LatAm Privacy Enforcement and Accountability in a COVID-19 World

Virtual roundtable

1 July 2020

Moderators, Keynotes, Provocateurs

Opening & Closing Remarks

José Alejandro Bermúdez

Partner, Bermudez Durana Abogados, CIPL Advisor

Keynote

Bojana Bellamy

President, CIPL

Keynote

Enric Alvarez

Deputy Director of Physics, Universitat Politècnica de Catalunya

Regulator's view

Eduardo Bertoni

Director, Argentinian National Access to Public Information Agency

Public sector's view

José Antonio Ziebarth

Director, Argentinian National Access to Public Information Agency

Regulator's view

Gonzalo Sosa

Head of the Citizens Rights Division, URCDP-AGESIC (Uruguay)

Moderator

Laura Schertel

Lawyer and professor, Instituto Brasiliense de Direito Público (IDP)

Provocateur

Paula Vargas

Head of Privacy Engagement, Latin America, Facebook

Provocateur

Andriei Gutierrez

Director of Government and Regulatory Affairs, IBM Brazil

Provocateur

Lina Ornelas

Head of Public Policy and Government Affairs Mexico, Google

Provocateur

Flavia Mitri

Privacy Director, Uber

Keynote: Through the looking glass: privacy in a post-COVID world

Bojana Bellamy, President, CIPL

COVID-19 Future Impact on Data and Privacy

Implications for Organizations and Regulators

Impact on organizations

- Reimagining workforce and workplace
- New disruptors, business models and processes
- Data for good
- Increased data sharing and calls for responsible data sharing
- New cyber threat landscape
- New challenges to data privacy compliance
- Calls for increased corporate digital responsibility

COVID-19 Future Impact on Data and Privacy

Implications for Organizations and Regulators

Impact on regulators

- Anticipate changing trends and perceptions
- Shifting priorities and enforcement strategies
- Evolving interpretation
- Promote accountable data sharing and accountability
- Consider innovative regulatory responses
- Anticipate need for new COVID-19 regulatory guidance
- Coordination/convergence with other regulators

Accountability measures to bridge privacy and innovative data use in the fight against Covid-19

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Covid-19 Meets Privacy: A Case Study for Accountability

April 2020
Bojana Bellamy, President

In the pressing global fight against Covid-19, technological and AI solutions, involving massive tracking and data analytics, have brought into sharp focus public concern over our fundamental right to privacy. Some have even asked whether privacy will be the victim of Covid-19. And, some have pointed out that our fundamental right to life must trump our right to privacy.

However, most of us want and expect both. Most of us agree that data driven analysis and decisions, as well as data sharing among industry and governments, are indispensable in fighting Covid-19 and future pandemics— whether to anticipate the virus' spread and peak; to test new medications or forecast the need for hospitals, medical staff and equipment; to understand people's social interactions and likelihood of contamination; to verify that quarantine and social distancing measures are observed; or to enable those who have recovered from the virus to resume their work, life and other freedoms for the benefit of us all. And, we also agree that privacy is foundational to our democracies and must be protected now and in the post-Covid world. So, how can we have both—socially responsible collective action and privacy? The answers lie in organizational accountability.

1. Clearly defined and documented purposes of data use
2. Proportionality test
3. Privacy Impact Assessment
4. Transparency to individuals
5. Robust Security
6. Storage and use limitation
7. Roles, responsibilities and training
8. Data sharing agreements and protocols
9. Trust, but verify
10. Internal oversight and external validation
11. Regulatory engagement and validation
12. Privacy-by-design through technical measures

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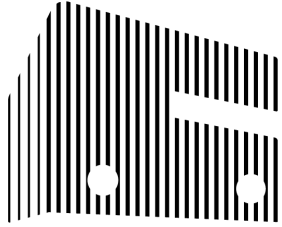
Keynote: Expert Remarks

Enric Alvarez, Deputy Director of the Department of Physics, Universitat Politècnica de Catalunya

Tracking Covid19 with data
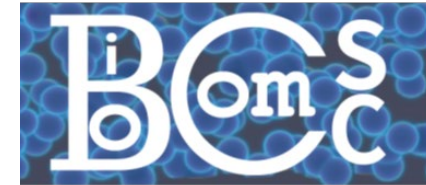
Enric Alvarez-Lacalle

Group analysis.

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Comparative Medicine & Bioimage
Centre of Catalonia

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Three very different types and uses of data

a) Anonymized personal health records

b) Mobility data

c) Contact tracing data

a) Personal health records needed to generate anonymous data sets

1) Day of positive PCR
2) Day of symptoms
3) Entrance in Hospitals and Entrance of those later found PCR positive
4) ICU's occupation
5) 5) Date of medical death certificate with positive PCR

Data useful for short-term predictions

Daily fitting Gompertz model to cumulative data

➢ Predictions at **short term** → for ICUs, hospitalizations, discharges, deaths
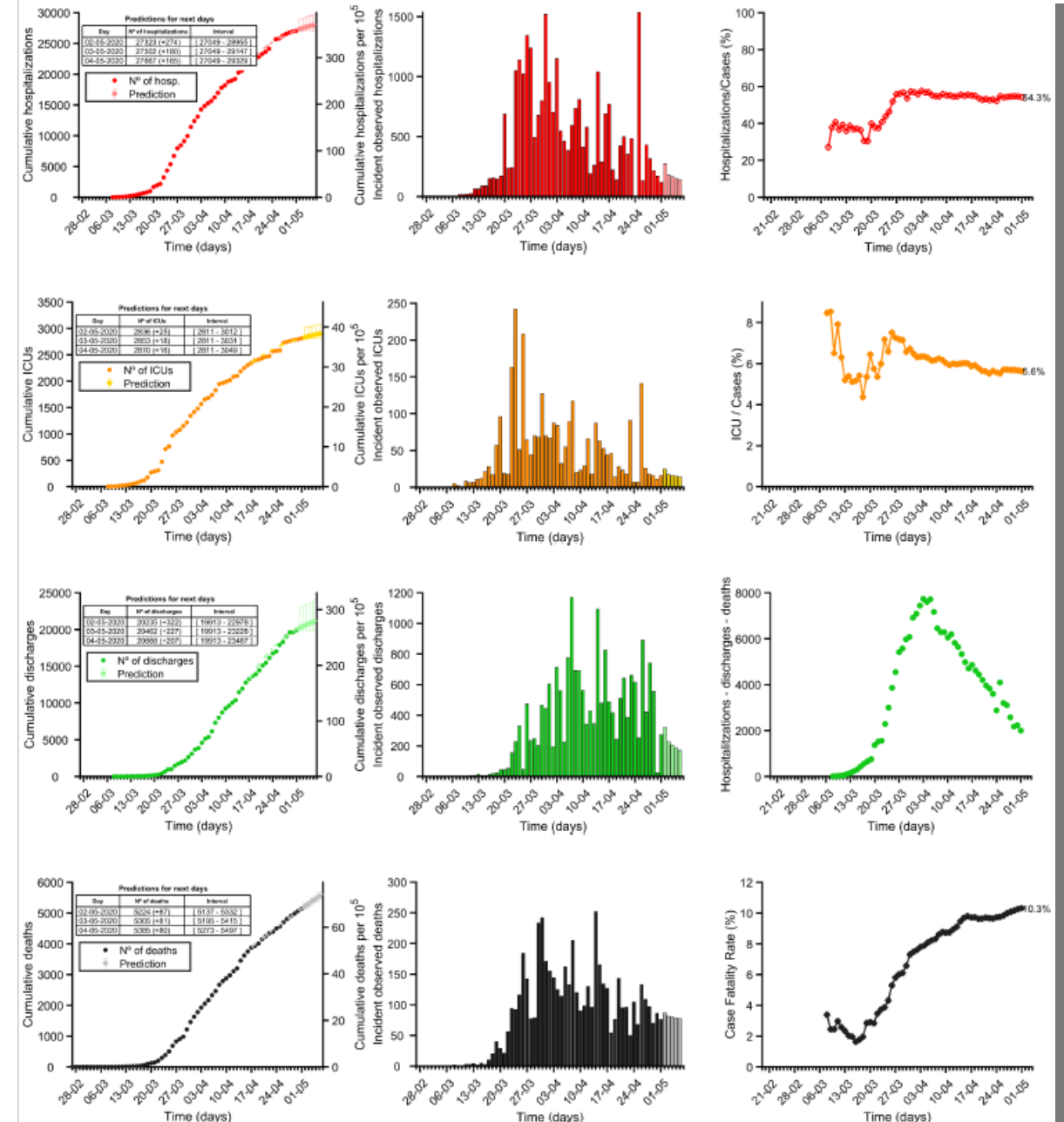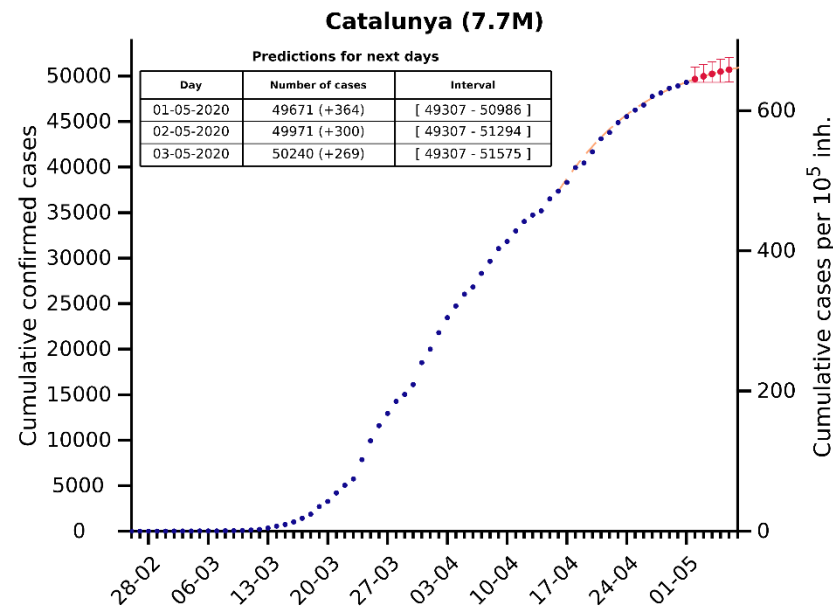
# b) Mobility

1) Mobility data not useful right now to predict any kind of propagation cluster. No need of invade any privacy

2) Relevant mobility data is obtained by properly sampling a fraction of mobiles with anonymous geolocation

3) It is not even necessary to track the person/mobile... just check once in a while if the user has moved

b) Mobility uses

Track the effects of political measures and quantify the reduction in mobility so that one can compare different epidemiological situations with a clear reference guide of the mobility behind
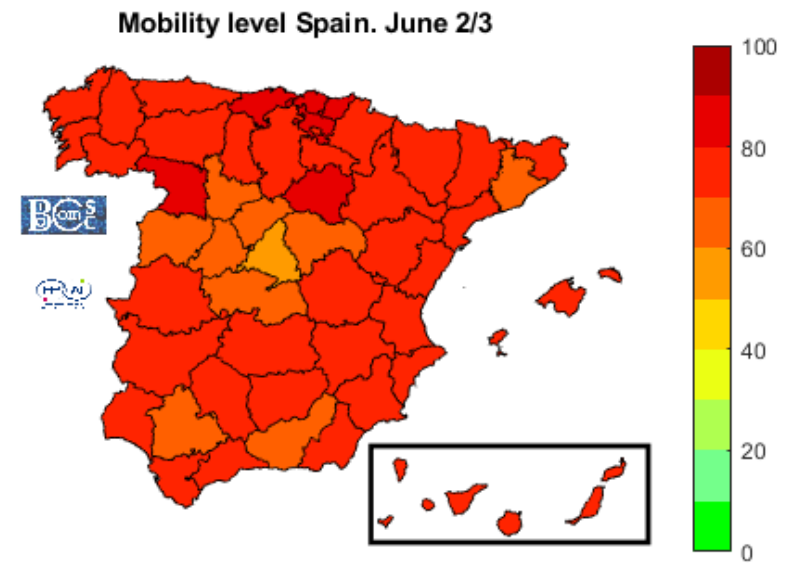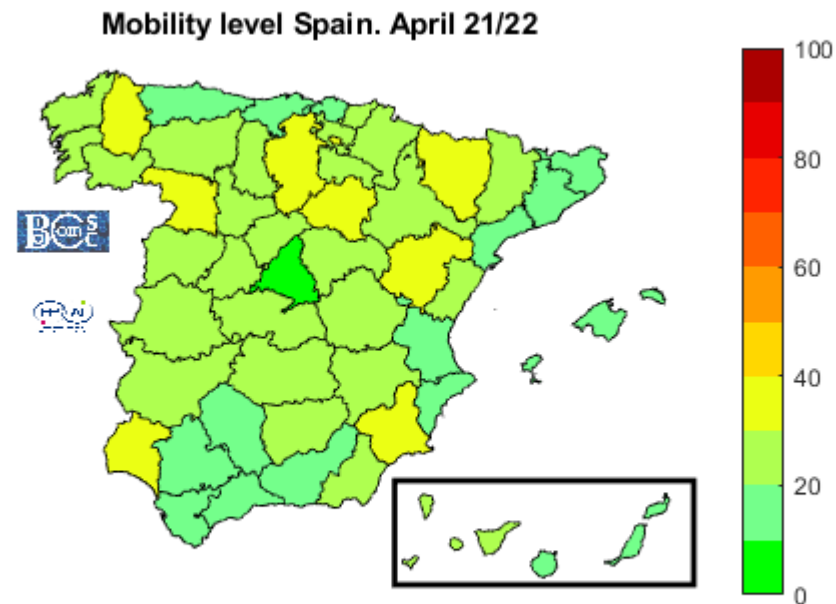
c) Test and tracing with Bluetooth
If reports are confirmed:

- Spreading happens in large clusters: Most people do not infect anyone and a small group infect a lot in clusters of contagion.

- This small group heavily presents by 20-40 years olds, low symptoms, high viral load carrying on their usual business of meeting lots of people

- These large clusters do not happen in cinemas, theaters or public transport. They happen in places like parties, common dorms, ceremonies, classes, indoor restaurants and bars

- Use of voice and object interchange are key

- Use of AC, type of ventilation and type of contact is key

c) Test and tracing with Bluetooth
More problems:

- Most of the 15 minute contacts will be a waste of resources. A 20 year old going to University in public transport can easily meet more than 200 people for more tan 15 minutes in the typical 5-day window of large infectivity. There are no resources to make PCR to all of them.

- A perfect app should detect if you are shouting or singing or rising your voice so that it immediately captures anyone staying in the same room no matter the distance

- A perfect app must detect if there is air conditioning or the level of ventilation. If low it must increase the area of detection with GPS

- A perfect app must also detect the number of objects you are touching or at least detect that you are in a bad environment. It should detect if a public bus is more like a cinema or a party given the specifics of the trip.

Of course you can always hire "this app" to test and trace called humans

Conclusions

- Mobility data, so far, just follow the law.

- Test and trace data, until apps do not become way smarter that they are now, difficult that they are useful. They might become something to worry about when/if they start to be developed. The real issue is how to hire and train more people.

- Dealing properly with private health records is the key privacy issue. Technological resources provided to doctors, nurses and administration to test and trace can be very useful. Public data for epidemiologists to assess the situation also very useful.

How Can LatAm Regulators Promote Innovative and Responsible Data Usage During the COVID-19 Pandemic?

Eduardo Bertoni, Director, Argentinian National Access to Public Information Agency

José Antonio Ziebarth, Director, Brazil Ministry of Economy

Gonzalo Sosa, Head of the Citizens Rights Division, URCDP-AGESIC (Uruguay)

Q&A with all Regulators and participants

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Thank You

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Appendix

Additional slides

Tracking Covid19 with data

Enric Alvarez-Lacalle

a) Reporting to the doctor by app

1) It can also be very useful to report your symptoms by phone in case you have been in contact with a positive

2) Very useful to avoid trips, report isolation and report status of possible symptoms

3) It can clear the doctor office, help to isolate pre-symptomatic carriers. It can make easier to transcript data between labs and doctor offices.

4) Data in the app usually encrypted as in any personal medical record and considered, to all effects, as a personal private health record

c) Test and tracing with Bluetooth

- If the technological issues are solved and Bluetooth technology can indeed get a proper measure of the people you have been in contact with for more than 15 minute. This is a big if due to technology, privacy is rather easy to fulfill with private keys.

- It will provide small benefits (or none) if the preliminary reports we have right now regarding the spreading structure of the epidemics are confirmed.

c)If this is true..

- Large clustering/low dispersion requires that the use of the app should be basically universal (unless it is mandatory, it won't)

- Even if its mandatory, you will have to convince the group of people that might not want to know if they had the disease to carry an app telling them precisely the thing some of them might not want to know.

- Even if you manage that, 20-30% of people do not have smartphones in developed countries (a lot of countries are at 50% or below) and do not use apps. So it is out of the question that it can be the only procedure to test and trace.

SMARTPHONE PENETRATION

1	United Kingdom	66,574,000	83%	54,713,000
2	Netherlands	17,084,000	79.3%	13,547,000
3	Sweden	9,983,000	78.8%	7,864,000
4	Germany	82,293,000	78.8%	64,830,000
5	United States	326,767,000	77.0%	251,688,000
6	Belgium	11,499,000	76.6%	8,813,000
7	France	65,233,000	76.0%	32,598,000
8	Spain	46,397,000	72.5%	33,631,000
9	Canada	36,954,000	72.1%	26,635,000
10	Australia	24,772,000	68.6%	16,999,000
11	South Korea	51,164,000	68.0%	34,562,000
12	Kazakhstan	18,404,000	64.9%	11,938,000
13	Poland	38,105,000	64.0%	24,371,000

APP PENETRATION

Whatsapp:

Sweden: 85%

Germany 84%

Facebook:

Around 50%

Maximum # contacts=(0.85*0.8)**2=45 %

Reasonable # contacts LATAM=(0.6*0.7)**2=15-20%

C) Conclusions on test and trace:

If preliminary indications of how the epidemics spread are correct a "simple" app with Bluetooth will either barely help (85% penetration in all smartphones will detect roughly 1/3 of contacts, probably way lower in LATAM), be useless or a diversion of resources making it harmful.

If technological companies develop an app which is smarter, with voice detection, object detection or type-of-place detection and adjustable distance tracking with GPS and provide and accomplish whatsapp penetration…then it can be a useful help. And then privacy uses really appear.