

February 11, 2003

Summary of Activities 2002 and Work Plan 2003

In 2002, CDT had another year of accomplishment, working to preserve and expand policies supporting an open, decentralized, and user-controlled Internet. We have an ambitious agenda for 2003. Our 2003 domestic priorities will include security and surveillance issues (including the risk of government tech mandates), as well as consumer privacy, intellectual property-DRM, and free speech. We are also seeking to expand our international Internet policy activities in Asia and South America.

Here is a short overview of what we are working on in 2003:

Government surveillance, private sector responsibilities and liabilities: With the implementation of the Patriot Act and related measures and the growing likelihood of a “Patriot II,” it is clear that the government will be coming to service providers and others with more and more requests for customer data, intercepts, and other requests for cooperation. The creation of a Terrorism Threat Integration Center and the inevitable spread of data-mining will mean greater pressure on the private sector to disclose customer data. CDT is working on a project to develop guidelines addressing key questions: what private sector data can the government access and under what standards, how will it use the information, how will it ensure accuracy of results, what protections will there be against mistakes? For the sake of customer trust and to ensure the efficacy of counter-terrorism measures, industry must participate in developing those guidelines.

Cyber security and critical infrastructure protection: We oppose government intervention in standards and technology design, but we fear that the Internet and communications industry is being set up for security mandates, in the form of “standards,” under the federal computer security legislation (FISMA) adopted last year, as a result of overbroad interpretation of legislation such as Gramm-Leach-Bliley and HIPAA, through a national “NOC,” etc. CDT is working on these issues through its Digital Privacy and Security Working Group (DPSWG), which we have revitalized with a focus on critical infrastructure protection.

Free Expression: CDT is deeply involved in three major lawsuits that put at risk the user empowerment vision of the Internet. The Yahoo! case is now before the Ninth Circuit Court of Appeals. Whichever way that court rules, the issue of jurisdiction and

other countries' efforts to impose their standards on the global Internet is a growing one and requires attention. The COPA (harmful to minors) case is back before the Third Circuit Court of Appeals. And the oral argument in the CIPA (library filtering case) is next month before the Supreme Court. It is clear that the struggle for control over the Internet is not resolved. The outcome of these cases is likely to generate further Congressional interest in legislation that could have wide-ranging impact.

Intellectual Property – DRM: Last year, CDT launched a major new project on intellectual property. We are now conducting a set of in-depth interviews with a wide cross-section of stakeholders. CDT may be the only entity talking to all sides of the debate. We firmly believe that IP needs to be protected, but user interests need to be considered too. We will be setting forth our findings in a matrix of interests - content providers, hardware makes, ISPs, and users - which we hope will cast new light on the debate and help pave the way to balanced solutions.

Privacy: As we all know, the consumer privacy issue will likely return front and center in Congress as a result of the debate over Congressional reauthorization of the Fair Credit Reporting Act. CDT has long felt that key elements of the privacy debate (e.g., opt-in versus opt-out, access, preemption) have never really been explored in a factual, non-rhetorical way. To help advance that process, we have compiled a compendium of papers from key stakeholders, intended to get concrete proposals and understandings on the table as the basis for effective solutions, regardless of whether those solutions are achieved in legislation or self-regulation, or a mix of the two. We will be releasing this compilation in March, along with an expanded online resource for consumers. And we hope and expect to be convenors of a dialogue among consumers and industry as the legislative process heats up. Further CDT privacy initiatives include:

- **Privacy and authentication:** With a new working group of companies and public interest groups, CDT is developing privacy principles for authentication technologies. The principles will provide guidance in building privacy and security protections into authentication technologies and will serve as a marketplace guide for individuals, companies and governments deciding which authentication system to implement or adopt.
- **Wireless privacy and security:** The security issue looms for wireless networks (both voice and data). Privacy is the other side of the coin. Location privacy remains not fully resolved, and various standards proposals (such as GEOPRIV) could have broad impact.

E-democracy and e-government: CDT is developing a proposal with the University of Washington to use the Internet to engage 18-25 year olds in the electoral process for the 2004 elections. We are hoping to have high-profile corporate sponsorship and welcome your participation. Also, CDT is continuing its work to use the Internet to help make government more transparent and accountable. This year CDT is focusing on efforts to get more legislative branch information online and on implementation of the E-Government Act's privacy provisions.

International: Our Global Internet Policy Initiative (GIPI) is working in developing and transitional countries to promote the legal and regulatory framework that will support growth of the Internet. With on-the-ground coordinators, we work for policy reforms based on competition, market-based solutions, decentralization and user control. We support telecom liberalization, protection of intellectual property and streamlining of government licensing procedures. Consistent with the CDT model, we work with government and all stakeholders - local industry, multi-nationals, users, NGOs and international lenders. We are currently in 16 countries (including India, Nigeria, Indonesia, Russia and Ukraine). For 2003, we are eager to expand in South America and Asia. We are also concerned about trans-Atlantic policy development. Working with the Internet Education Foundation, we are looking to expand our engagement with European policymakers.

There are other areas where we remain active and where we welcome your input and guidance as we consider our future emphasis and direction, such as domain names and technical standards.

Looking back to 2002, we accomplished a great deal. CDT remains the leading Internet policy organization in Washington committed to working with all interests to achieve balanced policy solutions. Among the achievements we are most proud of in 2002 --

- **Content controls:** CDT contributed to two separate amicus briefs in the ongoing Yahoo! case, the most visible manifestation of the crucial debate over other countries' attempts to control content and service providers in the US.
- After the Supreme Court ruled in May on the Children's Online Protection Act (COPA), leaving the injunction against the Act in place but remanding the merits of the law to the Third Circuit Court of Appeals, we wrote a brief on behalf of a broad coalition opposing content controls and articulating the user empowerment vision.
- On **security** issues, we organized a public interest and industry working group that provided privacy comments on the White House national cybersecurity strategy. The draft strategy issued in September reflected our comments, in some cases almost verbatim. We also worked with the Congressional committees on oversight of the Patriot Act, and submitted an unprecedented brief in the first appeal ever of a FISA court order.
- Our **Global Internet Policy Initiative** had a major impact on policy reform in developing countries. See <http://www.internetpolicy.net>
- CDT worked successfully for the E-Government Act. The new law represents a major breakthrough on a range of **e-government** issues, from privacy to access to information. In recognition of his contribution to enactment of this law, CDT's Associate Director Ari Schwartz was named by Federal Computer Week as one of the 100 people who had the greatest impact on government information systems.

- Working with the Internet Education Foundation, we expanded the **Privacy Toolbox**, an online resource providing consumers with information they can use today to protect their data online. <http://www.privacytoolbox.org>
- Our work with a broad coalition of companies culminated in the official promulgation of **P3P** as an official W3C Recommendation, indicating that the W3C Membership favor its widespread adoption.
- Working with the World Bank, we compiled and published an **e-government handbook** for developing and transitional countries. <http://www.cdt.org/egov/handbook/>
- Working with the Internet Education Foundation and the Congressional Internet Caucus, we expanded our **dialogue with European policymakers** on trans-Atlantic policy issues, hosting events in Moscow, Brussels and Washington where members of Congress, Internet companies and European policymakers were able to engage in dialogue on areas of concern.
- Our **standards** project achieved a high degree of credibility in the complex and highly technical work of the IETF and other standards bodies. Our submissions to several working groups had a major, direct impact on the evolution of standards affecting privacy and free expression.

Effective January 1, 2003, our Board instituted an internal reorganization. Jim Dempsey became Executive Director of CDT, assuming responsibility for day-to-day management. Jerry Berman became President and remains fully involved in overall policy direction, strategy, and institutional development.

Sincerely,

Jerry Berman
President

James X. Dempsey
Executive Director