

# **Establishing a new enforcement policy**

## *The Italian experience*



# Main points

**Evolution of the  
inspection's activity**



**How can we increase  
inspection's activity?**



**Inspection policy**



**Inspection's program**

**How can we develop the  
co-operation with Gdf?**

# **Evolution of the inspection's activity**

# Who Does What

A specific Department **performs inquiries and controls** concerning administrative and criminal matters

This Department also:

- **Investigates** criminal offences concerning data protection and related matters, availing itself of staff acting in the capacity as judicial police officers
- Collaborates with **judicial authorities** (both criminal and civil)
- May request **co-operation** of police forces (in particular, a Memorandum of Understanding was signed with the Guardia di finanza)



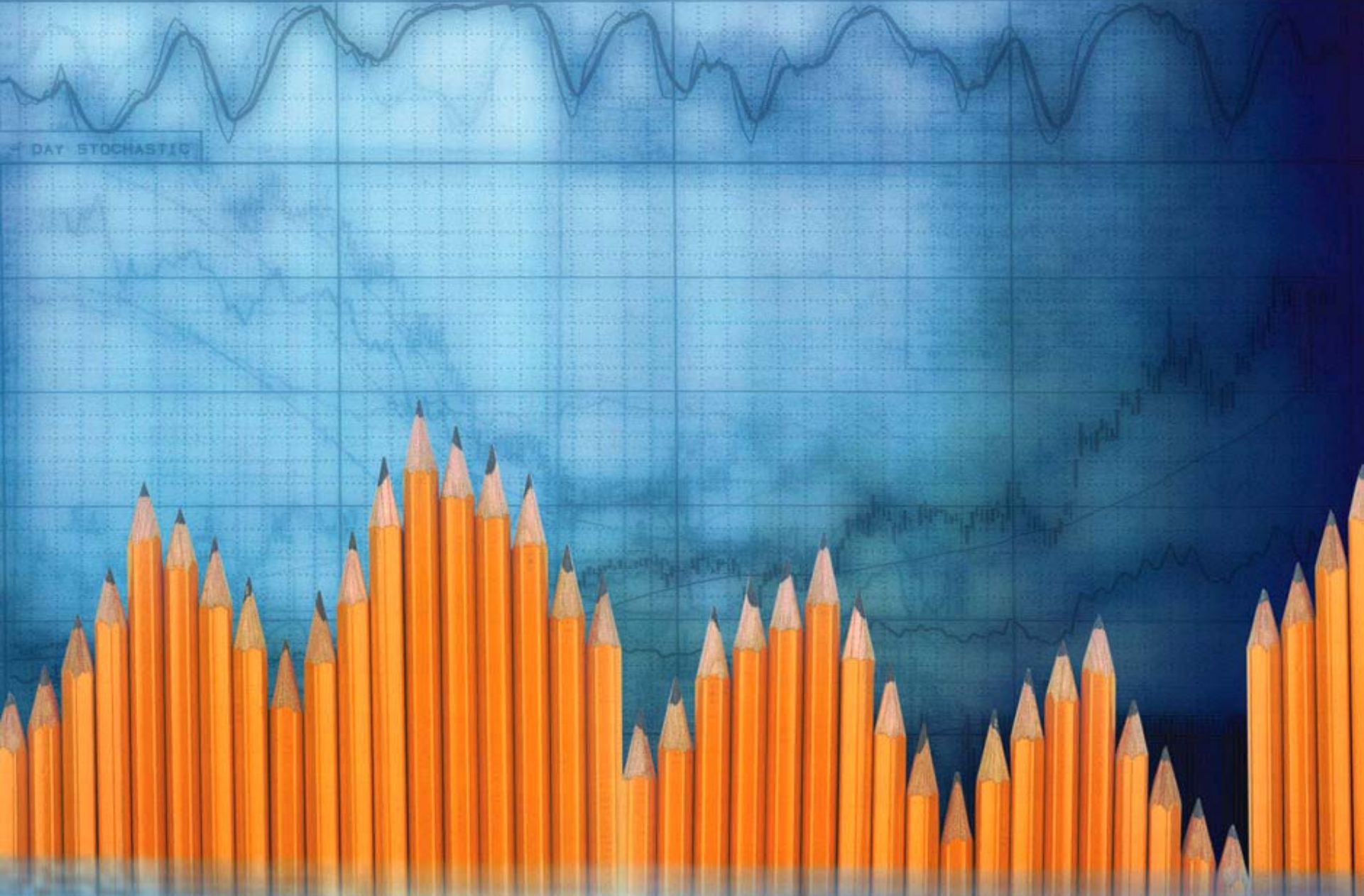
# 3 inter-related phenomena

The European Commission notes the presence of 3 inter-related phenomena:

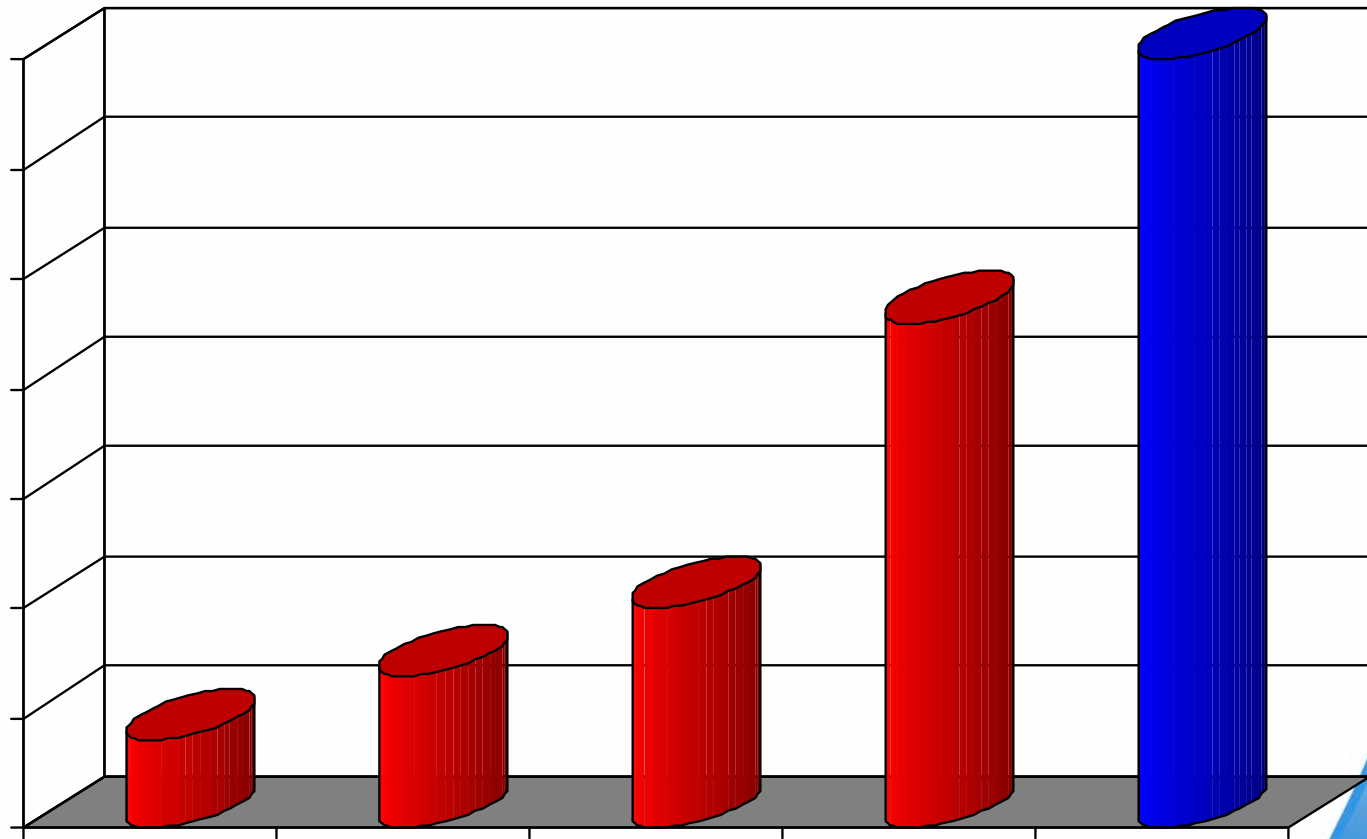
- An **under-resourced enforcement effort** and supervisory authorities with a wide range of tasks, among which **enforcement actions have a rather low priority**
- Very patchy compliance by data controllers, no doubt reluctant to undertake changes in their existing practices to comply with what may seem complex and burdensome rules, when **the risks of getting caught seem low**
- An apparently **low level of knowledge of their rights among data subjects**, which may be at the root of the previous phenomenon



# Statistics

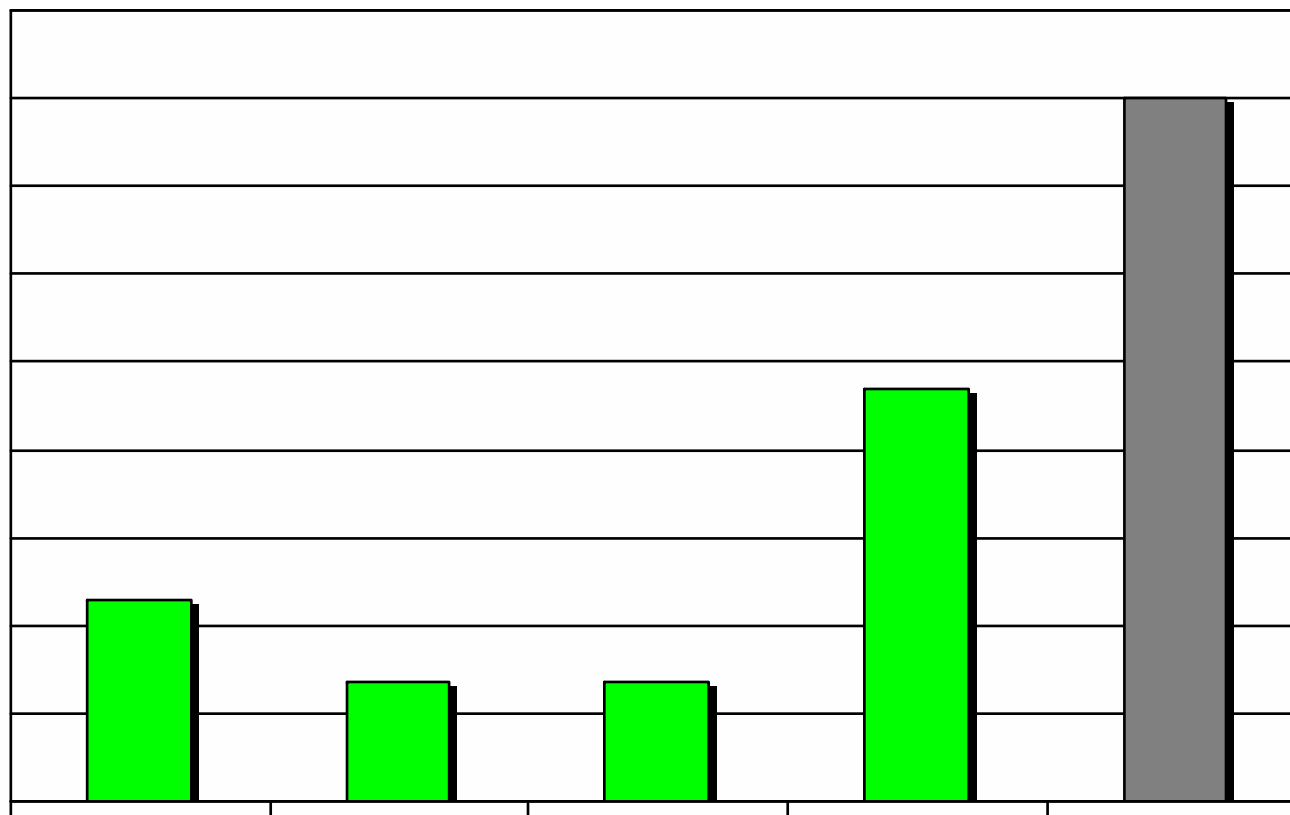


# Inspections



Year	2002	2003	2004	2005	2006
Inspections	40	69	100	230	<b>350</b>

# Sanctions



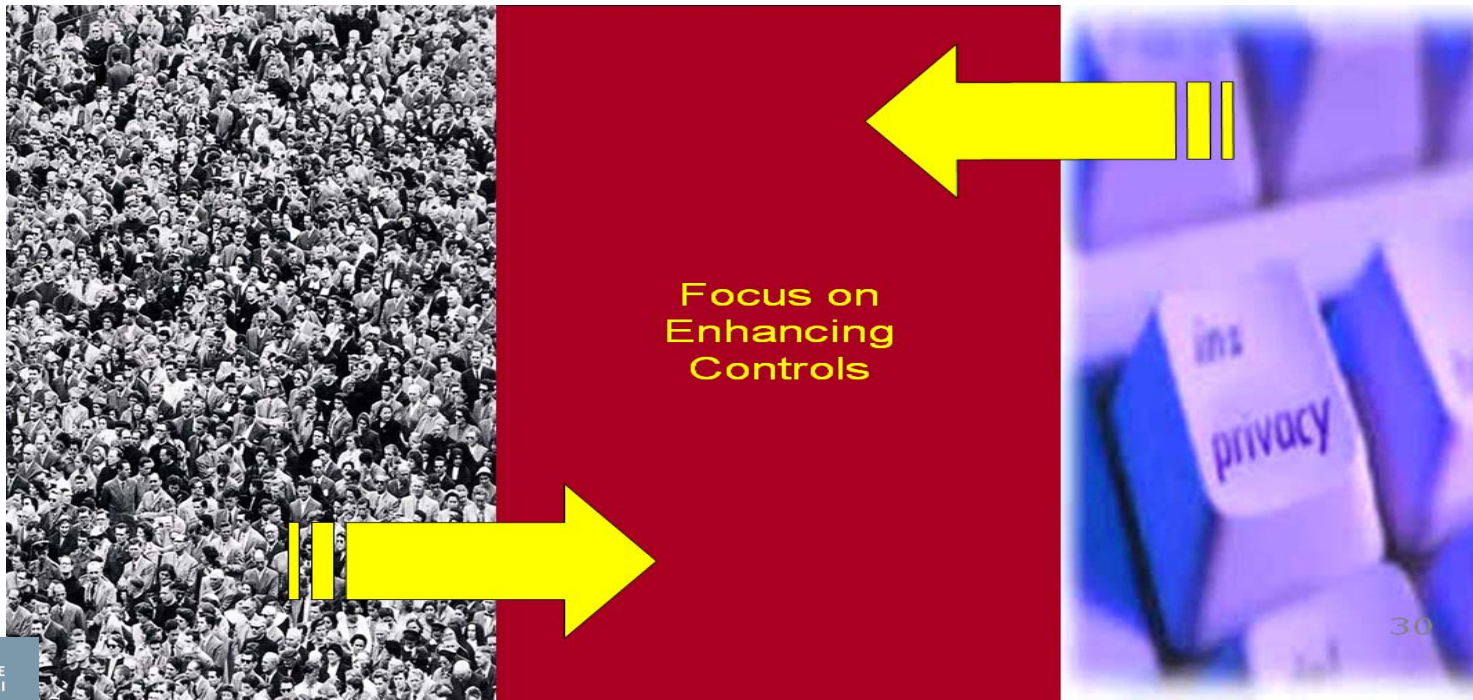
Year	2002	2003	2004	2005	2006
Sanctions	46	27	27	94	<b>160</b>

# Inspection's program



# The program

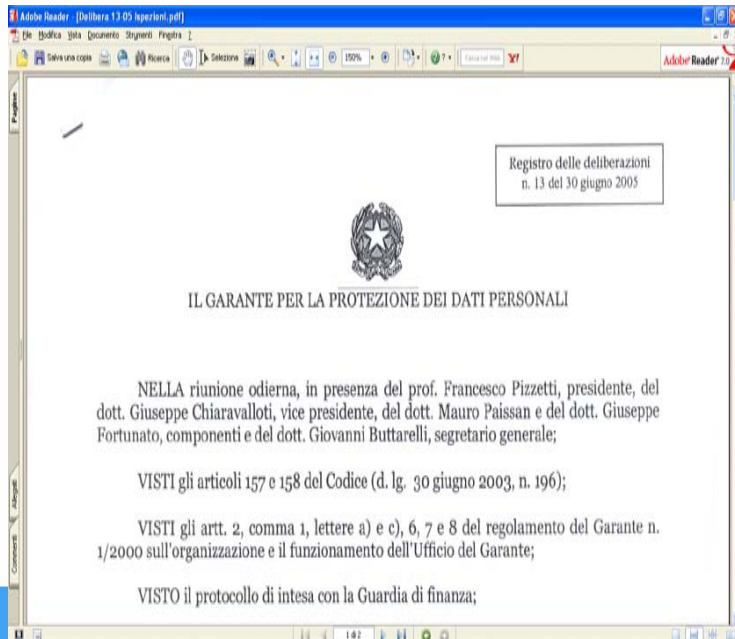
- Since 2005 Garante has **increased** the ex officio inspection activity
- The reason is that the new scenario has required much **more proactive attitude** than in the past
- In order to address the office in this activity the Garante fixes, every six months, the **guide lines** of the ex officio activity



# The program's content

The program determinates:

- the **total number** of the ex officio inspections that have to be performed in the six-month period
- the **different kind** of inspections and the number for each category
- the **specific object** of the inspections that have to be performed directly from the Department



**How can we increase inspection's activity?**



# Guardia di finanza

In consideration of the **specific professional distinctive features** acquired and of the powers assigned to its members, the Guardia di finanza collaborates with the Authorities in charge of supervising sensitive and strategic sectors of the economy, such as:

- The free market
- Communications
- Public procurements
- Insurances
- Data protection.

This cooperation, established by numerous memoranda of understanding, is ensured also by means of dedicated **Special Units** dealing with these sectors.



# Memorandum of Understanding with Guardia di finanza

The MoU sets out cooperation between the Guardia di Finanza and the Garante as regards:

- **Gathering** data and information on the entities to be controlled
- Assistance in relationships with judicial authorities
- **Participation** of own staff in accessing databases, in inspections and audits, and in all other controls as performed at the premises where the processing takes place
- Discharge of the tasks committed in order to establish commission of **criminal/administrative offences/breaches**



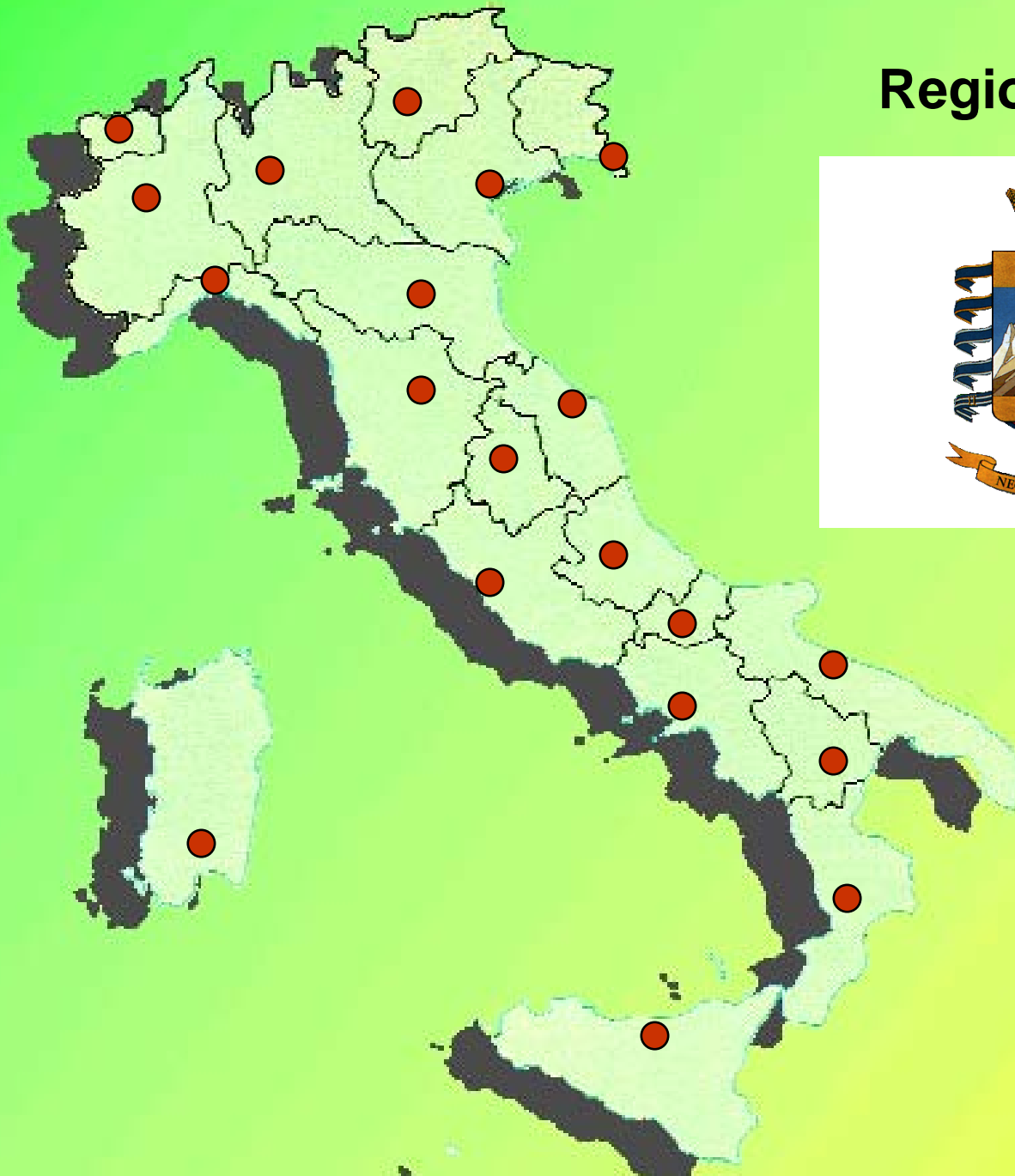
# **A new special unit of GdF**

**Nucleo funzione pubblica e privacy**



**Headquarters: Rome**  
**Consists of 40 officials**

# Regional units



# How to develop the co-operation with Gdf?



# Inspector's profile



**Audit skill:** know how to lead an inspection (use of powers, ability in writing minutes, etc.)



**Relationship skill:** ability to manage the relationship with people involving in the inspection

**Legal and technical skill related to data protection:** ability to understand the correct practice



# Training

## Nucleo (the special unit)

- **Start up:** tree weeks training
- **Follow up:** meetings on specific subject (every two/three months)
- **Training on the job**

## Regional units

- **Workshops** for officers in charge of regional units (in co-operation with the Training Institutes Inspectorate of Guardia di finanza)
- In 2006, almost **150** officers participating to the training

# Inspection policy



# Inspection Policy – Multifaceted Approach

Based on Complexity and Sensitivity of the Matter

High

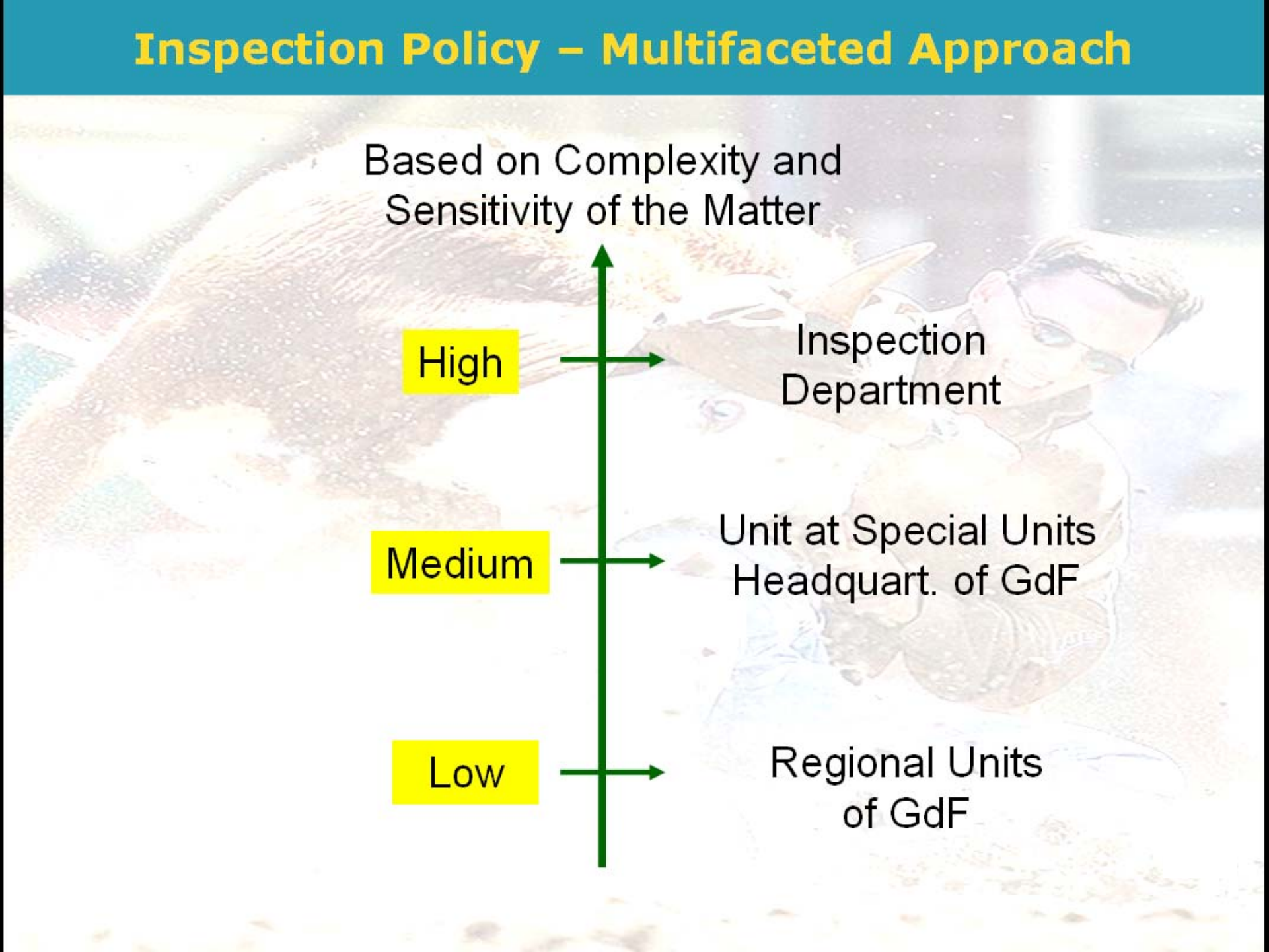
Inspection Department

Medium

Unit at Special Units Headquart. of GdF

Low

Regional Units of GdF



# Examples

Based on Complexity and  
Sensitivity of the Matter

High

Inspection  
Department

**Inspections on data retention in  
telecommunication companies**

Medium

Unit at Special Units  
Headquart. of GdF

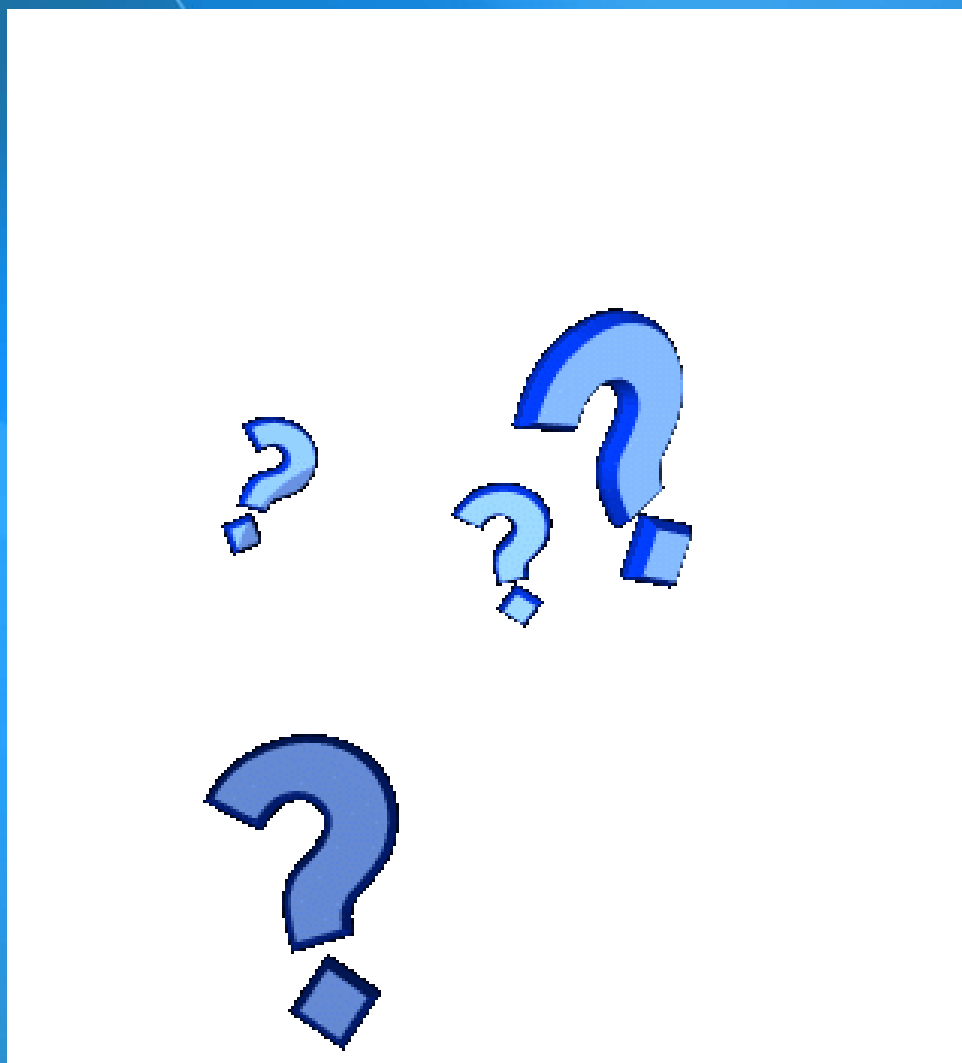
**Inspections on telemarketing activity  
made by means of call centers**

Low

Regional Units  
of GdF

**Inspections on videosurveillance  
system used by museums**

# Questions?



# The first program (sept.- dec. 2005)

80 inspections

The specific object of the inspections that have to be performed directly from the Department were:

- Loyalty cards and consumer's profiling connected to them
- Consumer profiling connected with interactive (digital) TV
- Credit information system managed by private entities
- Data retention of telephone and Internet traffic

# The second program

150 inspections

The specific object of the inspections that have to be performed directly from the Department were:

- Processing of personal data made in e-commerce activity
- Processing of personal data made by public or private entities using web sites
- Processing of personal data made by pharmaceutical company for research purpose



# Information Gathering on Alleged Violations

<b>REPORTS</b>	(informal requests for control; no obligation to start preliminary investigations and/or proceedings)
<b>CLAIMS</b>	(detailed information preferred via a specific form; preliminary investigations are started followed by a formal proceeding)
<b>COMPLAINTS</b>	(lodged only after no/unsatisfactory response to a request made to the data controller; 60-day deadline for decision)
<b>EX OFFICIO</b>	(informal reports, press news, direct knowledge)

