

Privacy and informed consent in online interactions: Evidence from expert focus groups

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What is the operation and applicability of informed consent in online interactions



Data subject perspective



Fair information practices

- Individuals should have the right to know how organizations use personal information and to inspect their records and correct any errors;
- Individuals should have the right to prevent secondary use of personal information if they object to such use;



Data controller perspective



BCS Personal Data Guardianship Code

- Organization should explicitly secure the consent of personal data subjects before storing and / or accessing personal data. They should also ensure that they have consent to share with third parties, if they intend to do so (other than where they are legally obliged to pass personal data on to government bodies).



Informed consent

- In online interactions, each potential data subject must be adequately informed of the aims and methods of the service provider, the anticipated benefits and potential risks of the interaction and any other relevant aspects of the interaction.



- The potential data subject must be informed of the right to refuse to participate in the interaction or to withdraw consent to participate at any time without reprisal. Special attention should be given to the specific information needs of individual potential data subject as well as to the methods used to deliver the information.



- After ensuring that the potential data subject has understood the information, the organization must then seek the potential subject's freely-given informed consent



- Theme: Privacy policies, terms and conditions
 - To what extent do privacy statements provide an adequate way to inform all potential data subjects about the decision they are about to make?
 - To what extent do privacy statements provide details of the aims and methods of the service provider and the benefits and risks of the interaction?



- Theme: Effective control over use of personal data
 - How much control do data subjects have over the use of their personal data?
 - To what extent are data subjects informed of the consequences of refusing to provide their consent?



- Theme: Consent as a response to regulatory requirements
 - If consent is obtained, what purpose does the collection of consent address?
 - How effective are the specific regulatory interventions found in the UK for ensuring informed consent?



Expert focus groups



Focus groups

- Widely used in marketing research
- Elicit perspectives from the group interactions
 - Unit of analysis is the group
- Group process is not intended to arrive at a decision or make a recommendation



Process

- Between 5 and 12 participants
- Participants don't know each other to avoid existing power-dynamics affecting interaction
- Specialist skills to manage dynamics of group interactions
- Interview agenda to guide process



EnCoRe focus groups

- Expert focus groups
 - Informed opinions rather than instinctive reactions
- Semi-naturally occurring groups
 - Civil society organisations
 - Data protection professionals
 - Public sector organizations
 - SMEs



	Date	Number of participants	Duration	Transcript size (words)
1: Civil society organizations (CSO)	November 2008	8	3 hours	25,000
2: Data protection professionals (DPP)	January 2009	11	3 hours	27,000
3: Public sector organizations (PSO)	February 2009	9	3 hours	22,000
4: Regional technology cluster: Small and Medium Sized Enterprises (SME)	February 2009	23	1 hour	16,000
Total			10 hours	90,000



EnCoRe process

- Used a professional facilitator
- Audio and video recordings
- Invitation gave brief overview of the project
- Consent form signed by participants
- Coffee break after 2 hours
- Scenarios to drive discussions



EnCoRe analysis

- Transcripts produced by independent company
- Atlas Ti Qualitative Analysis
- Bottom up coding
- Consolidation of codes / Code families



Presentation of quotations

- High levels of face validity
 - I'm only in one [Facebook] group, I'm in a group called "Che Guevara was a murderer and your t-shirt isn't cool". {LAUGHTER} That's the only group I'm in. [CSO 615]



- Contextualizing the quotations
 - I've just had this fight with my eldest about this, about Facebook, because I said to him ...
 - *How old is he?*
 - He's 14 and he's on Facebook every night, right, because that's, that's what kids do. So first of all he wouldn't let me be his friend cos it's like it's not nice when people's parents are their friends ...



Results



Discussion



Consent management as a life cycle

- Accept that initially given consent might need to change over time
 - The data subject might change their mind about consent that has been given and wish to revoke or refine that consent at a later stage



- What are the implications of changing your consent preferences?
 - Putting data 'out of use' by the organization



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