

Summary:

Transport Telematics and the Protection of Privacy

The use of transport telematics and transport informatics are assumed to contribute to goal achievement in the transport sector in Norway. Nevertheless, the actual implementation of these systems depends on acceptance in the general public and the legal framework, notably the Personal Data Act of 2000. This report analyses possible implementation of telematics and informatics in the transport sector in the light of public acceptance and legal safeguarding of the right to privacy.

Privacy

The concept of privacy may be understood from three different foci. Firstly, as a question of *personal integrity*, that is the right of individuals to determine for themselves when, how and to what extent information about them is to be processed, and to have a personal space free from interference by others without consent and a legitimate reason.

Secondly, it is a question of *power relations*. This focus underlines that access to personal information may alter the power relations between individuals and governmental bodies or private stakeholders, and that the respect of privacy limits the exercise of power.

Thirdly, it is a question of *decision-making*. Accurate and adequate information is necessary to ensure correct and fair decisions, like social security pay or insurance.

In addition, the concept of privacy may be understood in light of individual and collective interests attributed to members of a society; as the interest of discretion; of accuracy; the data subject's right to notifications; the right to a personal space or to 'be let alone'; and the interests of limited surveillance in society.

Legal framework

The Norwegian Personal Data Act takes these individual and collective interests into account. The act represents an implementation of the EU directive 95/46/EF. In addition, the European Convention on Human Rights is part of Norwegian law.

Protecting individuals against violation of privacy through processing of personal information is the main purpose of the Personal Data Act. Its objects clause states that processing of personal data are to be in accordance with the fundamental respect for the right to privacy, including the protection of personal integrity and private life, and ensuring adequate data quality. In line with EU-regulation, the main condition for processing information is consent by the data subject.

The act restricts the processing and use of information. Collection and processing of data is only allowed if necessary for an explicit and specified task. Reuse of information to other purposes than the original is not allowed without the data subject's consent. The data are to be relevant and sufficient for the specified task, are to be correct and updated, and are not to be kept for a longer period than necessary. The data subject has the right to notification, information and objection, and has the right to correct incomplete or incorrect data.

The Norwegian Data Inspectorate shall among other tasks, deal with applications for licences, receive notifications and assess whether orders shall be made in cases where this is authorized by law.

Acceptance in the general public

Through two studies we have analysed how people weight on the one hand the advantages of implementation of transport telematics and transport informatics and on the other hand their consequences for privacy. The first was a quantitative study among drivers on their way into Oslo one morning (236 respondents). The other study was based on a qualitative technique where 22 randomly selected persons joined three different groups. The groups were asked to discuss several aspects of the implementation of transport telematics and transport informatics, including their consequences for privacy. Due to the sampling method and the size of the sample, respectively, we are not able to draw generalised conclusions from these studies. The results from our two studies are used as an indication of how *these* respondents weight the advantages of transport telematics and transport informatics on the one side, and privacy on the other. Nevertheless, results from other scientific studies on these aspects give very much the same conclusions.

The studies indicate that people's choice of information sources is not dependent on whether their use also imply processing of personal data. This conclusion is strengthened when the respondents are asked to specify what considerations the authorities should take into account when implementing transport telematics and transport informatics. The alternatives relevant for protection of privacy have the lowest score of all.

The respondents were asked if they entrust that the data will not be available for outsiders and that the data will be deleted after a given period. Only 17 percent answered "yes" and 22 percent "no". Even among those who mistrust the use of the data, as much as 75 percent do not let the mistrust influence their choice of information source. If these results are representative for the general public, a popular concern for violation of the right to privacy through the processing of personal data will not represent an impediment to implementation of transport telematics and transport informatics.

A majority of the participants in the group discussions are not concerned about transport telematics and transport informatics involving information processing. They trust the 'system' and the Norwegian Data Inspectorate taking care of their interests. Even those being worried about the data processing do not let this influence their own personal use of electronic systems or information sources. The group participants seem to let the advantages outweigh the consequences for the protection of privacy.

The situation is the other way around when introducing systems and telematics that might curb their freedom to act – be it the freedom to exceed the speed limits without getting caught or freedom from extended taxes, as by road pricing. In these situations the acceptance is minimal and arguments like ‘the surveillance society’ and ‘Big Brother’ are put forward.

Transport telematics and transport informatics producing individual advantages – like more efficient traffic flow, efficient payment in toll roads or in public transport – have a high degree of popular acceptance. This is especially the case when the processing of data is not used in order to enforce governmental authority (the decision making focus on privacy) or is altering the distribution of power between the individuals and governmental bodies (the power relation focus on privacy).

On the one hand, the opposition against transport telematics enhancing traffic safety – as speed cameras and speed limiters – seem to be significant. On the other hand, transport telematics and transport informatics providing individuals and customers more efficient transport services seem to be highly accepted. In the last case, popular acceptance will not represent impediments to the implementation of transport telematics and informatics. In addition, commercial use of transport telematics and informatics, including the processing of data, are often regulated by contracts between the parties. The condition for processing information in accordance with the Personal Data Act is hereby fulfilled.

Codes of conduct are necessary

Coinciding interests among different actors – being commercial interests, customers, governmental bodies or policy makers – might produce a potent driving force for extensive use of transport telematics and informatics. The wide range of technical possibilities and solutions at hand, combined with the high ambitions of using transport telematics and informatics in achieving transport policy goals, might have significant consequences for the protection of privacy. When the individual user of transport telematics and informatics is more occupied with the advantages than the protection of privacy, no strong counter forces exist. The result might be extensive processing of information. It is the responsibility of government and the sector authorities to evaluate the total amount and its effects.

The transport authorities should therefore develop codes of conduct for implementing transport telematics and informatics. The principal rule should be that the technical solution having the less implication on privacy should be preferred. Technical solutions not involving processing of personal data should be chosen if possible. If this technical solution is inadequate or impossible, the authorities have to evaluate whether the transport policy aims in the specific case are to be given a higher value than the protection of privacy.

Governmental bodies are involved in developing, financing and implementing transport telematics and informatics. In these cases the transport authorities should always insist on an evaluation of alternative technical solutions. Anonymous solutions are to be preferred or at least be available in addition to systems processing personal data. In situations where the technical solutions with less consequence for the protection of privacy are set aside, an explicit motivation for this choice should be claimed. These requirements should be a prerequisite for governmental subsidies, licensing and financing of research and development.