

Issues and gaps analysis in the context of ICT research and innovation

DATA COMMERCIALIZATION

Data Commercialisation and Counter-Performance Practices

Issue: It is unclear whether monetisation of data will be considered as commercialisation of data and to what extent it will be forbidden in the EU.

Impact on R&I: A company could hardly plan its research strategy in the ICT sector if it cannot foresee whether personal data from customers can be processed and/or under which conditions.

Mitigation: Facing data economy and data markets as a current reality, and regulating them.

Collecting Consent for the Processing by Unidentified Recipients

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Determination of the Value of Data

Gap: There is no established pricing mechanism for data.

Impact on R&I: The course of research is often hard to predict. Hence, whether or not data will eventually become valuable is unknown at the beginning of a project.

Mitigation: Two possible approaches: market valuation methods and individual valuation methods. The former focus on financial results for data records, market prices for data, costs of data breaches and data prices in illegal markets. The latter focus on survey and experimental results and the willingness of users to pay for products that provide privacy options or are produced with privacy by design and privacy by default. Funding research on pricing mechanisms.

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Unclearities with Regards to shared Controllershship

Issue 1: It is unclear when exactly a processor becomes a controller.

Impact on R&I: The risk is that data controllers are not aware of being such. Frequently students are not sufficiently advised in data protection measures and collect data on their own. Participants could decide years later that they want to withdraw their consent. What if the student does not forward the request to the institution?

Mitigation: Authoritative interpretation of the GDPR.

Issue 2: GDPR does not express legal consequences of joint controllers failing to fulfil their obligations towards data subjects.

Impact on R&I: If the compliance with the GDPR (i.e. data subjects rights) cannot be guaranteed, who is made responsible?

Mitigation: Authoritative clarification of the GDPR.

Issue 3: In the case of a data subject who owns a website to share pictures with her family living in another country, she is not considered as a data controller. The role of the data subject will change if she incorporates advertisement banners or affiliate links in the website.

Impact on R&I: The risk is that data subjects are not aware of being a data controller and of their obligations and responsibilities. If data of an IoT device is collected, researchers must be aware that they will not only collect the data of the device owner, but possibly from other people. Not only consent from other people might be required, but the researcher will share obligations and responsibility with the device owner.

Mitigation: Authoritative clarification of the GDPR. With regards to researchers' unawareness of being joint controllers, educational advertising is required.

Management of Individual Privacy Preferences

Gap: A system to manage individual privacy preferences is required. A standard for the provision of privacy practices in a machine-readable format is to be determined. The adoption should be mandatory.

Impact on R&I: The opportunity to explain the details and/or the necessity of privacy practices – without the data subjects being overwhelmed by a waste amount of other explanations – would enhance the chances that participants actually do agree.

Mitigation: A new legislation needs to be passed.



PARTICIPATORY APPROACHES TO A NEW ETHICAL AND LEGAL FRAMEWORK FOR ICT

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