bileta 2014

media@uea
teaching | research | policy

Legal Regulation & Education: Doing the Right Thing?

Arno Lodder

Vrije Universiteit Amsterdam

arno.lodder@vu.nl

Towards universal norms for smart devices, but how to enforce these when "there" can be everywhere

Smart phones and tablets are becoming the main devices for accessing internet, and will outnumber the world population in 2016. Mobile Devices contain photos, contacts, unique identifiers, payment data, logs, etc., and are used everywhere, including abroad. Apps process user information, including the user's locality to offer dedicated services and advertisements, and may turn on cameras and microphones.

Most users lack awareness of what Apps do, what data are used, and what norms apply. Mobility complicates norm application. Global use, on a global infrastructure does not match well with local, national law. The aim of a current research program is to develop norms for Apps that surpasses existing national law. Due to coverage of geography and legal systems, EU data protection and e-commerce law serves as the normative starting point and are subsequently adapted and refined. The assumption is not that EU law is superior, but it serves well as an initial set of norms, applicable to a variety of legal systems and with a wide geographical coverage.

The Smart research program keeps close tabs on the legal impact of the changing nature of society with services that are always and everywhere available. Last year an interesting field experiment by students showed that Tinder App stores information regarding name, photo, smart phone ID, all Facebook information (even if private), etc. Contrary to what users are told, all data is passed to data mining company Kontagent.com, allowing for targeted advertising. So even if norms are clear and described in terms of service, compliance is not self-evident.

Questions that need to be addressed are how are contracts concluded, under what conditions? And what exactly is the service the App delivers, what data are processed, and by whom, what features are used? Is security guaranteed? What is the role of third party advertisers? In the light of the current developments these questions demand an integrated approach. Questions about contracting, security, privacy and advertisements cannot be treated in isolation, but this quadruplet that forms the future landscape of internet services is interconnected and needs a coherent analysis in a single program.

The focus in this paper, however, is not to discuss the norms concerning contracting, privacy, advertisements, and security applicable to smart devices. Based on a brief analysis on the actors involved in the App ecosystem, with their respective roles and responsibilities, the paper analyses how and to what extent eventual universal norms could be enforced.