



## Privacy, Policy and Public Opinion in Spain

### Background Report in Draft Form

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## Privacy, Policy and Public Opinion in Spain – Draft Paper

### Internet Usage

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- 5.2 million internet users in 2001.
- 21% annual increase in internet usage.
- 32-37% of all Spanish households own computers.
- 10-14% of all Spanish households are connected to the internet.
- 44-54.7% of internet users connect to the internet via their own household.
- 61.1% of internet users are men, 38.9% are women.
- The 25-34 age group represents the largest user group.

Age Group	% of Users	
	EGM (2001)	AIMC (2001)
14-19 yrs	18.5	9.3
20-24 yrs	19.8	20.7
25-34 yrs	30.3	38.6
35-44 yrs	19.4	19.9
45-54 yrs	9	8.8
55-64 yrs	NA	2.1
> 65 yrs	NA	0.5

- 52.1% of internet users have a university degree. 8.6% of users have only a primary education and less than 1% have no education.
- Non-married users make up the largest portion of internet users (56.9%) whereas widowed users account for the least (0.4%).
- 43.1% of users connect daily.

- Internet use in Spain is an urban phenomenon. Towns with less than 2,000 citizens account for only 3% of total internet users. The largest number of users is located in middle-sized towns (50,000 to 200,000 citizens make up 23.5% of the total number of users).
- Of 48,000 internet users surveyed, 89.4% accessed the Internet from home; 71.7% accessed the internet from home everyday (of these, 39.6% several times a day); 50.9% accessed the internet from work every day (of these, 37.6% several times a day); 54.9% accessed the internet for personal use, 35.9% for work and 8.0% for academic use.
- 81% of Spanish companies regarded electronic communication as necessary for doing business.
- Less than 4% of online retail sales come from Spain.

*Sources:*

*Castells, M. and Diaz de Isla, M. I. (2001). Diffusion and Uses of Internet in Catalonia and in Spain, Project Internet Catalonia, Universitat Oberta de Catalunya.*

*2005 Europe - Telecoms, Mobile and Broadband in Spain and Portugal*

*European Internet Stats (<http://www.altevie.net/mediagraphix/europeaninternetstats/>)*

## **Policy and Laws**

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Spain's constitution and early legislation provided protection for personal information and privacy. Enacted in 1992, The Spanish Data Protection Act (LORTAD) was one such early piece of legislation. When the European Union was created, Spain's laws were brought up to speed to satisfy the requirements of the European Union Data Protection Directive. Passed in 1999, the Data

Protection Act (LOPD) was one of the amendments used to accomplish this. The LOPD is a thorough piece of legislation that applies to files held by both public and private sectors. It makes many provisions including the right of citizens to know what personal data is contained in computer files and the right to correct false data. Further, personal information may only be used or disclosed to a third party with the consent of the individual.<sup>1</sup>

A 2002 paper by Telefónica (the national telephone network operator) argues that when the European Union Data Protection Directive was transposed into national law, it was done so in a very restrictive manner. Telefónica describes it as an, “excessively protectionist approach for natural persons, the owners of data.”<sup>2</sup> For example, the Directive states that data may be transferred if it is required to meet the legitimate interests sought by the person in charge. It does not make it subject to the prior consent of the person involved. However, when Spanish legislators interpreted the Directive, they included a stipulation in the LOPD requiring the consent of the person involved before the data may be transferred to a third party.

In the case of databases, the LOPD requires notification to the Data Protection Agency’s (DPA) General Registry prior to processing and for any files that contain data of a personal nature. The Data Protection Agency enforces the LOPD and can investigate violations of the law. Telefónica states that the Directive allows omission of notification in certain cases and is more simplified in this area. The LOPD however, causes “excessive formality for the requests for

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<sup>1</sup> Laurant, (2003).

<sup>2</sup> Telefónica, (2002), pp. 1.

recording as well as for their amendments.”<sup>3</sup> The paper lists other areas in which the Directive has been implemented in a restrictive and protectionist way, including information requirements, violations, sanctions and costs of maintaining security. They argue that, “Spanish industry has been put at a disadvantage with respect to European industry when conducting business.”<sup>4</sup> Of course, Telefónica has its own biases and it is unclear if other sectors in Spain share these opinions.

The Law of Information Society Services and Electronic Commerce (LSSICE) was passed in June 2002. It bans the, “distribution of spam, requires web hosting companies to police content and shut down websites involved in illegal activities, and mandates retention for one year of Internet users traffic data.”<sup>5</sup> The law has been surrounded by controversy, with the latter requirement garnering the strongest opposition. The DPA has argued that the LSSICE violates constitutional rights to privacy, freedom of expression and the presumption of innocence.

## **Culture and Values**

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Hofstede’s data from Culture’s Consequences provides a valuable starting point in the analysis of Spanish culture and values. It should be noted however that the data used in his research is now more than twenty years old and may not accurately reflect Spain’s current culture. Furthermore, the data obtained focused on the workplace and not society at large. That being said, Hofstede’s

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<sup>3</sup> *ibid.*, pp. 2.

<sup>4</sup> *ibid.*, pp. 5.

<sup>5</sup> Laurant, (2003).

four cultural dimensions can be easily extended from the organizational setting to society in general.

Spain ranks highly (8<sup>th</sup> of 39 countries) in the Uncertainty Avoidance Index (UAI). High UAI countries have high anxiety levels, more emotional resistance to change and are less risk-taking. They prefer clear, thorough privacy regulation as opposed to lower levels of control such as voluntary or ambiguous methods (especially since they feel that the authorities are more competent than ordinary individuals).<sup>6</sup>

Spain does not rank strongly in Hofstede's Individualism Index (IDV). In the 20<sup>th</sup> spot among 39 other countries, Spain does not stand out as strongly individualist or collectivist.<sup>7</sup> However, research conducted more recently (Aaker et al., 2001; Goodwin & Plaza, 2000; Gouveia et al., 2002) indicates that Spain is considered to be a collectivist culture. In particular, Aaker et al. found that members of Latin cultures place greater weight on harmony and cooperation relative to members of North American cultures, "who give more value to mastering the social environment through self-assertion and independence."<sup>8</sup>

Collectivist cultures consist of an in-group/out-group dichotomy and have different value systems based on these distinctions. Privacy is much more of a concern when dealing with members of the out-group, making consumers in a collectivist society much more sensitive to privacy invasions.<sup>9</sup> One caveat to this

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<sup>6</sup> Hofstede, (1980), pp. 176.

<sup>7</sup> *ibid.*, pp. 222.

<sup>8</sup> Aaker et al., (2001).

<sup>9</sup> Taylor et al. (2000), pp. 231.

is the priority given to the greater good. Collectivist cultures may be *more* tolerant of invasions of privacy if it is deemed to be for the greater good.

Spain ranks low on the Masculinity Index (MAS), holding the 30<sup>th</sup> spot. Low MAS countries define achievement in terms of human contacts and living environment rather than recognition and wealth, and they tend to reject company interference in their private life.<sup>10</sup> Respondents from Spain may be less accepting of surveillance methods in the workplace and less willing to give personal information in return for discounts or promotions.

### **Current Atmosphere**

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Spain has suffered from its share of publicized scandals. In 1995, the Deputy Prime Minister, Defense Minister and military intelligence chief were forced to quit when it was revealed that they had illegally wiretapped and monitored the conversations of hundreds of people, including the King of Spain.<sup>11</sup> In September 2000, the DPA issued a EUR 60,000 fine to Telefónica for a security flaw in its computer systems that allowed improper access to customer files. Similar security breaches have occurred at various firms since Telefónica's leak in 2000.

In 2003, the European Commission conducted a survey of European Union members, including Spain. When asked if they were concerned about leaving personal information on the internet such as name, address, date of birth or gender, 64% of Spanish respondents indicated that they were (15% were not

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<sup>10</sup> Hofstede (1980), pp. 288.

<sup>11</sup> Laurant, (2003).

worried, 21% did not know).<sup>12</sup> Respondents were given a list of organizations that keep personal information about citizens. They were then asked to describe their level of trust in each organization and the way in which their personal data would be handled. Doctors and medical services received the highest levels of trust at 83% followed by social security (79%) and the police (77%). The three least trusted organizations were mail order companies (22%), credit reference agencies (36%) and market and opinion research companies (37%).<sup>13</sup> Moreover, 88% stated they would want to know the reason why an organization is gathering their personal data and if they share it with other organizations.<sup>14</sup>

The results in the European Commission's survey seem to contradict the opinions held by Telefónica. Only 33% of the public surveyed believe that the level of personal data protection provided by Spanish law is high and a mere 30% felt that Spanish legislation can cope with the growing amount of personal information being collected on the internet.<sup>15</sup>

The public's feelings of lack of protection may actually stem from a lack of education. The same study found that 76% of respondents did not know about the existence of independent authorities that monitor and enforce data protection laws.<sup>16</sup> The majority of Spanish participants (70%) were not aware of laws granting individuals access to personal data held by others and the right to correct or remove incorrect or unlawfully obtained data.<sup>17</sup> More than half (59%)

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<sup>12</sup> European Commission (2003), pp. 44.

<sup>13</sup> *ibid.*, pp. 11-38.

<sup>14</sup> *ibid.*, pp. 40.

<sup>15</sup> *ibid.*, pp. 41, 45.

<sup>16</sup> *ibid.*, pp. 48.

<sup>17</sup> *ibid.*, pp. 49.

did not know about the right to opt-out of information collection for direct marketing purposes and 76% were not aware of tools or technologies that limit the collection of data while on the internet.<sup>18</sup>

A lack of available research has made it difficult to provide a thorough, well-informed analysis. However, the information provided here indicates that the Spaniards *are* concerned about data protection and privacy issues. According to Hofstede's analysis, we can predict that Spanish citizens will be more accepting of clear, strong legislation and will be less likely to disclose personal information given the choice.

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<sup>18</sup> European Commission (2003), pp. 52, 54.

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