

AN OVERVIEW OF INFORMATION POLICY IN THE NETHERLANDS

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EXECUTIVE SUMMARY

The Netherlands has pivoted from a traditional information policy approach to a more flexible citizen-oriented approach in the last decade, affecting areas of information policy from copyright to digital government to privacy.

In the copyright sector, there have been many legislative additions to adapt to new technology with the intention of reducing ambiguity over issues like computer programs. Open norms are being discussed to allow flexible solutions without having to go through the legal process.

Digital markets are also making strides towards flexibility and centralization of processes through the Authority for Consumers and Markets. Consumers now have a responsive, user-friendly one-stop-shop for their market related questions.

The Netherlands has implemented protective legislature to keep citizens' personal information, though the open norms are often equivocal. Personal data is protected from other bodies while the Netherlands requires increasing amounts to be made available for government use.

In a new strategy, digital government programs are used to increase visibility in many areas – including copyright and consumer markets. By standardizing government systems, constituents will have easier access to services and government organizations can increase effectiveness.

In each of these areas there are dilemmas causing conflict between protecting government, business, or constituent interests. The Netherlands is adapting to create creative solutions to new problems as they arise.

I. INTRODUCTION

Creating an open, protective, communicative environment for consumers and businesses to interact with each other and their government is a goal that has driven the Netherlands to pivot in many sectors of information policy. Authorities are being consolidated for efficiency and flexible solutions are taking the place of explicit legislation.

As new technologies are constantly being developed, government programs need to move just as fast to protect themselves, their constituents, and the businesses within their borders. Often these separate objectives clash, creating a need for inventive solutions that can reconcile these inherent conflicts. It is difficult to protect both copyright and freedom of speech, or privacy and the ability to conduct thorough criminal investigations but these are the challenges a government in the Information Age faces.

II. COPYRIGHT

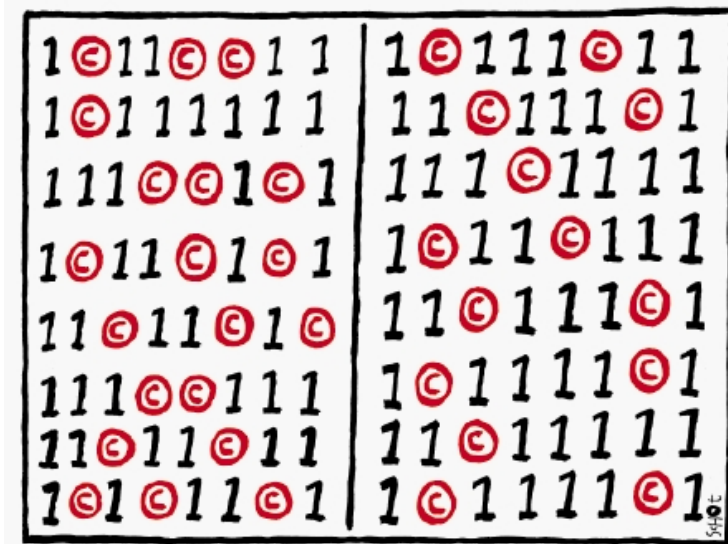
A. AUTEURSWET

Generally, the Netherlands' copyright law is very similar to that of the USA. The first twenty-five articles describe general provisions on copyright, or *auteurswet*. These include explanations of copyright, rights held by the copyright owner, succession or transfer of rights, what works are protected, disclosures, reproductions and limitations. Notable articles are described below.¹

Article 1 defines copyright as “the exclusive right of the creator of a work of literature, science or art, or his assigns, to publish and reproduce, subject to the limitations laid down by the law.”

Concerns of disclosure and reproduction, for example a performance of copyright material can be allowed for educational purposes (as part of a curriculum) or for scientific purposes, have clearly defined exceptions also.

Article 15 describes the limitations of copyright. Notably the Dutch do not allow fair use of copyright material, but its quotation under defined conditions is permitted. Most importantly, “the quote is consistent with what the rules of civil reasonably



accepted and number and length of the quotes are justified by the objective to be achieved.”

Dutch copyright law does not only apply to traditional materials: quoting and other legal uses of protected material also apply to computer programs after an amendment to the policy. Not only the computer program itself is protected, but also loading, imaging, implementation,

transmission, and storage where the program must be reproduced are protected under Chapter VI of the Auteurswet.

Criminal law provisions, copyright duration, protection of the public works, and computer programs are covered in the additional chapters.

¹ The Netherlands. Ministry of Security and Justice. Minister of Justice Erh Regout. *Copyright Law*. Amsterdam Official Gazette No. 124:, 1912. Overheid.nl. Web. 14 Oct. 2013.

B. POLICY ANALYSIS

“We all love YouTube. Many of the videos we find there are creative remixes of material protected under copyright. They’re mostly for laughs or political commentary, or they’re simply absurd. If we applied the law today strictly, we would not be allowed to do these things.”

-Bernt Hugenholtz, Director of the Institute for Information Law²

Fair use as defined in Europe does not have the option to be interpreted by the courts as US copyright law commonly is. Most European countries have exhaustive lists of exceptions that cover almost all circumstances pertaining to copyright, justifying the rigidity in interpretation. The Netherlands breaks from this mold by allowing courts limited leeway to find inventive solutions where exceptions do not apply, creating a small legal space for flexibility.

An “open norm” would provide even more flexibility in to the Dutch copyright system. It would coexist with the current list of exceptions while providing options for issues that are not included given if the use of the copyrighted work passes a three step test, the purpose of which is to protect the copyright holder. While there may be slight economic consequences from adoption of an open norm, it has the potential to accelerate technological developments that use protected material in unforeseen ways. Instead of amending the copyright policy with more exceptions, courts could create new policy for new technologies through the open norm.

The main effects would be legal in nature: many previous infringements can become permissible uses through this policy. Because the legal position some businesses are in will change, their costs for conforming to copyright law will also change. This would have the potential to affect the balance between creation and dissemination of works, shifting power from the creators to the disseminators.³

With anti-piracy advocates like BREIN repeatedly bringing cases like The Pirate Bay or eBooks to Dutch courts, the policy needs more efficient way to find just solutions. The Dutch Parliament is currently considering BREIN’s case on eBooks while both Amsterdam and The Hague courts heard BREIN’s case against The Pirate Bay.⁴ Implementation of an open norm could expedite solutions, though there will be push back from the entertainment industry and foundations like BREIN.

² Tarantola, Andrew. "The Netherlands Looks to Take the Lead in Relaxed Copyright Legislation." *Gizmodo*. N.p., 14 Feb. 2012. Web. 17 Oct. 2013.

³ Van Der Noll, Rob, Stef Van Gompel, Lucie Guibault, Jarst Weda, Joost Poort, Ilan Akker, and Kelly Breeman. *Flexible Copyright: The Law and Economics of Introducing an Open Norm in the Netherlands*. Publication. Comp. Jules Theeuwes. Amsterdam: Seo Economic Research, 2012. Dutch Ministry of Economic Affairs, Agriculture & Innovation, Aug. 2012. Web. 13 Oct. 2013.

⁴ Van der Veen, Peter. “Parliamentary questions in The Netherlands about copyright and the distribution of e-books.” *Future of Copyright: On Copyright and Content in the Digital Domain*. N.p., 16 Sept. 2013. Web. 14 Oct. 2013.

C. CASE STUDY: STICHTING BRIEN v. THE PIRATE BAY

On January 1st, 2012 the civil court of The Hague ruled in favor of Stichting BREIN, a Dutch anti-piracy foundation, to protect copyright material. The court requires ISPs Ziggo and XS4ALL to block access to The Pirate Bay (TPB) noting in the verdict that the managers of TBP have been criminally convicted in Sweden and that a Dutch court did not have the power to prevent TBP from being online.⁵ Four months later, UPC, KPN, T-Mobile, and Tele2 were required by court order to also block TPB.⁶

It was proven that 30% of Ziggo users and 4.5% of XS4ALL users had recently shared files using TPB. The court concluded that these subscribers not both downloaded and uploaded files, thereby infringing copyrights. In the Netherlands, only uploading is illegal; downloading for personal use is legal.⁷

The court also determined that though legal users cannot reach TPB, these users are marginal as TBP has almost no legally uploaded films, music, or games and that there are sites where this content can be uploaded legally.⁸

This was the second civil case BREIN filed against TPB. The first, heard in Amsterdam in 2009, where the ruling that TPB was not directly infringing on copyrights, but facilitating illegal uploads. TPB ignored the order to remove files with Dutch copyrights and make sure these were inaccessible in the Netherlands.

Jacques Schuurman of XS4ALL described the case in a presentation titled "*How new technology seriously confuses old models.*" Schuurman used the analogy that if the transport authority builds a new train from Amsterdam to a suburb, it is not liable for increased crime in the suburb. "The argument is awkward... BREIN's approach to a legitimate concern is fundamentally wrong."⁹

In the appeal heard last month, Ziggo and XS4ALL argued that the restriction of neutral ISPs lacks a legal basis, is inefficient, and violates freedom of information and other rights deemed "necessary in a democratic society." Journalists live streamed the crowded court proceedings, noting with amusement that it was international "Talk Like a Pirate Day."¹⁰

⁵ BREIN v. The Pirate Bay. De Rechtspraak. District Court of The Hague. 11 Jan. 2012. Uitspraken.rechtspraak.nl. N.p., 11 Jan. 2012. Web. 14 Oct. 2013.

⁶ Van der Veen, Peter. "BREIN Demands all Major Dutch ISPs to block Pirate Bay." *Future of Copyright: On Copyright and Content in the Digital Domain*. N.p., 24 Feb. 2012. Web. 14 Oct. 2013.

⁷ BREIN v. The Pirate Bay. De Rechtspraak. District Court of The Hague. 11 Jan. 2012. Uitspraken.rechtspraak.nl. N.p., 11 Jan. 2012. Web. 14 Oct. 2013.

⁸ Crijns, Kim. "Ziggo and XS4ALL Obligated to Block The Pirate Bay." *Future of Copyright: On Copyright and Content in the Digital Domain*. N.p., 11 Jan. 2012. Web. 14 Oct. 2013.

⁹ Schuurman, Jacques. "How New Technology Seriously Confuses Old Models." Lecture. XS4ALL Security Organisation. Amsterdam. 11 May 2012. Web. 14 Oct. 2013.

¹⁰ De Vries, Caroline. "Hearing in the Appeal of Ziggo and XS4ALL against BREIN." *BureauBrandeis.com*. N.p., 23 Sept. 2013. Web. 14 Oct. 2013.

D. EUROPEAN UNION COPYRIGHT POLICY

The EU has its own copyright policy, separate from the individual policies of its member countries in an attempt to harmonize them. In 1988 the EU Copyright Green Paper was implemented for this purpose with a focus on piracy.¹¹ The Green Paper had no articles about enforcement, similar to the World Intellectual Property Organization's (WIPO) Berne and Paris conventions in the 1880s, revised often during the next century, that covered protection of literary and artistic works, and industrial property. All of these documents were ratified by the Netherlands.

To give these policies teeth the World Trade Organization / Trade Related Aspects of Intellectual Property Rights (WTO/TRIPS) agreement had an entire chapter on enforcement. Section 5 Article 61 reads, "Remedies available shall include imprisonment and/or monetary fines sufficient to provide a deterrent, consistently with the level of penalties applied for crimes of a corresponding gravity."¹² The wording is often vague as actual enforcement varies by country.

Enforcement Directive 2004/48/EC made the largest impact. It includes copyright and industrial property rights, adding on to the WTO/TRIPs agreement that the EU already had to comply with. It was designed to be a meaningful and operational tool with extra provisions for digital copyright law while leaving all other areas to the nations for application of "effective, dissuasive, and proportionate remedies and penalties." The European Parliament agreed on this directive almost unanimously because its policies designed to be practical and fair – it was adopted 15 months and was read only once in the Parliament.¹³

Dutch policy already complies with the EU copyright policies noted here. It has protections for the copyright holder and remedies to solve issues including digital piracy. These EU policies were not created to affect the law of nations like the Netherlands, but to increase protection of copyrights in countries with well-developed policy across the other EU member nations.

When early protections were implemented by the Berne and Paris conventions, copyrights did not extend past the borders of their country of origin. After the Berne convention made copyright international, an author wrote to Queen Wilhelmina of the Netherlands, afraid that these new international restrictions would damage the Dutch print industry.¹⁴ Now authors and publishers fight for every protective right they can rationalize.

¹¹ Stamatoudi, Irini A. "Part I." *Copyright Enforcement and the Internet*. Alphen Aan Den Rijn, The Netherlands: Kluwer Law International, 2010. N. pag. Print.

¹² WTO/TRIPs. *Agreement on Trade Related Aspects of Intellectual Property Rights*. Cong. Rept. Geneva: World Trade Organization, 1995. Print.

¹³ Stamatoudi, Irini A. "Part I." *Copyright Enforcement and the Internet*. Alphen Aan Den Rijn, The Netherlands: Kluwer Law International, 2010. N. pag. Print.

¹⁴ "The Netherlands and the Berne Convention". *The Publishers' circular and booksellers' record of British and foreign literature, Vol. 71*. Sampson Low, Marston & Co. 1899. p. 597. Web.

III. DIGITAL MARKETS

A. AUTORITEIT CONSUMENT & MARKT

Law of 28 February 2013 laying down rules on the establishment of the *Autoriteit Consument & Markt* (Authority for Consumers and Markets)

We Beatrix, by the grace of God Queen of the Netherlands, Princess of Orange-Nassau, etc. etc. etc. Allen, who shall see or hear these presents! Be it known: That We have taken into consideration, that it is desirable to streamline the promotion of quality supervision and protection of the interests of consumers, and therefore propose the supervision accommodating as much as possible from a regulation of markets supervisor.¹⁵

When this document was signed in to law with all of its explanatory chapters, the Dutch government effectively pivoted from a business-centric to a consumer-centric approach. The Consumer Authority, Dutch Competition Authority (NMa), and Independent Post and Telecommunications Authority (OPTA) merged to form the Authority for Consumers and Markets. In 2013, the ACM has prioritized three goals:

- Ensure that important developments in mobile phones are good for consumers
- Investigate the lack of consumer choice in mortgage closure, including investigation in to entrant opportunities in the market.
- Ensure that companies follow the rules applicable to the information they provide about their products and services.¹⁶

The ACM wants consumers to have a “real choice” and to be able to make choices without fear. To do this, the Authority must first educate consumers and businesses so that each know their own rights as well as rules on consumer protection, antitrust, and any sector specific regulations they must comply with.¹⁷

The Treaty on the Functioning of the European Union mainly dominates antitrust laws in the Netherlands. Its two central rules cover horizontal and vertical agreements, and monopolies to prohibit restriction of competition and abuse of power respectively. These rules have been incorporated in to the ACM.¹⁸

¹⁵ The Netherlands. Ministry of Security and Justice. Minister of Economic Affairs HGJ Camp., *Autoriteit Consument & Markt*. The Hague., 2013. Overheid.nl. Web. 14 Oct. 2013.

¹⁶ ConsuWijzer. "Autoriteit Consument & Markt Stelt Consument Centraal." ConsuWijzer.nl. Autoriteit Consument & Markt, 11 Apr. 2013. Web. 21 Oct. 2013.

¹⁷ "About ACM." *Authority for Consumers and Markets*. Authority for Consumers and Markets, 2013. Web. 21 Oct. 2013.

¹⁸ "Antitrust Overview." *Antitrust: – Competition*. European Commission, 16 Aug. 2012. Web. 21 Oct. 2013.

B. CONSUWIJZER

To increase citizen awareness, the ACM created the ConsuWijzer website with corresponding Facebook, Pinterest, and Twitter pages. On the homepage of the site is bold heading: "I want advice about." The list that follows includes energy and water; care and welfare; Internet, telephone, television, and postal; transport; and others, making the site easily navigable for consumers with a specific question.¹⁹

ACM makes everything about their organization open and easily accessible to the public. They post their strategy, market outlooks, and priorities in easily user-friendly formats and language that can be understood without a lawyer present. There are large "Contact" links pinned to the upper navigation bar with a link to the ConsuWijzer landing page with its helpful navigation lists.²⁰

For questions that aren't answered on the site or the consumer does not want to use it, tweets aimed at the ConsuWijzer Twitter page will receive direct responses. The Twitter page is not used often, but when it is ConsuWijzer always replies, including links to the answer on their website. The Facebook page has received over 4000 likes since its creation in 2006. Even the Pinterest, which only pinned five pictures, has followers.^{21 22 23}

Posts mostly concern specific questions or news related to ConsuWijzer in the interest of keeping the consumers connected. This site is very similar to Autersrecht.nl, the interactive stakeholder-centric site for explaining copyrights to makers, users, and consumers of copyright material. The Netherlands is not just making the ACM user-friendly.²⁴



"Reliable contractor with years of experience" – credit <http://www.pinterest.com/nanou75/consuwijzer/>

¹⁹ "ConsuWijzer.nl | Praktisch Advies Van De Overheid over Uw Rechten Als Consument." *ConsuWijzer.nl | Praktisch Advies Van De Overheid over Uw Rechten Als Consument*. Autoriteit Consument & Markt, 2013. Web. 21 Oct. 2013.

²⁰ "Autoriteit Consument & Markt." *Autoriteit Consument & Markt*. N.p., 2013. Web. 21 Oct. 2013.

²¹ "@ConsuWijzer." *Twitter*. Autoriteit Consument & Markt, 10 Feb. 2009. Web. 21 Oct. 2013.

²² Van Der Elst, Nanou. "ConsuWijzer." *Pinterest*. Autoriteit Consument & Markt, 2012. Web. 21 Oct. 2013.

²³ "ConsuWijzer | Facebook." *Facebook*. Autoriteit Consument & Markt, 2006. Web. 21 Oct. 2013.

²⁴ "Auteursrecht.nl." *Auteursrecht*. Ederation Auteursrechtbelangen The Hague, Web. 21 Oct. 2013.

IV. PRIVACY

A. WET BESCHERMING PERSOONSgegevens

To comply with the of the European Privacy Directive of 1995, the Netherlands *College bescherming persoonsgegevens* (CBP) or Data Protection College implemented *Wet bescherming persoonsgegevens*, the Data Protection Act (Wbp) to supervise, advise, educate, and hold people, government, and international bodies accountable. The CBP oversees compliance and application of three additional laws to the DPA: the Police Data Act (Wpg), the Municipal Administration Act (Wet GBA), and law and judicial prosecution data (Wjsg).²⁵

Supervision includes initiating investigations on possible serious violations, imposing administrative penalties, processing personal data reported to the CBP, conducting tests, mediating disputes and complaints on the processing of personal data, recording Wbp reports, and imposing fines for infringement of this notification, and granting exemptions for the processing of sensitive data.

The CBP also advises the government and parliament on the Wbp, proposing legislation related to the processing of personal data. For the transfer of data Europoutside the EU, the CBP also advises the Minister of Justice.

Internationally, the CBP has been designated as the “competent authority” within the Strasbourg Convention and the chairman of the CBP also serves as the chairman of the Article 29 Working Party set up by the EU Directive for the protection of personal data processing.^{26 27}

The laws implemented are quite protective: to gather data the purpose must be legitimate, specified, and explicit. To processes it, the unambiguous consent of the data subject must be given, among other conditions. If a violation is not corrected the Wbp can impose over €19,000 in fines.²⁸ Unlike the United States, the Dutch constitution provides privacy protection as a basic right. Long before the creation of the Wpb, Article 10 secured citizens’ personal privacy and data: “Everyone shall have the right to respect for his privacy, without prejudice to restrictions laid down by, or pursuant to, Act of Parliament.”²⁹

²⁵ College Bescherming Persoonsgegevens. *Wet Bescherming Persoonsgegevens*. Cong. Doc. N.p.: n.p., n.d. *Overview of the Functions and Powers of the CBP*. 6 July 2000. Web. 17 Oct. 2013.

²⁶ European Union. European Parliament. *Directive 95/46/EC*. N.p.: n.p., n.d. Official Journal L281. 24 Oct. 1995. Web. 17 Oct. 2013.

²⁷ "Article 29 Working Party." *European Commission*. European Union, 1995. Web. 17 Oct. 2013.

²⁸ Christie, Alec, Cameron Craig, Jim Halpert, Thomas Jansen, Jennifer M. Kashatus, Kate Lucente, Richard Van Schaik, Scott Thiel, Kate MF Umhoefer, and Patrick Van Eecke. "Netherlands: Data Protection Laws of the World Handbook." *Data Protection Laws of the World Handbook: Second Edition*. Mondaq, 11 Apr. 2013. Web. 18 Oct. 2013.

²⁹ "Report: Netherlands I. Legal Framework." *Privacy International*. N.p., 01 Jan. 2011. Web. 18 Oct. 2013.

B. POLICY ANALYSIS

In the 1960s when monitoring technologies were advancing at a previously unseen pace, the Netherlands began implementing protective legislature. Adaptations like the Wbp were added in the late 1990s and early 2000s to mitigate increased privacy risks from computer networks. Prof. Dr. Koops of the Tilburg Institute for Law, Technology, and Society argues that the Wbp is too general, has little public awareness, and the open norms are detrimental.³⁰

Though there are specific detailed norms to supplement the open norms in the laws and codes, they have not been helpful to the public. Half of Dutch sectors have written and implemented their own codes, though these are not legally binding or endorsed by the CBP who find approving additional legal codes to be unjustifiably costly. Policy evaluations have found that the open norms are complex and difficult to implement by stakeholders.³¹

Policy makers do not advocate changing the legislation, but rather increasing the use of interpretation through legal enforcement that turns open norms in to specific solutions. These policies would be a substitute for legislation that has often stalled during the approval process, particularly a constitutional amendment. Yet neither of these paths has been followed. Prof. Dr. Koops reasons:

“We may observe a lack of urgency here to effectuate up-to-date privacy protection, which could be attributed to a feeling that the overall legislative framework still functions fairly well, but perhaps also to decreased importance attached to privacy by the legislator.”³²

Though there are a lot of issues passing legislation, the Netherlands has made notable strides as the first European nation to ratify a net neutrality law providing protection for constituents against disconnection and wiretapping by ISP providers. Citing that Internet access is essential in information societies, the decision extremely limited circumstances where providers can disconnect users or invade users’ privacy with technologies like deep packet inspection.³³ It is notable that while the legislation protects users from the providers wiretapping, the Dutch government requires Internet providers to make their networks ready for court ordered wiretaps.³⁴

³⁰ Koops, E. J. "The Evolution of Privacy Law and Policy in the Netherlands." *Journal of Comparative Policy Analysis* 13.2 (2011): n. pag. Print.

³¹ "What They Do Not Know Will Not Hurt Them: An Evaluation of the Functioning of the Data Protection Act in Practice." (2008): n. pag. WODC. WODC, University of Groningen, The Young Policy Advice, 2008. Web. 19 Oct. 2013.

³² Koops, E. J. "The Evolution of Privacy Law and Policy in the Netherlands." *Journal of Comparative Policy Analysis* 13.2 (2011): n. pag. Print.

³³ Ot Van Doolen, Door. "Netherlands First Country in Europe with Net Neutrality." *Bits of Freedom*. N.p., 8 May 2012. Web. 20 Oct. 2013.

³⁴ "Report: Netherlands Surveillance policies." *Privacy International*. 01 Jan. 2011. Web. 18 Oct. 2013.

C. GOVERNMENT SURVEILLANCE

The Netherlands, while protective of its citizens' personal data from outside bodies, has a long history of keeping thorough records for itself. This became especially harmful during WWII when citizen records aided the Nazis in their identification of Dutch Jews for deportation. It is no surprise that the Netherlands suffered the second highest percentage of Jews to die from any one country, over 75%.³⁵

The Dutch people continue to be surveilled more thoroughly by their government than almost any other society. In 2007 the US made 2208 wiretaps, equal to the number of Dutch police taps in 1.5 days that year. Two years later there were 335 taps on Internet providers (1.5 million end-user taps). This number tripled from 2006 to 2009 and is estimated to have risen exponentially in the last four years.³⁶

Currently, the government can only wiretap with a court order though police can perform protective investigations by processing personal data from large groups of citizens to "detect crime patterns" without a warrant – a power accorded by the 2001 Mevis Committee. Companies from hotels to credit card companies and banks can have clients personal data accessed and mined for potential criminal activity.

In 2008 the police department of IJsseland used the social media site Hyves to gather data on a double homicide in a remote area. It was so successful that the police began a cooperative relationship with Hyves to do more discovery on open cases and missing persons. The national body of the Dutch police announced a project to search for criminals on Hyves that year to be developed and tested on police officers. This program was never implemented fully.

According to the Telecommunications Data Retention Act of 2009, the government can only hold personal data like that retrieved from Hyves for a maximum of twelve months. This law does not apply to information provided to the government as required by law such as that provided when obtaining a mandatory ID at 14 years of age or the fingerprinting and passport photo required in addition to other identifying data when applying for a residential permit.³⁷

The collection of biometric data like fingerprints is intended to reduce identity theft and illegal aliens, though some Dutch citizens argue that it infringes on their personal liberties. Chairwoman Wijnberg believes that if such data were stolen from the government it would cause irreparable damage to the citizens.³⁸

³⁵ Woolf, Linda M., Ph.D. "Survival and Resistance: The Netherlands Under Nazi Occupation." Speech. United States Holocaust Memorial Museum. Washington D.C. 6 Apr. 1999. *Holocaust, Genocide, & Human Rights*. Web. 18 Oct. 2013.

³⁶ Scott-Smith, Giles. "The Netherlands: Champion In.....National Surveillance." *The Holland Bureau: Notes from below Sea Level*. N.p., 2011. Web. 19 Oct. 2013.

³⁷"Report: Netherlands Surveillance policies." *Privacy International*. 01 Jan. 2011. Web. 18 Oct. 2013.

³⁸ Peters, Marijke. *Dutch Biometric Passports Cause Controversy*. Radio Netherlands Worldwide. Vrijbit, 21 Sept. 2009. RNL, 21 Sept. 2009. Web. 19 Oct. 2013. Transcript.

D. CASE STUDY: GOOGLE PRIVACY POLICY

In March 2012 Google consolidated its dozens of product-specific privacy policies to unify data collection across the Google-sphere, causing a task force led by CNIL, a French data protection agency, and including representatives from six countries including the Netherlands.³⁹

Among issues noted by the commission are insufficient information to users about personal data processing and length of time data is stored on Google servers. Visiting any site with a Google +1 button creates a record kept for at least 18 months. The data collected through methods like this are shared across Google's applications including Gmail, YouTube, the Android operating system, and the search engine. While Google holds that it notifies users sufficiently of data usage, the EU requires additional provisions from data collectors to the data subjects.

The commission notified Google in October that its new privacy policy was not compliant with EU standards on data protection, giving Google four months to comply with a policy revision. In this period Google did not alter the policy, holding that it fits within EU regulations.⁴⁰ The commission is currently working to determine an appropriate response. A US lawyer interpreted, "It appears that the CNIL is providing Google one last opportunity to take the appropriate actions necessary to properly address its concerns before going down the litigation route."⁴¹

At a recent Greek technology event Google's executive chairman Eric Schmidt stated, "I have reviewed this. I just don't agree with the (data protection authorities) that are making this complaint ... With respect I just disagree and we just disagree, and we'll let it play itself out... If we were to be disrespectful of your privacy, you'd go somewhere else."⁴² It does not seem likely Google will comply without force.

The €300,000 maximum fine from France or the €450,000 fine the Netherlands can impose for violating the laws in each individual country are not effective against Google, valued in the hundreds of billions.⁴³ This has not stopped the Wbp from initiating its own investigation and preparing a report for Google with the intention of fining the corporation should the refuse to comply. EU lawmakers are considering a proposition that could inflict a 2% global annual penalty on companies, including Google, increasing exponentially from the current maximum of €1 million.⁴⁴

³⁹ Peterson, Josh. "The Daily Caller." *The Daily Caller*. The Daily Caller., 5 July 2013. Web. 19 Oct. 2013.

⁴⁰ "European Data Watchdogs Target Google over Privacy." *BBC News*. BBC, 04 Feb. 2013. Web. 19 Oct. 2013.

⁴¹ Arthur, Charles. "Google Privacy Policy Slammed by EU Data Protection Chiefs." *The Guardian*. Guardian News and Media Limited, 16 Oct. 2012. Web. 19 Oct. 2013

⁴² "Google: EU Privacy Spat Will 'Play Itself Out'" *ABC News*. ABC News Network. Web. 19 Oct. 2013.

⁴³ "France and Spain Launch Probe into Google's Privacy Law." *BBC News*. BBC, 20 June 2013. Web. 19 Oct. 2013.

⁴⁴ Beaupuy, Francois De. "Google Gets 3 Months to Fix Privacy or Face French Fines." *Bloomberg.com*. Bloomberg, 20 June 2013. Web. 19 Oct. 2013.

V. DIGITAL GOVERNMENT

A. ISTRATEGY

As part of the Dutch government's overall plan to scale down the Central Government and increase efficiency, the iStrategy will be implemented. Its goals are to unify information infrastructure, reduce data centers, create a centralized Information and Communications Technology (ICT) authority, and develop software for the digitization of services.⁴⁵ If full implementation is reached by 2015 as planned, the government will save €123 million per year.⁴⁶

In the 1980s and 90s the initial centralized approach to computing dissolved; ministries began to choose their own service providers creating a multitude of ICT facilities. With the iStrategy, government organizations will centralize with:

- A uniform Central Government 'Digital Work Environment'
- A single platform for collaboration throughout the Central Government
- A overarching Central Government website
- The alignment of individual ministry websites
- The appointment of a Chief Information Officer within each ministry⁴⁷

The Netherlands believes that a government should adapt to technological changes to serve its constituents effectively.

Though citizens can continue doing business with their government by mail and phone, the "citizens' desk" has become largely digital. Municipalities especially will benefit from digitization of their citizen interaction, as they are closest to the citizens. Provinces are developing communication technology similar to the municipalities while implementing bodies use a feature called My Government: a message system where citizens can receive direct, personalized responses.⁴⁸

Execution is difficult and the benefits are not always apparent so the Dutch government is offering its municipalities €104 million in 2015 when the project is fully realized. Municipalities can cluster their comparable services, create mobile apps, digitize archives, and assess operations.⁴⁹ The final goal is a standardized one-stop shop for citizens to interact with their government – something municipalities across the US attempt without assistance.

⁴⁵ *The Netherlands' IStrategy*. Memo. N.p.: Ministerie Van Binnenlandse Zaken En Koninkrijksrelaties, 2012. *The Netherlands' IStrategy*. Ministerie Van Binnenlandse Zaken En Koninkrijksrelaties, 2012. Web. 20 Oct. 2013.

⁴⁶ I-NUP. *A Digital Government: Better Service, More Convenience*. N.p.: Ministry of the Interior and Kingdom Relations, 2011. Print.

⁴⁷ *The Netherlands' IStrategy*. Memo. N.p.: Ministerie Van Binnenlandse Zaken En Koninkrijksrelaties, 2012. *The Netherlands' IStrategy*. Ministerie Van Binnenlandse Zaken En Koninkrijksrelaties, 2012. Web. 20 Oct. 2013.

⁴⁸ Ibid

⁴⁹ *The Netherlands' IStrategy*. Memo. N.p.: Ministerie Van Binnenlandse Zaken En Koninkrijksrelaties, 2012. *The Netherlands' IStrategy*. Ministerie Van Binnenlandse Zaken En Koninkrijksrelaties, 2012. Web. 20 Oct. 2013.

B. CASE STUDY: DIGITAL DELTA

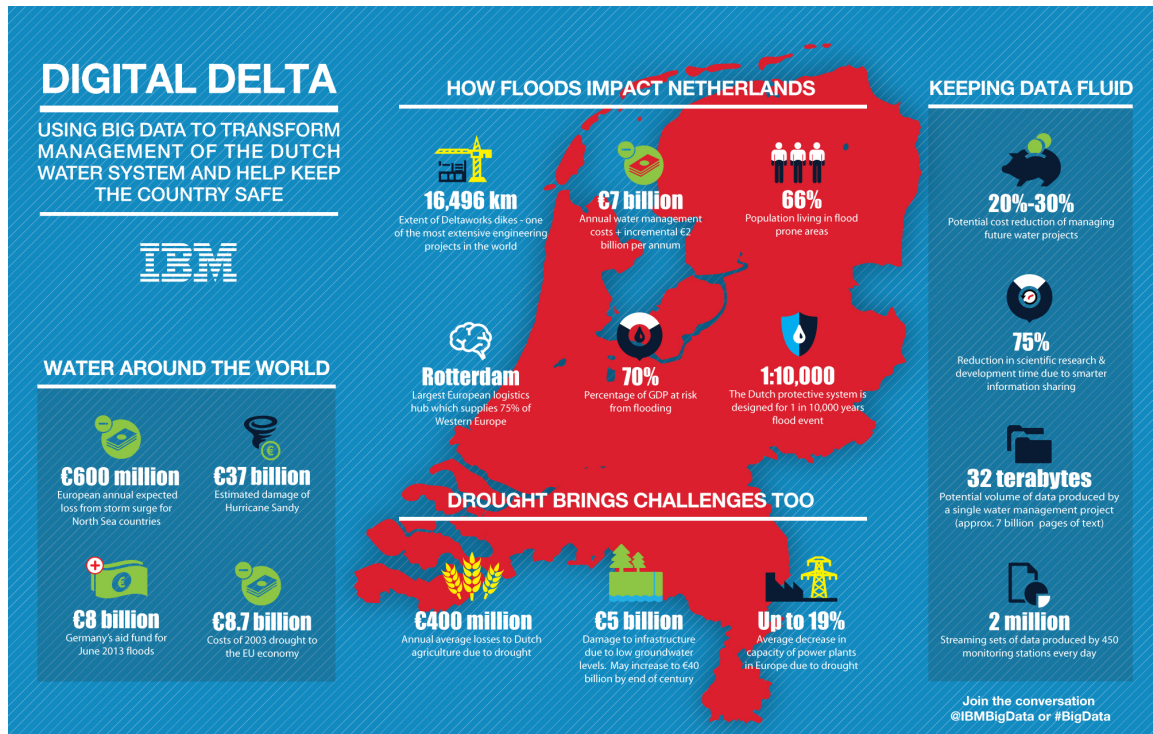


Photo credit http://www.flickr.com/photos/ibm_media/9128009526/

Water systems management is extremely important to the Dutch government because 20% of the Netherlands is below sea level and over half of the population resides in flood-risk areas. Digital Delta is a cloud-based system built with IBM's Intelligent Water software. Though the Netherlands collects incredible amounts of data about their water, it is extremely difficult to process for relevant information; with Digital Delta, technology solutions can be developed in as few as 6 months and reduce development costs by 30%. Water management cost could be decreased by 15%. With current costs around €7 billion per year with expectations to reach €8 billion by 2020, the Dutch government is investing in their fiscal future.^{50 51}

Experts will have access to a real-time dashboard with data visualization and analytics features incorporating data from over 100 different projects across the Netherlands. Authorities can solve problems simultaneously from remote locations and, in the long run, create communities of practice that will increase efficiency by advancing technology. Already Japan, South Korea, Australia, and the US (NYC and New Orleans) are looking in to their own Digital Deltas.⁵²

⁵⁰ "IBM Harnesses Power of Big Data to Improve Dutch Flood Control and Water Management Systems." *IBM News Room*. N.p., 25 June 2013. Web. 20 Oct. 2013.

⁵¹ Hume, Rich. "Building a Smarter Planet. A Smarter Planet Blog." *A Smarter Planet Blog RSS*. IBM, 25 June 2013. Web. 20 Oct. 2013.

⁵² Essers, Loek. "Dutch Big Data Project Aims to Improve Flood Control, save Millions." *Computerworld*. Computerworld Inc., 25 June 2013. Web. 20 Oct. 2013.

VI. CONCLUSION

Throughout this analysis of Dutch information policy, shifting balances between the people, business community, and government organizations have been seen. The Netherlands limited Internet users' freedom to protect media copyrights; businesses are regulated to provide better choices for the consumer; citizens' personal information is protected from everyone except their government. Tradeoffs leave one (or more) party discontent, creating the potential for new shifts in the balance.

Already, publishers have begun pushing for eBook retailers to pass on consumer information if they suspect copyright infringement. In this situation eBook owners are asking what happens if they want to sell or give the eBook to another person. If the courts decide that information on customers – but not books – can be passed along, it will limit people's freedom to read, a historically important right in every democracy. How far does the government have to go to protect copyright holders when a book or song or movie can be duplicated without removing the original work? How far can the government go without citizen protests?

In this citizen-centric pivot, government organizations like the copyright authority are reaching out to educate people on the laws and their rights. Perhaps the most aggressive of these campaigns is the ACM ConsuWijzer. Citizen engagement is always difficult: out of almost 17 million people, only 4000 have liked the ConsuWijzer Facebook page and its Twitter averages around a tweet a day. Right now the initiative is only reaching citizens that have strong interests in the subject instead of the nation-wide communication they were anticipating.

While the Dutch government is moving towards openness with interactive websites to answer citizen queries on copyright and consumer markets, there is no similar site to clarify its privacy or surveillance policies. Even though they are one of the most surveilled societies, a majority of citizens ask only for openness while a Left minority call for surveillance restrictions. It only takes one whistleblower or industrious hacker to change this: if stolen government-owned personal data is published, citizens will no longer be complacent. Similarly if the government has been falsely reporting its procedures, the citizens will protest as citizens in the US and EU have this year.

These are problems faced by many nations in the Information Age and the Netherlands is doing quite well in comparison to countries like the US (Dutch citizens know how much their government spies on them). Projects like the Digital Delta demonstrate what good big data strategy can do for specific government structures. If the Netherlands continues on its path towards openness and balance between the three national stakeholders – citizens, businesses, and government organizations – it will continue to be an information policy leader in the EU and across the globe.