**bileta** **2014**

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

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## Spies, the whistle-blower, big data and a little duck

Information is transforming how privacy is viewed. The reciprocal relationship of individual users with the technologies and the constant use and dependence upon such technologies is making it increasingly difficult to clarify what and to what degree is personal information to be kept private. The NSA surveillance issue uncovered by Edward Snowden illustrates the collection of big data by governmental organisations; the related events have since focused the public attention on how governments, corporations and other entities collect data relevant to anyone's everyday lives and how that information has been and is analysed and subsequently used by the "collectors".

This paper is going to present an overview of the events that took place in the uncovering of the PRISM and Tempora schemes to clarify the problem and its implications. Analysis will take place trying to identify the reasons behind the design and realisation of such schemes putting forwards the arguments on behalf of the NSA, the GCHQ and the respective governmental policies. Is a user permitting such intervention by mere presence online or can it be looked at from a contractual perspective if using a paid online service or for example if they agree to the T&Cs of Facebook or Yahoo? Can State justify such an intervention and seemingly breach of privacy merely on the argument of safety for its citizens?

The discussion then will consider the arguments of the opposing side; the legal aspects and potential illegality of such a surveillance and Big Data collection scheme. Special mention need be given to the current legislative framework; is it adequate or do these events indicate the immediate need for significant changes in regulation of data collection and protection of online privacy? This question will be answered by examining the current law in place in the United States and the European Union and also by considering the approaches taken by governments since these events. For instance, the General Data Protection Regulation and current regulation will be examined to establish what the current position is and what the forthcoming point of view of the European Union will be. On the other side, is the current US legislation with the Patriot Act simply offering a free pass to collecting information and subsequently overstepping civil liberties? The USA Freedom Act will be brought into the discussion as a proposed attempt to react and seemingly try to bring the balance back.

So what needs to be done? Is all this a result of lack of regulation or not careful regulation? What about the social policy implications? Individuals will not oppose to a State putting in existence a framework to help protect its citizens, but is the line to be drawn when freedom and protection become opposing pieces in that puzzle? Following that the line also should be drawn to not allow any State with the technological capacities to collect date from any other state it feels right to do so; this is potentially endangering to the internet causing it to become significantly fragmented rather than a border-less arena. Privacy online should be protected to an extent that individuals, whether they are simply browsing for news or buying their holidays, feel secure and not threatened. One way around it may be self-regulation and the big players such as

Microsoft and Google to try and restore the lost trust by making sure they follow the example of smaller companies valuing and keeping user privacy as paramount. DuckDuckGo is an example of such a company, a search engine making sure your search is anonymous, with no filters and trackers, thus offering more privacy to the user while online.

Online privacy and protection of it as well as the user's information online should be a clear characteristic of a thriving online community. It will need to operate within a legal framework but that framework should be developed and operated by keeping in mind the users and their rights. This paper will discuss all the aforementioned issues, taking a critical perspective and reaching a conclusion by proposing a model which identifies all the merits of this complex situation but at the same time aims to achieve an efficient and collective framework.