

GDPR: Trusting the use of your personal location data

GDPR and location data
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Some Context

Data Breaches

Hacking

Spying/ "microwaving"

Terrorism

Corporate Espionage

Misuse/ Greed – Cambridge Analytica

The untrained

The uncaring

Big Data

Blockchain

Information Sharing

IOT etc



Source:
<http://www.imdb.com/title/tt0285331/>

Key purposes of GDPR

- 1) Strengthen individual human rights
- 2) Facilitate business by simplifying rules
- 3) Remove costly fragmented administration (est €2.3 billion per annum)
- 4) Policing - protect personnel data of witnesses, victims and suspects of crime
- 5) Facilitate cross-border cooperation on the fight against crime and terrorism

Source: DG JUST

Comparison of Data

	Privacy by design	Certifications	Security	Data Ownership
Data Protection Directive (1995)			✓	✓
ePrivacy Directive (2002)		✓	✓	
GDPR (May 2018)	✓	✓	✓	✓

*NIS Directive (July 2016), Cybersecurity Package (September 2017) – ESPRESSO Project

Definition of Personal Data in GDPR

'Personal data' means any information related to an identified or identifiable natural person ('data subject'); an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, **location data**, on line identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person.

No definition of location data in GDPR

Location and Data Protection not New?

- Working Party 29 issue opinion in **November 2005** on Location data (WP 115)
- Concerned with
 - Use of satellite data – ‘...only available to those equipped with appropriate terminals’
 - Mobile telephony
- Recognised that there are many ways a person could be located using ‘traces’ (their emphasis) on for example ticket machines in the transport sector, GPS, bank cards, electronic purses or mobile telephones.
- **Telephone industry** originally identified location information ‘traffic data’
- Opinion that industry understands location data has a value as it showed ‘....who is where’

Location Data – Key Features to Note

- Location Data Represented at three levels
 - 1) General – established place Names – Countries, areas, cities, monuments & buildings, streets, addresses
 - 2) User Dependent places names – general and exact addresses
 - 3) Technical – Projections – Latitude and Longitude (WGS84)

In addition location data scales well is universal, transcends language and cultures, and is it is more available than ever before.

Data Protection – What is personal and how can location be personal?

Data subject identifiable by:

1. Individual name
2. Phone number
3. Email address
4. Unique number e.g. employee/customer number

However, location data enables the “identification and singling out of an individual and will often be calculable”

“So even if you never intend to **link location data** that you are collecting for a particular person it will likely amount to personal data despite not naming the individual in question”

If **linked** location data reveals a persons movement it may be enough to identify the home address or place of work

[Guidance Note for Data Controllers on Location Data, Data Protection Commission, Ireland](#)

Data protection and location get personal

We need to look at both the range and context of the data collected OR available:

- Is the data on its own personal or does it become personal when linked to other data sets?
- Where does the responsibility lie – are you a data controller or Processor
 - Who produces the data?
 - Who combines datasets?
 - Could both producer and combiner have mutual responsibility?

European Commission note re Land Parcel Information Systems (June 2017)

- Personal data can be collected for
 - Monitoring and evaluation under CAP
 - Statistical Purposes – anonymous & aggregated
 - Inform data subjects that their personal data maybe processed by national and Union bodies
 - **INSPIRE** – “..public tasks that may have an impact on the environment.” Meet reporting obligations. Access to data sets in accordance to harmonised conditions.
 - Public Interest
- However,
“ where such access would adversely affect the confidentiality of personal data That person has not consented to the disclosure ...”

European Commission note re Land Parcel Information Systems (June 2017)

- LPIS based on maps and land registry documents or other cartographic documents at first sight do not seem to qualify as personal data.
- As long as ***they don't link individual land parcels to individual beneficiaries***
- ***Spatial data on agriculture land parcels taken in isolation generally do not constitute personal data. Only if they could be linked to an identifiable person would it amount to personal data.***

Inspire Themes and GDPR

Can the themes be linked? Could they be personal or become personal?

- Addresses
- Land Cover
- Geology
- Orthoimagery
- Cadastral Parcels
- Geographical Grid Systems
- Hydrography
- Transport Networks
- Administrative Units
- Oceanographic Geographical Features
- Production & Industrial Facilities
- Soil
- Statistical Units
- Land Use
- Energy Resources
- Habitats & Biotopes
- Mineral Resources
- Buildings

Big Data, INSPIRE and GDPR impact

- GDPR principles clash with Big Data in the following four areas:
 - Purpose limitation
 - Data minimisation
 - Special categories
 - Automated decisions
- By its nature Big Data is about trying to find new patterns and any limits, minimisation or removal of automated decision making may cause difficulties

Source Tal Z Zarsky et al Incompatible: The GDPR in the Age of Big Data

Location and Big Data – Geosurveillance

- Three unique qualities of location data in Big Data
 - Pervasive – continuous
 - Platform Independent
 - Indiscriminate
- Location data uniquely sensitive as it can be used to describe
 - Where you go
 - Where you have been
 - Where you could be going

GDPR in a nutshell

- Under GDPR we are moving
FROM “Asking for Forgiveness not Permission”
TO: “Asking for Permission not Forgiveness”
- You need to be upfront about what of my data you want, why you want it and how you are going to use it.
- Its about Accountability and Trust.