

Response to the EU RFID Consultation

Although I am just beginning to investigate the implications of Radio Frequency Identification (RFID) technology, what I have learned thus far has led me to believe that unregulated RFID poses not only a substantial risk to the concept of individual privacy, but also the ultimate transformation of individuals from shareholders of the state into commodities solely for the benefit of corporate traders.

The trouble with RFID technology is that it is so revolutionary, so appropriate to solving so many problems, so unregulated – and now so cheap – that everyone wants to use it everywhere. However, it is well beyond disingenuous for anyone involved with this industry to claim that RFID chips are harmless because they only have their own identification number and not any individual's. This type of argument presupposes that members of the public are well and truly stupid.

The problem for consumers is not RFID per se, but rather the super databases that do and will maintain all the information this technology generates, combined with how those databases are used and by whom.

Here in Scotland, the government offers concessionary, or free, bus passes to old age pensioners (OAPs). In April of 2005, the old bus pass was replaced by an attractive wallet-sized plastic card with photo identification. During the application process for the new card, pensioners were advised that all local council benefits, if any, could be attached to this card (for which there was an 'opt out' option) and that plans called for National Health Service (NHS) records to be attached in future as well.

Surprisingly, then, on 9 April 2005, the *Sunday Herald* reported that Scotland's government, known as the Scottish Executive, allegedly had far-reaching plans to attach all manner of data to these bus passes, including "*linking citizen entitlement cards with address-based data*" (Scottish Executive's Geographic Information Services [Segis] report) in a programme ironically identified as Customer First. Thus, the "*£35 million microchipped card and database system*" being adopted by all 32 Scottish councils "*to streamline access to services*" would consolidate databases concerning "*forestry, the environment, policing, health and land ownership*", as well as link to the Scottish Neighbourhood Statistics (SNS) database, "*which compiles lifestyle indicators for every postcode area, county and constituency of Scotland*". All of this, just to ride the bus for free. This, to me, is a clear case of foisting RFID technology onto the old, the vulnerable, the least likely to notice or complain.

When confronted about the Segis project, a Scottish Executive spokesperson said: "*There are no plans to use citizen entitlement cards in this way.*" This was later contradicted by another SE spokesperson, who said: "*The development and discussions are at an early stage and there is a lot of work to be done, but we are fully committed to delivering a joined-up solution.*"

When our national dish was fish and chips (deep-fried potatoes) instead of curries, plenty of chips would land in rubbish bins. Now at least one Scottish

council is installing chips in household rubbish bins to see who is throwing what away. Considering that these councils have no ethical problem with selling information on their voter rolls and other taxpayer-funded data that used to be considered private, what faith do consumers have that lists of their rubbish will not be sold to the highest bidder?

Consumer concerns over this 'harmless' technology expand exponentially at point of sale.

When I buy something, I pay for the product or service and it's mine. With that purchase, I am not inviting anyone home with me, particularly not to invade my privacy and investigate my personal habits, whether behaviour or movements or purchasing power or anything else. I am not, through that purchase, inviting anyone to read the RFID chips on my person or in my rubbish, or to hack or clone them. Moreover, having paid for my purchase with after-tax income earned through hard work, I do not approve in any way, shape or form of corporate or governmental efforts to amass information about me and, worse, profit from it.

Under the UK's Data Protection Act, data subjects have the right to track down those who hold information about them and, for a small fee, obtain a copy of the information held. That's an excellent theory; however, in practice, it is extremely difficult to know who holds such personal information and it would cost a king's ransom to attempt to obtain it all. With RFID, there would be no way.

On 26 September 2006, the UK Information Commissioner's Office (ICO) issued a press release in which Phil Jones, assistant commissioner, was quoted as saying: *"Some RFID applications will necessarily involve the collection and storage of personal information, but this should not be a cause for concern as long as the principles of data protection are upheld and fully understood by those using the technology."*

On 27 September 2006, the website OUT-LAW.COM reported that ICO guidance advises that customers should be warned by in-store signs that RFID data is being collected (similar to our signage that CCTV is in use) and that customers should be taught how to remove RFID tags. Yet, in an ideal world, there should be no need to remove or kill the tag. It should self-destruct when it leaves the store. In fact, it should self-immolate, because I won't be satisfied until I see it burn.

Just as with Scotland's bus pass, if RFID is left unregulated, I envision enormous, unwelcome invasions of consumer privacy without our consent. I envision myself and millions of other consumers becoming nothing more than commodities – income-generators for parasites, simply by virtue of our 'being'. Without regulation, I also envision a future of e-stalking and e-harassment of outrageous proportions through the unlimited, unregulated misuse of RFID, not to mention countless e-errors.

Dr Klaus-Dieter Borchardt stated in *The ABC of Community law*, published by the European Commission in 2000, that case law regarding fundamental rights

began with the 'Stauder' judgement, *"in which the point of issue was the fact that a recipient of welfare benefits for war victims regarded the requirement that he give his name when registering for the purchase of butter at reduced prices at Christmas time as a violation of his human dignity and the principle of equality."*

Whilst the Court of Justice determined that recipients did not need to provide their names, so violation of fundamental rights was not an issue, *"it declared finally that the general fundamental principles of the Community legal order, which the Court of Justice had to safeguard, included respect for fundamental rights."*

Whether for the purchase of butter or toothpaste or shoes or anything else, I sincerely hope that you will continue to respect what consumers regard as our fundamental rights when it comes to the use of RFID technology in our communities and in our homes.

Thank you very much for this opportunity to comment.

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