

CYBERCRIME

“INTERNET SERVICE PROVIDER”

Octopus Interface Conference
Cooperation against Cybercrime
12th of July 2007
Strasbourg, France

Dr. Marco Gercke
Lecturer at the University of Cologne, Germany

TWO POSITION

Society

Law Enforcement / Police

Enable use of Internet Service

Prevent crime

Protect Privacy

Preserve Data

Enable Anonymous Use

Identify Offender

Free / Cheap Services

Provide Services free of Charge &
Monitor

DISCUSSION

- Role within criminal investigation (toleration, cooperation)
- Crime Prevention
- Responsibility of Internet Service Provider for Crimes committed by users

DEFINITION OF OBLIGATION

Art. 19 - Search Seizure

Current Expectation

- Tolerate criminal investigation that are carried out by law enforcement authorities

(1) Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to search or similarly access:

- a) a **computer system** or part of it and computer data stored therein; and
- b) a **computer-data storage medium** in which computer data may be stored

DEFINITION OF OBLIGATION

Development

- Support of investigation to avoid investigation carried out by law enforcement
- Obligation to provide assistance that is going beyond action to avoid investigation

Art. 18 - Production Order

Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to order: a) a person in its **territory** to **submit** specified computer data in that person's possession or control, which is stored in a computer system or a computer-data storage medium; and

Art. 19 - Search Seizure

(4) Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to **order any person** who has knowledge about the functioning of the computer system or **measures applied to protect** the computer data therein to provide, as is reasonable, the necessary information, to enable the undertaking of the measures referred to in paragraphs 1 and 2.

DEFINITION OF OBLIGATION

Art. 3 - Data Retention Directive

Current Discussion

- Data Retention Obligation
- Obligation to register user of public Internet terminal
- Obligation to support Law Enforcement Agencies in the installation of investigation instruments

[...] Member States shall adopt measures to ensure that the data specified in Article 5 of this Directive are **retained** in accordance with the provisions thereof, to the extent that those data are generated or processed by providers of publicly available electronic communications services or of a public communications network within their jurisdiction in the process of supplying the communications services concerned.

DISCUSSION

- Use of keylogger by law enforcement
- Reports that the FBI is already using a keylogger for investigation purposes
- German Federal Prosecution requested permission to secretly install an investigation software
- Federal Court refused the request with regard to the missing legal basis
- Installation could require support of Service Provider

EXAMPLE



CRIME PREVENTION

Discussion

- Obligation to block certain web sites
- Obligation to block key words in search engines
- Obligation to use filter technology to identify illegal content within data transfer processes
- Prevent SPAM and DDoS-attacks

EXAMPLE

Notice...

The blocking of this site was not a unilateral decision taken by OMANTEL. An overwhelming number of requests from the subscribers made us rethink our strategy and conform to the popular demand to block pornographic and certain hacking sites that encourage hacking such as this one.

OMANTEL is not unique in this industry to take such an action. Many ISPs in several different countries are taking steps to block such sites.

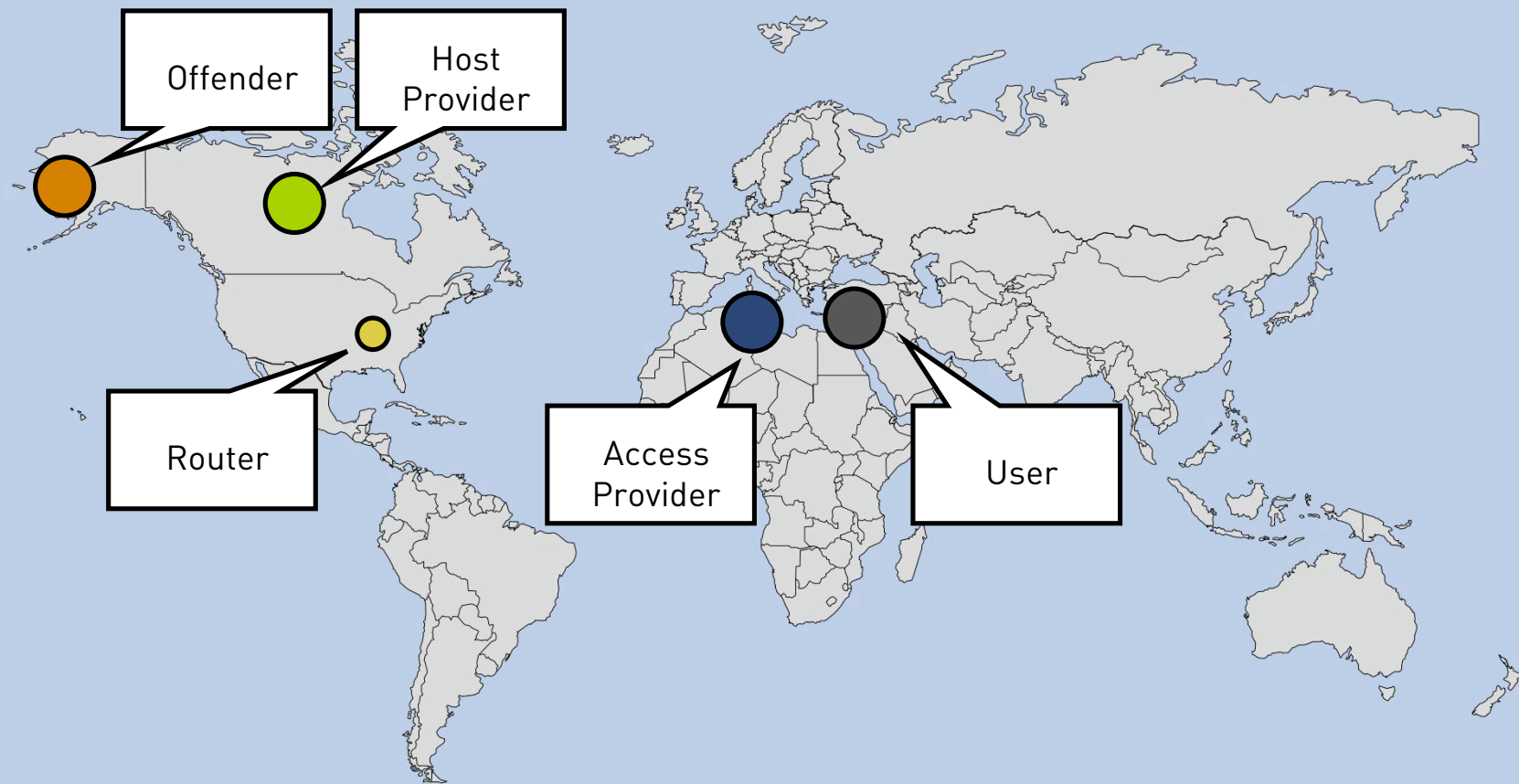
For those small number of subscribers who may differ in their opinions with OMANTEL, we hope that they will find internet interesting in many other areas.

If you feel this message is in error, and the site you are visiting has been miss categorized, please e-mail admin@omantel.net.om with the appropriate link. Accordingly and based on the content the page may be categorized. Such event takes approx.72 hours.

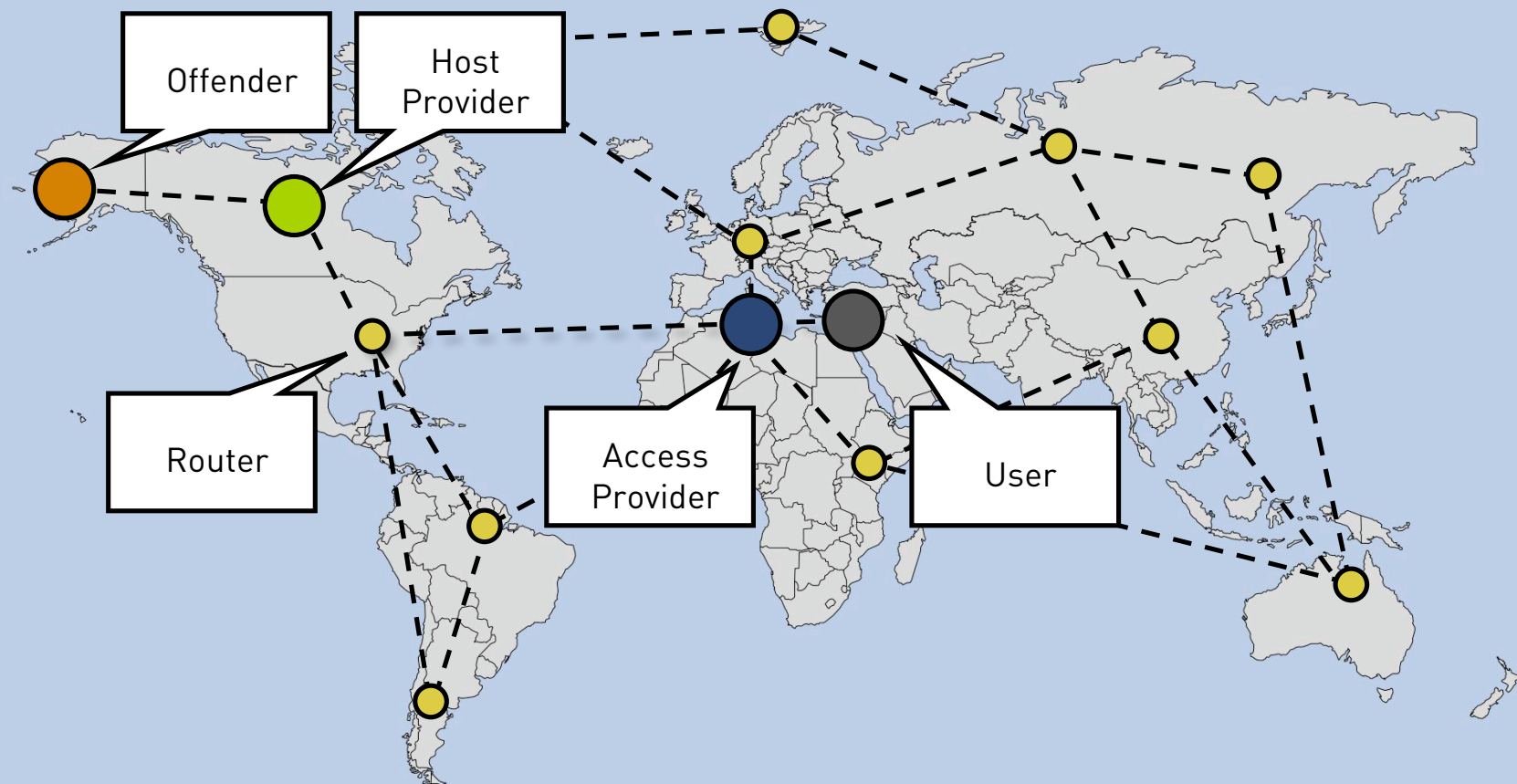


This page was last updated: Sun, 18 Apr 2004 11:53:36 GMT by Oman Internet Development Team

RESPONSIBILITY



RESPONSIBILITY



E-COMMERCE DIRECTIVE

- DIRECTIVE 2000/31/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce)
- Harmonisation of e-commerce regulations in Europe
- Especially restriction of responsibility of certain providers

Art. 12 - Mere Conduit

1. Where an information society service is provided that consists of the transmission in a communication network of information provided by a recipient of the service, or the provision of access to a communication network, Member States shall ensure that the service provider is not liable for the information transmitted, on condition that the provider:

- (a) does not initiate the transmission;
- (b) does not select the receiver of the transmission; and
- (c) does not select or modify the information contained in the transmission.

EXAMPLE US

- Legislative approach to criminalise the service providers involved in money transfer process

SECTION 5363

Prohibition on acceptance of any financial instrument for unlawful Internet gambling

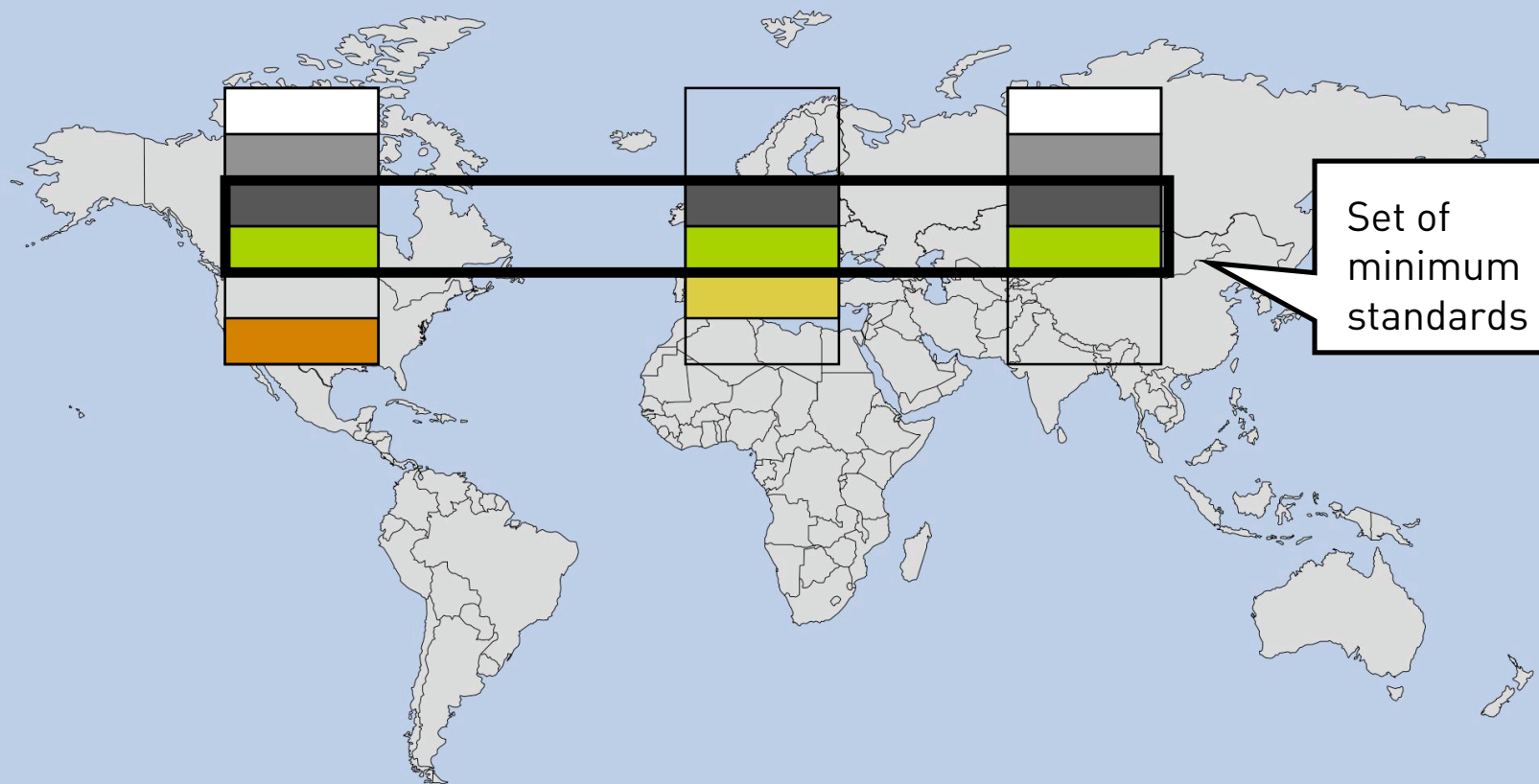
No person engaged in the business of betting or wagering may knowingly accept, in connection with the participation of another person in unlawful Internet gambling 1) credit, or the proceeds of credit, extended to or on behalf of such other person (including credit extended through the use of a credit card);

SECTION 5366

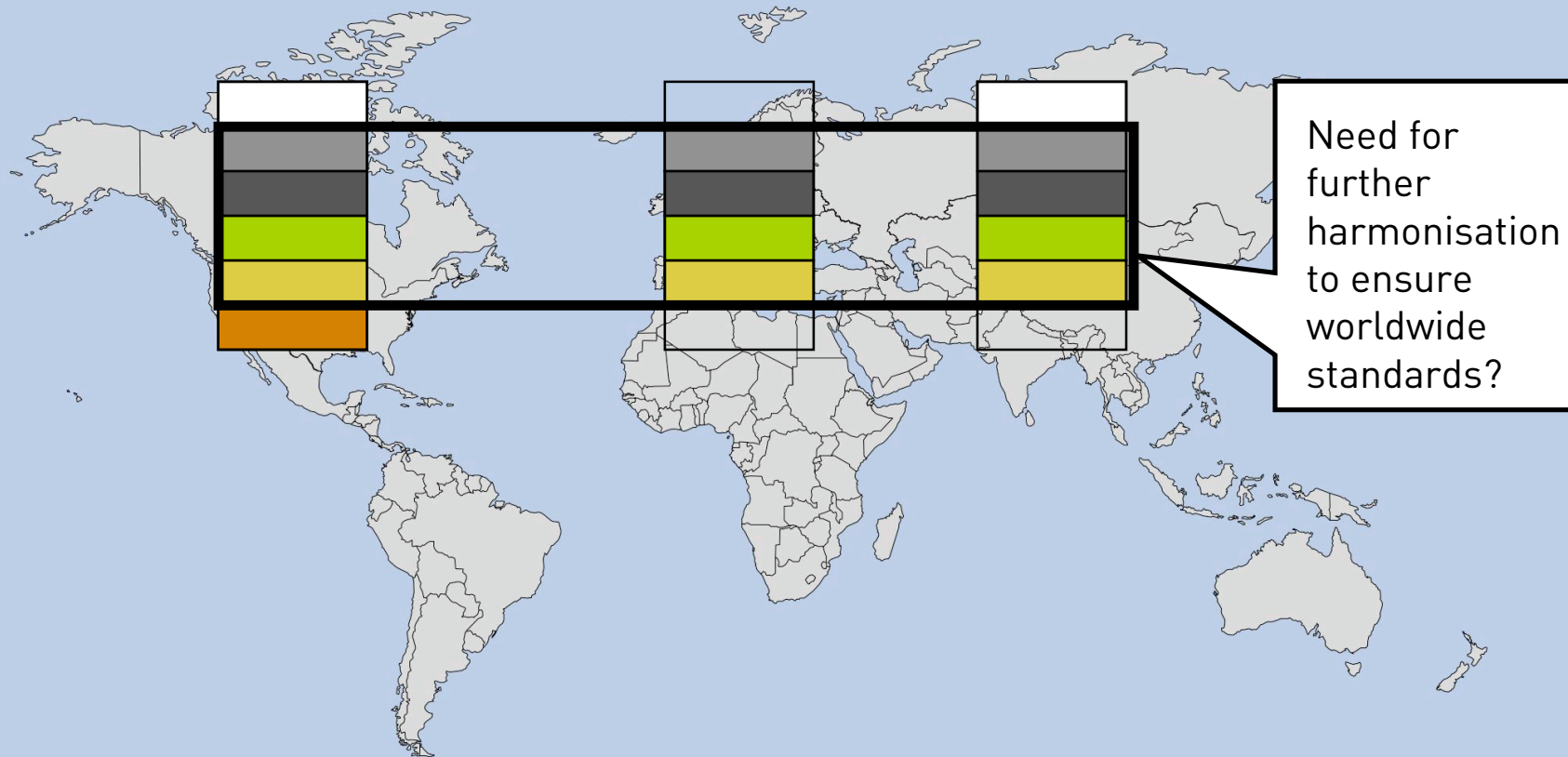
Criminal Penalties

Whoever violates section 5363 shall be fined under title 18, or imprisoned for not more than 5 years, or both.

AIM OF THE CONVENTION



AIM OF THE CONVENTION



DISCUSSION

- How can we define the role of the Service Provider?
- How can we define limitations with regard to their obligation?
- Should the obligations and privileges (limited liability) be harmonised?
- Is the Convention on Cybercrime the instrument that should be used?

CONTACT INFORMATION

THANK YOU VERY MUCH FOR YOUR ATTENTION!

Dr. Marco Gercke
gercke@cybercrime.de