

## Legal Regulation & Education: Doing the Right Thing?

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### “By continuing to use this site...” – Tracking , trust and online choices

Despite the astounding increase in their user base over a relatively short period of time, one of the key challenges for social media services has always been the development of a credible monetisation strategy that encourages investment and allows for further innovation with a view to securing a foothold in a fast-changing market. Like many other online services that form part of the Web 2.0 economy, those services are largely offered free at the point of access. Instead of charging their users a monetary fee, most SNS providers generate revenue through payments they receive from third parties in exchange for the right directly to display advertising to their users or in exchange for providing aggregated data on those users’ behaviour, likes and dislikes. Based on purely economical considerations, the advertising model arguably benefits all participants in the digital economy. Users can try out new online services “for free”, which ensures that those services are available to the widest possible segment of society including those who might otherwise be excluded from their use because of affordability concerns. Start-ups are able quickly to bring new services to market and to grow their user base without exposure to a pricing environment where they would be forced to compete with established businesses that may benefit from economies of scale. Established businesses profit from network effects and user inertia made possible by the ability to continue to use individual services beyond the point where financial constraints might otherwise force them to choose between one service or another.

However, in order to target advertising most effectively thus maximising benefits for advertisers and increasing revenue for providers, user profiles are becoming ever more detailed. This means that users now “pay” for online services with the personal information they disclose about themselves. In today’s connected, always-on world where data is cheap and easily shared between different stakeholders, this raises serious privacy concerns that go beyond the mere question of material damage versus material benefit.

Arising out of the RCUK-funded CREATE project on “Privacy, Personal Data Collection and the Freemium Business Model for Web 2.0”, this paper will examine the current legal

framework that governs the tracking, mining and profiling of internet users' personal data. It will look at the various technical means employed to collect that data and the means (technical, legal and soft-law) used to ensure both the users' awareness of the online tracking process and their consent. It will examine user perceptions not only towards online privacy in general but to the tracking of their online behaviour and the compilation of user profiles in particular. It will then analyse the changes to the legal framework that form part of the revised Data Protection Regulation currently under discussion in the EU.