

July 20, 1998

MEMORANDUM FOR GENE SPERLING, SALLY KATZEN

FROM: TOM KALIL

RE: AGENCY VIEWS ON PRIVACY PAPER

Areas that are potentially controversial

Privacy Coordination

- The original idea was to create a “privacy entity” that would raise the level of visibility of privacy issues and improve coordination of privacy issues.
- Treasury (Rubin) was strongly opposed to this. Although we don’t know why, one possible reason is that Treasury thought that this “entity” would become a one-sided advocate for privacy issues.
- The current approach would give OMB’s OIRA additional responsibilities to improve coordination of privacy policy.
- This could be attacked by the privacy community as being inconsequential (e.g. adding one staffer to OMB). Most of our major trading partners have Data Protection Commissioners. For example, the Canadian Privacy Commissioner has a budget of \$2.2 million and about 33 personnel.

Financial Information

- Treasury would agree to Option A (regulation to make opt-out notices more evident to customers) if we clarify that we are talking about having the OCC and other regulatory agencies do this.
- Treasury is opposed to Option B - which would place limits on the ability of affiliates of financial services firms to share information without the protections of the Fair Credit Reporting Act.
- Treasury would agree to option C (enforceable rules on FCRA) if we make it clear that the Federal Reserve should do this. Commerce believes FTC may have some jurisdiction.

- Treasury is opposed to having regulatory agencies review whether financial mergers are having an impact on privacy.

Profiling

- Commerce has backed off from their original proposal, which was to provide the FTC some authority to go after companies engaged in profiling (firms who build dossiers about individuals by aggregating information from a variety of database sources) -- with a “safe-harbor” for companies that have signed up to self-regulation.
- Magaziner and Treasury opposed this -- on the grounds that it would be difficult to define profiling, and that regulations in an area that is changing this rapidly could be counterproductive.
- I think we should not allow the legislative option to fall off the table at this point.

Areas that need more work

Medical records

- We have asked HHS to come up with steps for strengthening the protection of medical records that the President could take through administrative action. You should raise this with HHS.