.

Several European firms, meanwhile, promoted the concept of “co-regulation” in the GBDe. The term itself carries different meanings in the various member states of the EU. In general, however, co-regulation indicates there is a role for government to set the parameters of self-regulation, and/or to serve as an “honest broker” among the stakeholders in the policy debate. Culturally, some EU industry representatives prefer the term to self-regulation, which is construed as too Anglo-Saxon in orientation. Historically, self-regulation resonated with EU officials who viewed co-regulation as a form of “negotiated governance” in the member states (c.f. Kooiman 1993).

The focus on co-regulation also has an important institutional basis for EU industry. First, EU industry operates in a multi-level system of governance where any number of players influence the policymaking process at the European, national, and subnational level (Marks, Hooghe, and Blank 1996). Some industry representatives were concerned that self-regulation simply would not be viable because EU member states – not the Commission – would not support such an initiative. A second reason why institutions matter in the self-regulation vs. co-regulation debate is precisely because there is not a tradition of the BBB at the EU level, nor is there the equivalent of the

FTC in the European Commission – although DG Health and Consumer Protection quietly raises the issue. Thus, the EU does not have the traditional back-up enforcement systems attached to self-regulation in the United States. It is not altogether surprising, therefore, that the Commission has sought to back up voluntary codes and self-regulation measures with legislation directed at the enforcement of these measures. Yet to most American business and government officials, writing legislation to back self-regulation defeats the *raison d'être* of these private codes.

Given these different cultural, historical, and institutional factors, it is not surprising that the Americans and Europeans disagreed over the extent to which the GBDe should promote self-regulation alone in various policy areas. By 2001, American and European companies agreed to a truce in the self-regulation vs. co-regulation debate. When neither the Americans nor the Europeans could accept the other's terms, it was decided to use a different expression, “policy coordination” which had a loose enough connotation to please almost everyone. In the end, whatever term was used, GBDe members agreed that policy must be industry led, not government driven. Thus, in 2001, the GBDe established a new Consumer Confidence group along with eight other issue groups (see Table 3). The lessons of Miami, the results of consumer surveys, the changes in domestic debates, as well as policy learning within the GBDe itself, have prompted the group to further refine its Consumer Confidence/Data Privacy efforts. The fact that some global firms are now contemplating the adoption of a single corporate privacy policy that would be operational anywhere in the world was also driving this process. The Consumer Confidence group began by meeting with consumer and privacy groups to discuss common ground and find means to resolve previously intractable problems. By early September 2001, members of the group hoped that GBDe companies and governments alike would find the newly formulated GBDe position on privacy to be more credible, and thus, legitimate. The planned GBDe conference on September 13th in Tokyo, however, never materialized in the aftermath of the September 11th terrorist attacks in the United States. The Consumer Confidence

group has nevertheless determined to continue promoting its policy statements to governments – and to the GBDe membership itself.

Table 3: 2001 Issue Groups

<i>Issue</i>	<i>Company-in-charge</i>
Consumer Confidence	Hewlett Packard
Convergence	Telefónica
Cyber Security	EDS
Digital Bridges	Equitable Card
E-government	Hitachi
Internet Payments	ABN AMRO
IPR	Disney
Trade	Sharp
Taxation	Siemens

8 Focusing on the Future

While there is no one business group, no single government, no separate non-governmental organization that can claim to make all the rules of the internet and e-commerce, the GBDe has emerged as an important private sector-led initiative to help define this public policy framework. Since the Paris meeting, the GBDe is recognized as a legitimate, powerful voice on the governance of e-commerce in the domestic, regional, and global realms. There is also evidence (though not presented here) that the GBDe has played an important role in shaping the e-commerce debate in the European Union. Whether or not the group will do the same in the American context, however, remains to be seen.

Yet today, as in the past, the GBDe faces a number of challenges as an emerging private authority in the global e-commerce debate. The first is the difficulty of finding agreement among the different members of the e-commerce value-chain and developing common regional approaches to key issues. The second is simply a matter of time and money. As several EU and U.S. government officials point out, the GBDe companies are doing some of the work of government. Moreover, the firms are discovering how difficult it is for companies to “do govern-

ance”. GBDe sherpas – particularly those on the American side who are less used to working with and coordinating the opinions of numerous nationalities (unlike their EU counterparts) – readily complain about the exhausting work. Other problems facing the organization are the proliferation and overlapping jurisdiction of e-commerce issues.

Yet another important challenge facing the GBDe as an emerging private authority is its ability to “raise the profile of”, as well as respect, its own guidelines. As Cutler et al. note, private authority is recognized empirically when the rules created by the private authority are viewed as legitimate by those subject to them, when there is a high degree of compliance, and when the firms themselves are empowered explicitly or implicitly by governments (Cutler 1999). Governments have expressed their growing awareness and approval of these GBDe principles. Yet the GBDe firms themselves have yet to demonstrate good corporate behavior and to implement the self-regulatory mechanisms they are advocating to the rest of the world. The relative failure to develop a robust implementation record for these self-regulatory mechanisms is both a reflection of the group’s relatively young age as well as the difficulty the GBDe has in encouraging members from across the world to embrace the overall GBDe principles.

One could also argue, of course, that in the aftermath of September 11th, the role of private firms in global public policy debates on e-commerce would be significantly curtailed. Debates on data privacy, for example, fluctuate as governments become more involved in internal security matters. Yet it is perhaps precisely due to these developments that one finds a renewed interest among some firms to promote the GBDe process. How one develops data privacy legislation will have an important impact on consumer confidence and thus, the economic viability of the industry. Who develops this legislation may also influence consumer confidence and industry growth. Thus, from the perspective of the GBDe on both sides of the Atlantic, the rules of e-commerce must not be written by governments alone.

Notes

- 1) This article is drawn from "Who Writes the Rules of E-Commerce: A Case Study of the GBDe", Policy Paper #14, American Institute for Contemporary German Studies (AICGS), Washington, DC, 2001, available online at <http://www.aicgs.org/publications/pubonline.shtml#policypapers>. I would like to thank AICGS for granting permission to publish this revised excerpt, and the Bosch Foundation for providing funding for the study. I am grateful to the industry and government officials who granted me countless interviews and provided me with numerous documents. I also thank Stephanie Curtis for her work on this revised piece. Of course, all errors are mine.
- 2) Directive 95/46/EC of the European Parliament and the Council, October 24, 1995, Official Journal of the European Community, L281 (November 23, 1995). On the impact of this directive in the United States, see (Shaffer 1999) and (Swire and Litan 1998).

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Braucht der E-Commerce eine eigenständige E-Commerce-Politik? Überlegungen aus ordnungspolitischer Sicht

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In der Debatte um die Regulierung von E-Commerce wurden bislang einzelne ökonomische und finanzwissenschaftliche Problembereiche wie die Auswirkungen auf die Steuererhebung und die Sicherung ökonomischer Eigentumsrechte, aber auch nicht-ökonomische Fragestellungen wie Jugend- und Persönlichkeitsschutz diskutiert. Nicht abschließend beantwortet wurde jedoch, ob angesichts der starken Veränderungen, die mit technologischen Neuerungen, dem Entstehen neuer Märkte und der damit verbundenen Globalisierung von Geschäftsprozessen einhergehen, eine neue ordnungspolitische Rahmensetzung notwendig ist und wie eine solche ordnungspolitische Rahmensetzung für den E-Commerce aussehen könnte.

1 Bedeutung von E-Commerce im Wirtschaftssystem und Rolle der Ordnungspolitik

Im Anschluss an die Internet- und E-Commerce-Euphorie der letzten Jahre ist inzwischen in der Öffentlichkeit, aber auch im wissenschaftlichen Bereich Ernüchterung eingetreten. Dies betrifft unter anderem die erhofften Produktivitäts- und Beschäftigungseffekte durch die vermehrte Nutzung des Internets als Marktplatz für Unternehmen und Konsumenten. Dennoch werden in die wachstumssteigernden Wirkungen des E-Commerce noch große Erwartungen gesetzt. Der von der Bundesregierung im August 2001 veröffentlichte 3. Faktenbericht Monitoring Informationswirtschaft (NFO Worldgroup 2001) sieht eine weiterhin zunehmende Bedeutung dieses Sektors für die deutsche Wirtschaft.

Die Aufgabe der Ordnungspolitik, so wie sie von ihren Begründern, der Freiburger Schule um Walter Eucken, verstanden wurde, zielte auf eine Fundierung der Wirtschaftspolitik durch allgemeingültige Prinzipien, die das Funktionieren der Märkte sichern und das Ent-