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The Limits of Trust: Cryptography, Governments, and Electronic Commerce

Stewart A. Baker

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For the first time in history, everyone – third World freedom fighters to urban drug dealers – can communicate in secrecy via unbreakable codes made available by advances in cryptography and computer technology. As the welcome and unwelcome consequences of this new technology begin to dawn on governments worldwide, responses have varied from stringent regulation to laissez fare liberalism. Written by a former General Counsel of the National Security Agency and an expert in cryptography law, The Limits of Trust: Cryptography, Governments & Electronic Commerce explores the policy and legal issues raised by the democratization of cryptography and offers a guide to the ways in which the law of cryptography translates issues of trust into standards for lawful conduct. This book addresses the international regulation of cryptography and digital signatures both in terms of confidentiality (cryptography used to keep secrets) and authentication (cryptography used to verify information). Coverage includes a description of over 45 countries' policies and laws on cryptography import, export, and domestic controls and digital signature initiatives worldwide; a concise history of the cryptography debate in the United States from its beginnings after World War II to the recent debates over the Clipper Chip and key recovery encryption; a presentation of the efforts of the United States government (and others) to build a new national consensus on regulation of encryption; a description of existing export control agreements and more recent efforts to make encryption systems accessible to the police; an introduction to the issues pertaining to cryptography policy, including a discussion of the ways in which international forums – such as the Organization for Economic Cooperation and Development (OECD) and the Wassenaar Arrangement on Export Controls – have addressed such policy; a discussion of the importance of cryptography to facilitate electronic commerce with authentication technologies, such as electronic and digital signatures; and an overview of issues that need to be addressed in developing a digital infrastructure and of the obstacles to electronic commerce imposed by recent digital signature initiatives. The Limits of Trust contains several useful features: country- by-country summaries of cryptography and digital signature policies; expert essays from various countries, providing a narrative perspective of the cryptography regime; and an appendix offering translated and untranslated text of many relevant laws. The Limits of Trust is the first book to describe in detail the responses of governments around the world to the consequences of widespread encryption. This work provides the practical information necessary for lawyers, businesspeople, technologists, and anyone wishing to conduct electronic commerce legally around the globe to quickly evaluate the applicable legal regime to ensure their compliance and to assess whether legal assistance is needed. The Limits of Trust can thereby allow companies to save the expense and interruption of business that may arise from failure to comply with international laws. At the same time, its balanced information on policy, theory, and historical context make The Limits of Trust an important resource for policymakers and academics.

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