



International Distribution Institute

Valuation of the data customer

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International Distribution Institute

Regulating the internet giants

The world's most valuable resource is
no longer oil, but data

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Data – The New Gold Rush for Businesses

You've no doubt heard the cry many times already – "Data is the new gold!" And it's true. Though of course not everybody loves [data](#) in the same way that people love gold in all its shiny allure and opulence, the analogy fits – especially when you consider the thousands if not millions of prospectors all over the globe scrambling on top of one another to get their hands on it.

But, like gold, data isn't valuable in its raw state. To obtain value from gold, it first needs to be processed – fashioned into jewelry or minted into coins. Only at this stage do you have a saleable product that consumers desire to own, and can thereby drive a business profit. Similarly, data is essentially valueless when collected in isolation. And so, like gold, it needs to be processed – in this case manipulated and analyzed – to extract business value.

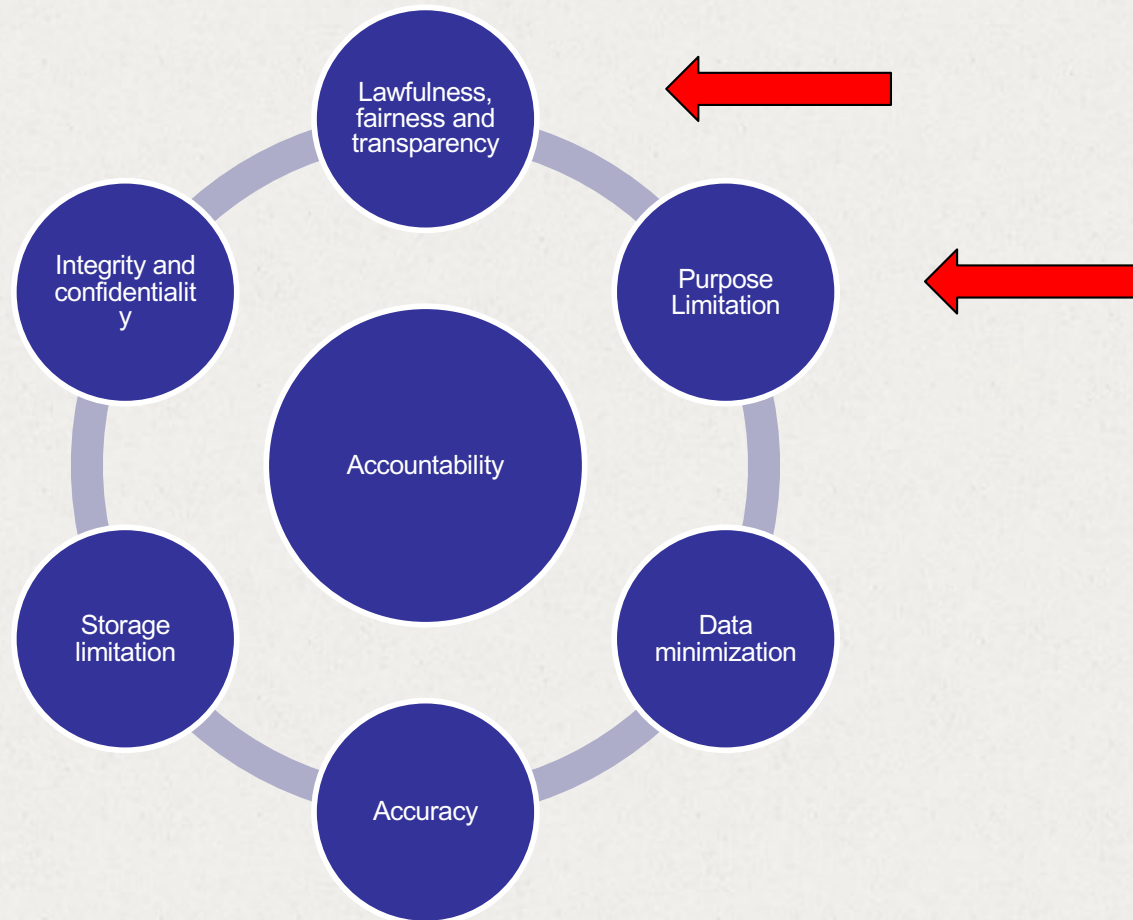


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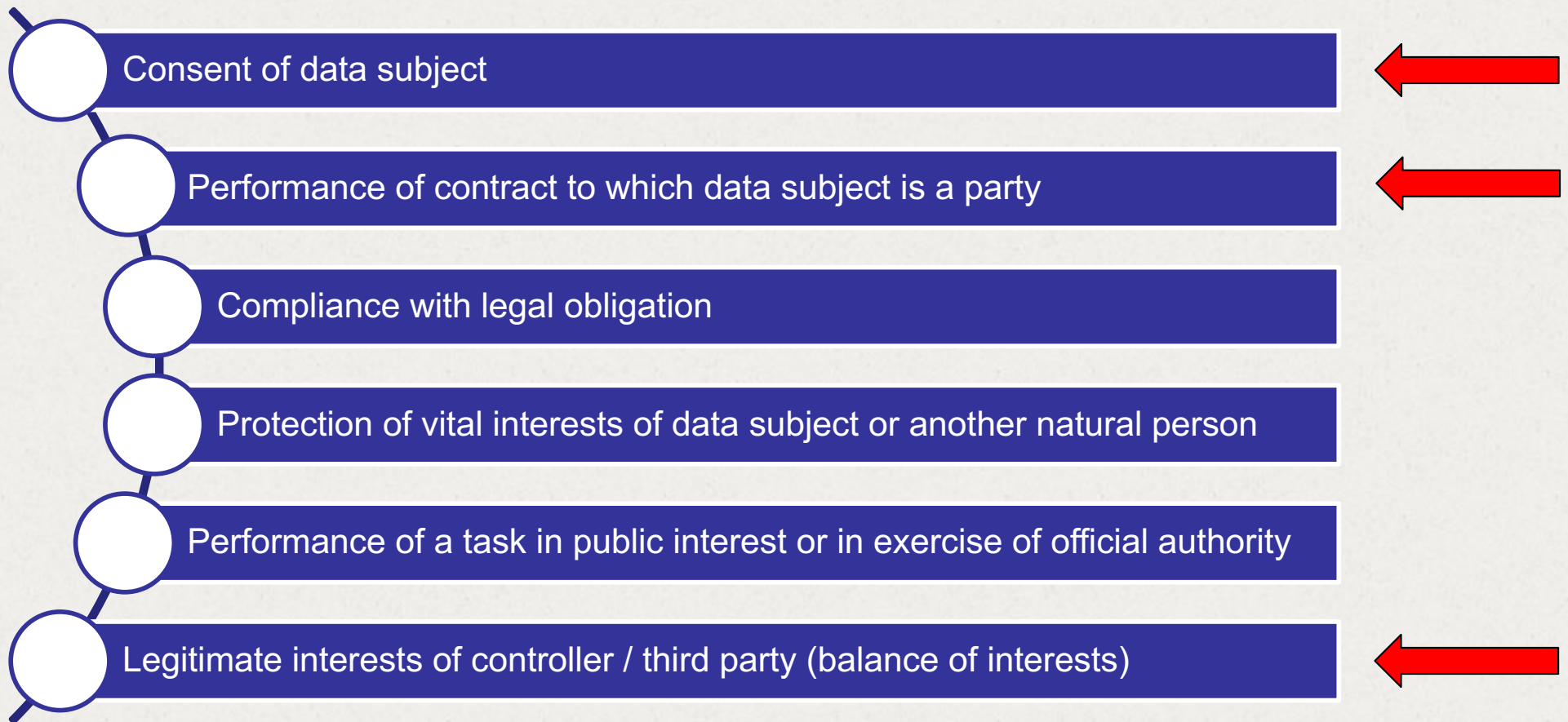
Purpose of presentation

- Focus on two scenarios
 1. Commercial use of personal data by company **collecting** personal data
 2. **Sharing** of personal data with third party for commercial use

GDPR Principles



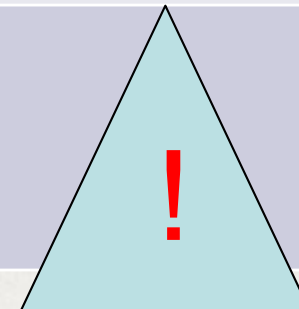
Lawfulness of the processing



ePrivacy legislation*

MAIN PRINCIPLES

Consent required for direct marketing via	<ul style="list-style-type: none"> Cookies Automated Calling Systems Faxes Electronic Mail
Exception regime for	Existing clients
Consent or opt-out for other means of direct marketing (national law)	<ul style="list-style-type: none"> Telephone Regular mail



*Directive 2002/58 of 12 July 2002 (as amended)

Scenario 1

- Company “Elettrodomestici per tutti SpA” (EPT) sells fridges and freezers of the brand “Sempre più freddo” under a distribution agreement.
- Certain fridges and freezers are so-called “smart” devices.
- The smart devices collect and transfer personal data to the manufacturer.

Scenario 1 (cont'd)

- The products are sold in EPT's premises and online.
- EPT collects personal data in the physical shop and via the online shop.
- Furthermore, EPT also collects personal data through online contests on its website.
- The manufacturer provides IT maintenance services (updates, bugs,...) for the smart devices.

Question

Who can make commercial use of the data and what measures must be put in place?

GDPR Requirements

Both for EPT and manufacturer
(separately)

- Information to customers (including re purposes)
- Determination of the purposes
 - SPECIFIED purposes (~~commercial use~~)
- Identification of appropriate legal ground
- Opt-out mechanism

Legal ground

	CONSENT	LEGITIMATE INTEREST
EPT	<ul style="list-style-type: none"> • Marketing to participants online contest • Use of cookies on website 	<ul style="list-style-type: none"> • Marketing to customers
Manufacturer	<ul style="list-style-type: none"> • Marketing to purchaser smart device (not having maintenance agreement) • Access to data generated by smart device 	<ul style="list-style-type: none"> • Marketing to customers having an IT maintenance agreement with the manufacturer

Scenario 2

- The manufacturer (principal) wants EPT to share its customer data collected both in its physical store and via its website.

Question

- Can EPT share the personal data with the manufacturer and under what conditions?

GDPR Requirements

Sharing = processing

- Sharing must be covered in privacy notice
- Purposes for sharing must be identified
 - Risk of function creep
- Identification of legal ground
 - Consent
 - Performance of the agreement
 - Legitimate interest

Further reading

- ✓ Margaret Atwood, “The Handmaid’s Tale”
- ✓ George Orwell, “1984”
- ✓ Aldous Huxley, “Brave New World”
- ✓ Dave Eggers, “The Circle”
- ✓ Yuval Noah Harari, “Homo deus”
- ✓ Bruce Schneier, “ Data and Goliath”
- ✓ Bruce Schneier, “Click here to kill everybody. Security and Survival in a Hyper-connected World”
- ✓ Cathy O’Neil, “Weapons of Math Destruction. How Big Data Increases Inequality and Threatens Democracy”
- ✓ Hannah Fry, “ How to Be Human in the Age of the Machine”.
- ✓ Max Tegmark, “Life 3.0. Being human in the age of artificial intelligence”
- ✓ Mireille Hildebrandt, “Smart Technologies and the End(s) of Law
- ✓ Laurent Alexandre, “ La guerre des intelligences”



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Areas of Practice

Privacy & Cybersecurity
Regulatory & Policy
Corporate & Commercial

Focus areas

European General Data
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Education

University of Antwerp,
B.A. (2007)
University of Antwerp,
LL.M. (2009)

Heidi Waem is a counsel in the Brussels office of Crowell & Moring, where she is a member of the firm's Privacy & Cybersecurity Group. Heidi's practice focuses on privacy and data protection, including the General Data Protection Regulation (GDPR). In addition, Heidi has extensive experience in contract law, market practices, consumer laws, IP/IT, and compliance. Her experience in these fields includes both litigation and non-contentious matters. Clients include major companies in the FMCG, media, life sciences, and retail sectors.

Over the years, Heidi has been seconded to various multinational companies in different sectors, which has given her valuable insight and experience in the needs of and problems faced by businesses, as well as experience as in-house counsel. Heidi is known and appreciated by clients for her pragmatic, hands-on approach.

Heidi is a frequent speaker at privacy and data protection events. She also teaches at the Brussels Privacy Hub's GDPR summer school and is a Certified Information Privacy Professional (IAPP - Europe (CIPP/E))