

FLAGIS Study Day – Leuven – 15th March 2018

GDPR & GeoData

Legal challenges of the use of (geo) sensor data

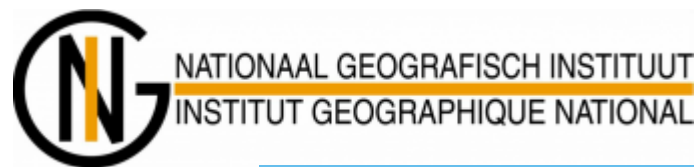
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Foreword - FLEXPUB



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Internet of Things (IoT) – (Geo) sensor data



Legal issues – Data protection

➤ Definition of personal data – GDPR, Art. 4(1)

- Any information relating to an identified or identifiable natural person
- One who can be identified, directly or indirectly, in particular by reference to an identifier
- Account should be taken of all the means reasonably likely to be used, such as “singling out” – GDPR, Recital 26

➤ Quantified self = Data concerning health?

- GDPR, Art. 9
- *“Processing of data revealing (...) data concerning health (...) shall be prohibited”*



Legal issues – Data protection

➤ Principles of personal data protection

- Lawful processing – GDPR, Art. 6
- Purpose limitation – GDPR, Art. 5(1)(b)
- Data minimisation – GDPR, Art. 5(1)(c)



Legal issues – Data protection


➤ Data portability

- Personal data – GDPR, Art. 20
- Non-personal data?



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Legal issues – Open Data and “Reverse-PSI”

➤ Open (geo sensor) Data

- INSPIRE Directive 2007/2/EC
- Directive 2003/98/EC on the re-use of Public Sector Information (PSI Directive – as revised by Dir 2013/37/EU)
- Open Data >< Data protection
 - PSI Directive: *“This Directive shall not apply to (...) documents access to which is excluded or restricted by virtue of the access regimes on the grounds of protection of personal data”* (Article 1.2.cc)

Legal issues – Open Data and “Reverse-PSI”

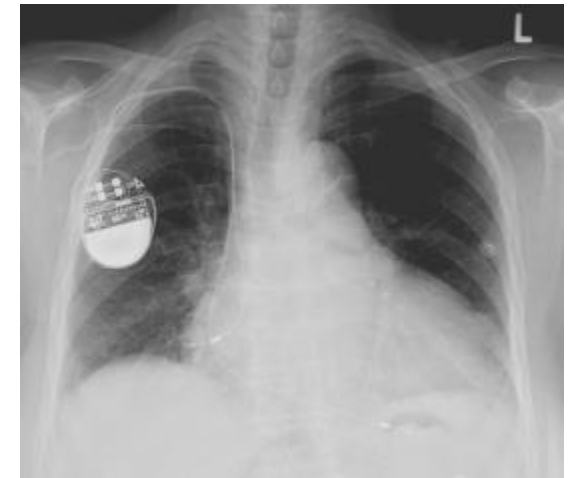
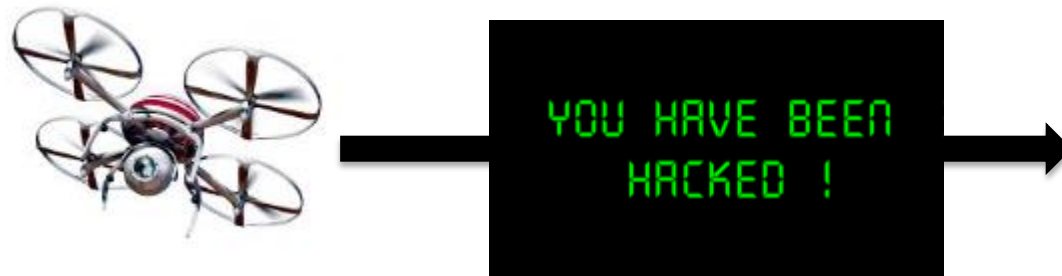
➤ Reverse-PSI

- Review of the PSI Directive – Public consultation closed in December 2017
- Public bodies’ access to privately held (geo sensor) data that are of public interest?
 - Ex: Mobility (geo sensor) data



Legal issues – Cybersecurity

- Security obligations – GDPR, Art. 32
 - Appropriate technical and organisational measures
 - Level of security appropriate to the risk
- Protect people's physical integrity



Legal issues – Insurance and personal data

➤ Health or Car insurance



➤ Lawful processing, purpose limitation & data minimisation

➤ Compulsory? Rethink the insurance mechanism ?

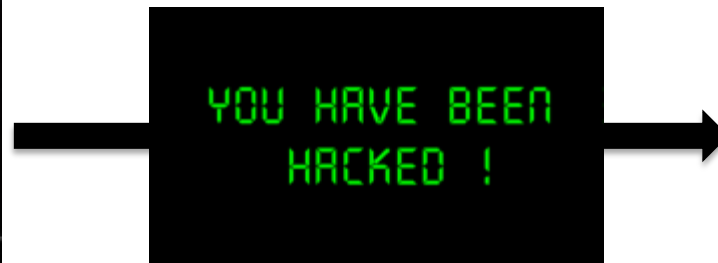
Legal issues – Liability

- What if things go wrong?
- Who is liable?



SO, NOW WE HAVE ASCERTAINED WHO IS RESPONSIBLE....

- Hacked product = Defective product?



Legal issues – “Ownership” of data



- “Access to”, “control of” and “competing rights on” data
 - “Building a European data economy”

- Data sharing is necessary for Big Data

- Not always more objective and unbiased
- Ted talk (Cathy O’Neil)

https://www.ted.com/talks/cathy_o_neil_the_era_of_blind_faith_in_big_data_must_end#t-514815



- Sharing compulsory in certain circumstances?

- Reverse PSI?

- If not compulsory, what remedy for refusal to share?

Thank you for your attention !

Questions?

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