



Centre for Information Policy Leadership

— HUNTON ANDREWS KURTH —

The Legitimate Interest Legal Basis under the GDPR: Strengths and Opportunities

Virtual Roundtable

21 January 2021

Welcome and Roundtable Goals

Bojana Bellamy, President, CIPL

CIPL Work on Legitimate Interest

Delivering Sustainable Accountability in Practice



4 July 2014

**CIPL Response to the
Article 29 WP
Consultation Regarding
Opinion 06/2014 on the
Notion of Legitimate
Interests of the Data
Controller Under Article 7
of Directive 95/46/EC**



27 April 2017

**CIPL Paper on Legitimate
Interest Grounds for
Processing of Personal
Data under GDPR**



19 May 2017

**Recommendations for
Implementing
Transparency, Consent and
Legitimate Interest
under the GDPR**



Upcoming

**CIPL's upcoming Paper on
Legitimate Interest's
Strengths and
Opportunities**

CIPL has been promoting legitimate interests ground as a legal basis for processing personal data in globally and note a general trend towards its adoption, e.g. Singapore law amendments and the Brazilian LGPD.

Initial CIPL Recommendations on the Legitimate Interest Legal Basis

1

All Article 6 GDPR legal bases **have the same standing** and legitimate interest should **not be considered as a last resort** legal basis, nor a *carte blanche* for irresponsible data use

2

Legitimate interest is **essential for future-proofing** GDPR in the modern digital and AI age and an **enabler of new and beneficial data uses**, with growing application and use cases.

3

It is an **accountable legal basis** - it requires **organisations to balance the risks and benefits** of processing and places on them **the burden of protecting individuals and devising mitigations**

4

Legitimate interests to be considered may include those of the **controller, third parties, individual or groups of individuals and society as a whole**

5

The legitimate interests pursued by the controller may be linked to a **commercial interest**

6

The balancing test includes a **privacy risk assessment** – it must consider the **severity and likelihood of risks to individuals, as well as their reasonable expectations**

7

DPAs should **not compress further the** legal bases and their interpretation, **recognize** the wide use of legitimate interest and encourage and reward **proactive accountability practices** in the application of the legitimate interest ground

CIPL Legitimate Interest Case Studies

Fraud detection and prevention

- Anti-money laundry (AML) watch-lists
- Politically Exposed Persons (PEP)

Information, system, network and cyber security

- Information security operations
- Product and product user security

General corporate operations and due diligence

- Customer analysis
- Back-office operations
- B2B relationship mgmt
- Data processing in M&A

Compliance with foreign law, law enforcement

- Economic sanctions and export control list screening
- Compliance with requests for disclosures

Customers' safety

- Age verification
- Content moderation
- Algorithm training to detect unsafe and harmful behaviours

Product development and enhancement

- Processing of device data to improve app performance
- Monitor use and conduct analytics

Industry self-regulatory schemes

- Industry watch-lists
- Relations with insurers

Employment data processing

- Background checks
- Time recording and reporting
- Use of CCTV for monitoring employees

Communication marketing and personalisation

- Direct marketing
- Audience measurement
- Content personalization

GDPR examples, non-exhaustive : fraud prevention, direct marketing, intra-group transfers for administrative purposes, network and information security.

New data uses

- Machine learning & algorithmic training
- Sharing data for Good
- Privacy Enhancing Technologies

Speakers and Provocateurs



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Olivier Matter

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- ❖ **Jasmien César**, Senior Counsel Privacy & Data Protection Mastercard
- ❖ **Laura Gardner**, Director of Global Privacy Policy, Microsoft
- ❖ **Monika Gorlikowska**, Chief Privacy Officer, Prosus
- ❖ **Mike Lamb**, Chief Privacy Officer, RELX Group
- ❖ **Paul Breitbarth**, Director, EU Policy & Strategy, TrustArc
- ❖ **Simon Hania**, Senior Director Data Protection Office/DPO, Uber
- ❖ **Barry Murphy**, Senior Privacy Counsel, Vodafone

Updates on the EDPB work on Legitimate Interest

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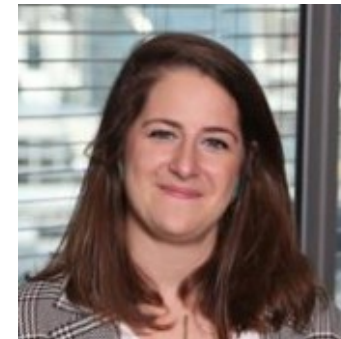
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