

Privacy and Marketing: The Consumer Perspective

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One Recent Case

Ref No.: 2007E01

Whether a data user would contravene the requirements of the Personal Data (Privacy) Ordinance ("the Ordinance") by posting an individual's personal data publicly on a website without obtaining his/her prior consent

Q: I noted that both my name and photograph have been posted on a website (the "Website") without my prior consent. The question is whether such disclosure contravenes the Ordinance.

A: Given that it is reasonably practicable for a person to ascertain your identity from the disclosure of both your name and photograph in the Website, such data would generally be regarded as your "personal data" as defined under section 2(1) of the Ordinance.

Concerning disclosure of your personal data on the website, Data Protection Principle ("DPP") 3 in Schedule 1 to the Ordinance states that personal data shall not, without the prescribed consent of the data subject, be used, for any purpose other than the purpose for which the data were to be used at the time of the collection of the data, or a directly related purpose. The word "use" is defined under section 2(1) of the Ordinance to include the disclosure or transfer of the personal data. Therefore, if the disclosure of your personal data on the Website by the relevant data user is for purposes that are directly related to the original purpose of collection, then such disclosure may not be inconsistent with DPP3; otherwise, your prescribed consent is required prior to such disclosure.

However, please note that there are exemptions from the application of DPP3 under the Ordinance in particular section 52 which stipulates that personal data held by an individual and concerned only with the management of his personal, family or household affairs, or so held only for recreational purposes, are exempt from the provisions of the data protection principles of the Ordinance. If your described situation falls within the scope of section 52 or any other exemptions under the Ordinance, there may not be any contravention of the requirements of the Ordinance.

A few questions:

- What is the original purpose of data collection on social networks?
- What is "personal, family, or household affairs", and "recreational purposes"?

Can I share my friends' personal data on Facebook or LinkedIn?

More Examples

Compressed Data; Fame Is No Laughing Matter for the 'Star Wars Kid'

By AMY HARMON
Published: May 19, 2003

The Internet is riveted by a video of Ghyslain, a 15-year-old boy in Quebec who filmed himself wielding a double-bladed light saber in the manner of Darth Maul, the bad guy from "Star Wars: Episode I -- The Phantom Menace."

In the video, Ghyslain brandishes a golf ball retriever in a series of maneuvers that are both painfully awkward and unmistakably joyful. Wearing khakis and a button-down shirt, Ghyslain, who is heavy-set, plays his character with great intensity, glaring into the camera and making sounds to accompany his moves.

Since it was released on the Web late last month as a prank by fellow high school students who discovered the clip, the video has been downloaded more than a million times. Also in circulation are several "remixes," adding special effects to make the stick glow like a light saber and setting the action to music.

Short videos of embarrassing, funny or ill-fated moments are common Internet fare. But this one, known as the Star Wars Kid, has traveled farther, faster and commanded more attention than any in recent memory. It seems to be serving as a Rorschach test for geek self-perception.

Many of the comments on Web sites that showcased the video are simply nasty, making fun of Ghyslain, who is not identified in the video, for being overweight or, as one comment put it, "dweeby." But others applaud the un-self-conscious display of physical enthusiasm by someone who is not captain of the football team.

EMAIL

PRINT

Florida teacher fired after she rented party penthouse for students that included alcohol, condoms

Isabel Diaz-Almaraz was a popular dance teacher at South Miami Senior High School. But officials investigated her last summer following allegations that she supplied the booze to the students for a prom after-party.

BY ERIK ORTIZ / NEW YORK DAILY NEWS / Thursday, October 17, 2013, 10:47 AM

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Teacher Isabel Diaz-Almaraz was fired following a Miami-Dade

The party's over for a popular suburban Miami dance teacher.

Isabel Diaz-Almaraz was officially axed Wednesday from her job at South Miami Senior High School after a student posted incriminating photos online suggesting he received a "party platter" full of booze and condoms from her.

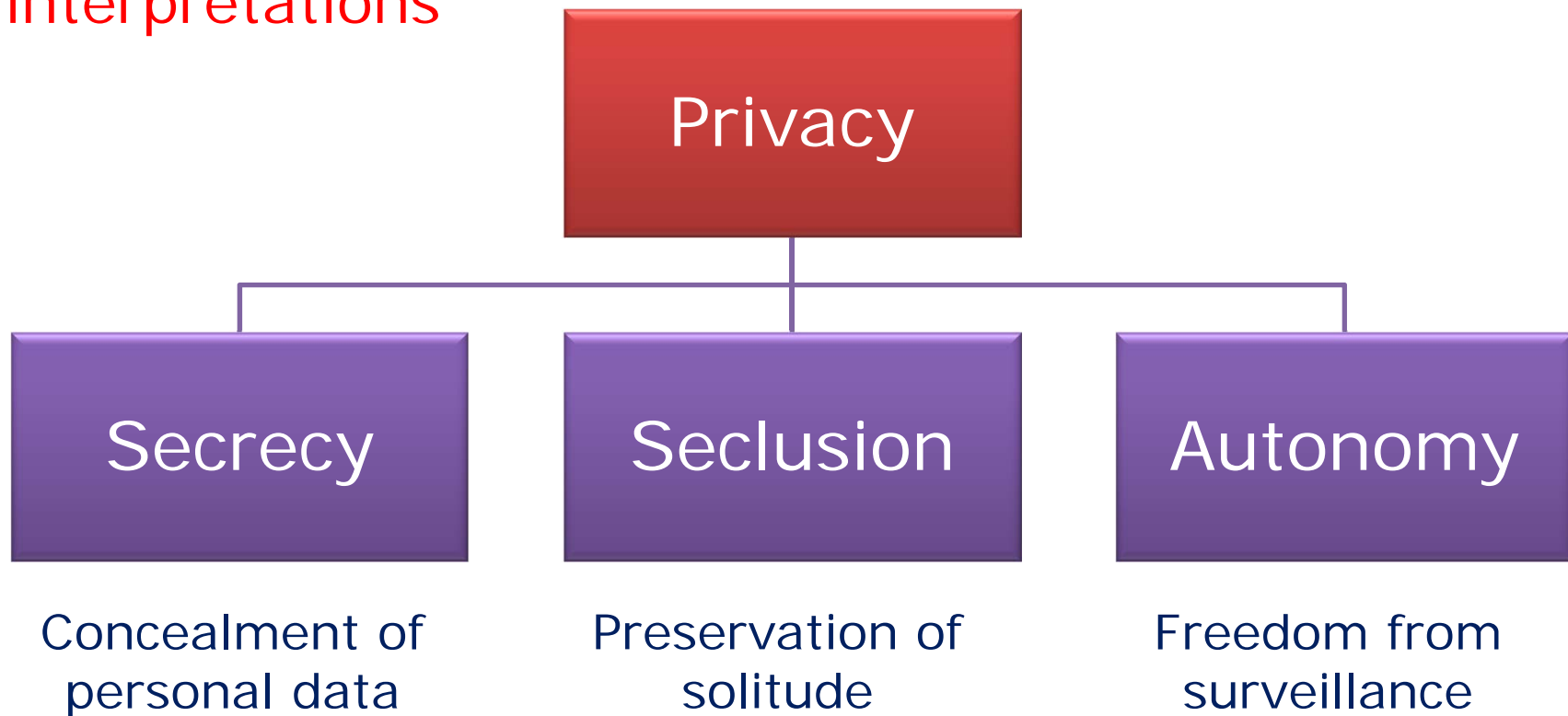
She was initially suspended without pay in September 2012 following an investigation.

A 46-page document claims Diaz-Almaraz used \$1,000 from her PayPal account to rent a penthouse suite for students last year during a prom after-party.

A student posted a picture on Instagram of the four-bedroom penthouse overlooking the ocean, as well as a second picture of a party tray.

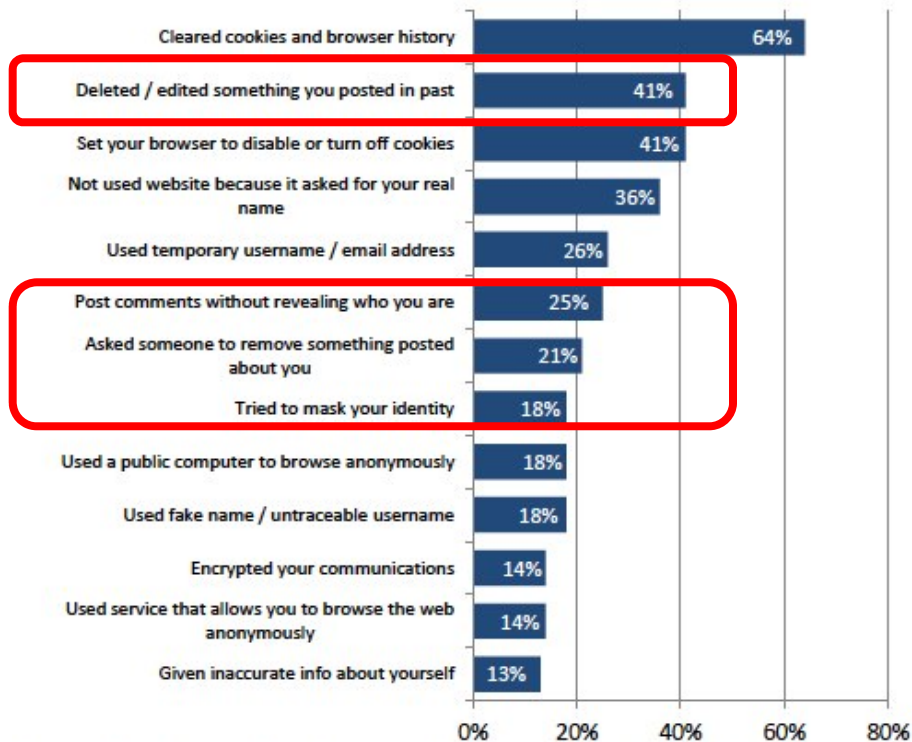
What Is Privacy?

Three
interpretations



Some Recent Data: The Need for Anonymity

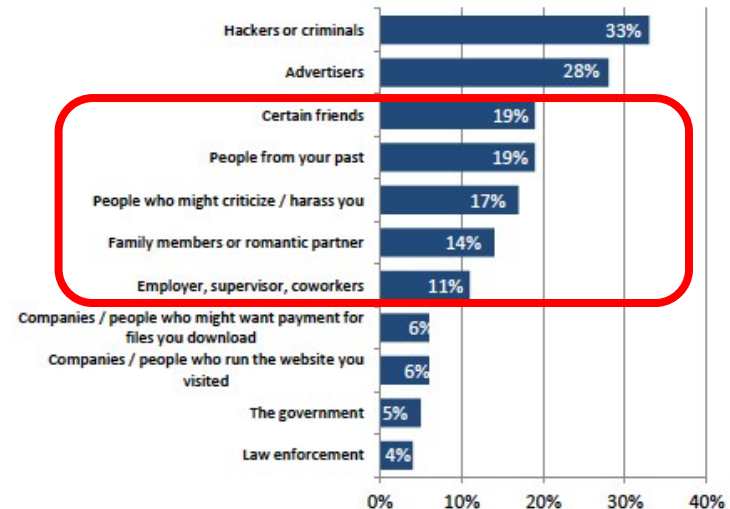
The strategies people use to be less visible online
% of adult internet users who say they have done these things online



Source: Pew Research Center's Internet & American Life Project Omnibus Survey, conducted July 11-14, 2013, on landline and cell phones. N=792 for internet users and smartphone owners. Interviews were conducted in English on landline and cell phones. The margin of error on the sample is +/- 3.8 percentage points.

Who users try to avoid

% of adult internet users who say they have used the internet in ways to avoid being observed or seen by ...



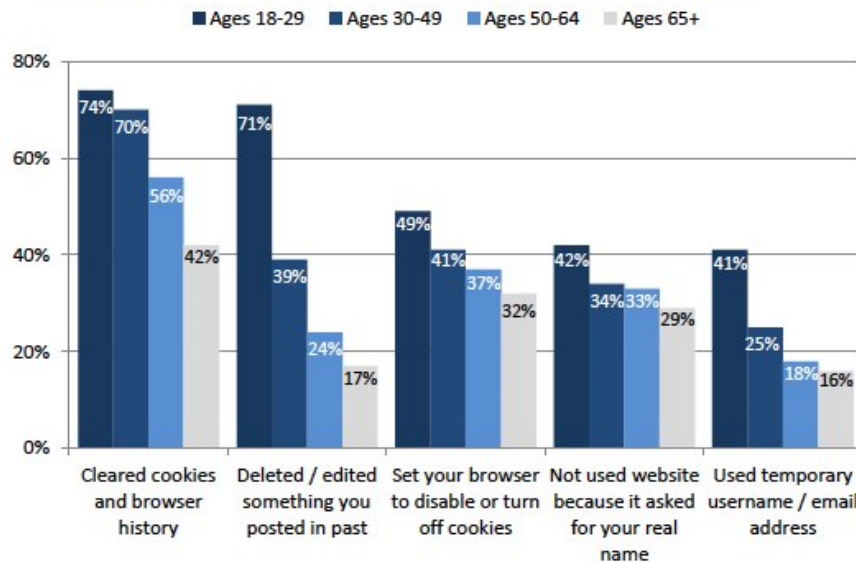
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Image source: Anonymity, Privacy, and Security Online
Pew Research Center

Some Recent Data: The Need for Anonymity

Young adults are the most likely to use most strategies to be less visible online

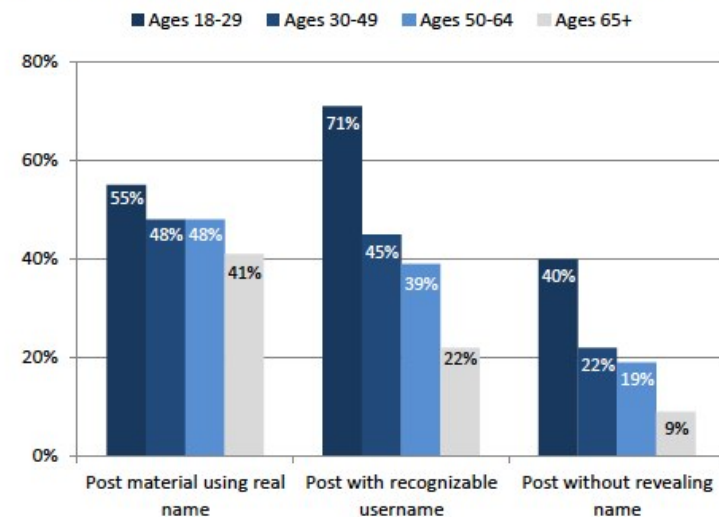
% of adult internet users in each age cohort who say they have done these things online



Source: Pew Research Center's Internet & American Life Project Omnibus Survey, conducted July 11-14, 2013, on landline and cell phones. N=792 for internet users and smartphone owners. Interviews were conducted in English on landline and cell phones. The margin of error on the sample is +/- 3.8 percentage points.

Young adults are most likely to use all three strategies when they post material

% of adult internet users in each age cohort who do these things when they create content online



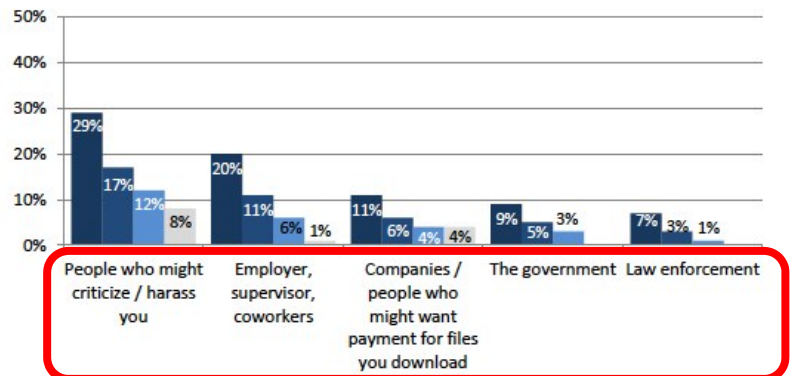
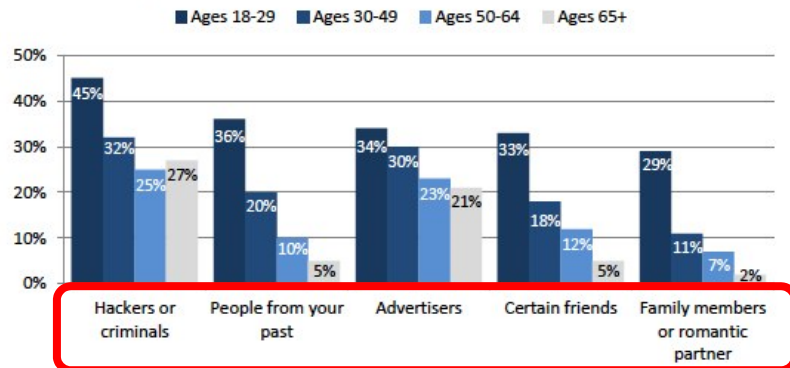
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Pew Research Center

Some Recent Data: The Need for Anonymity

Young adults are the most likely to take steps to hide from others online

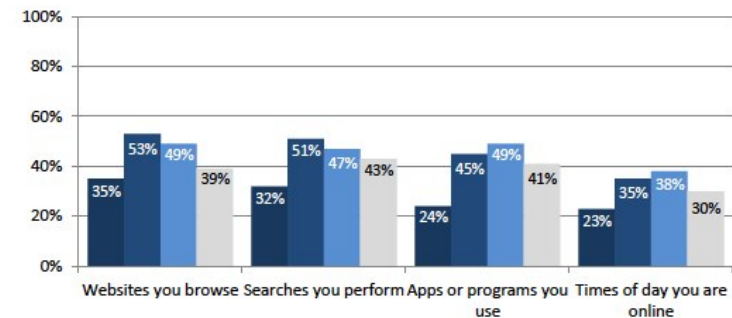
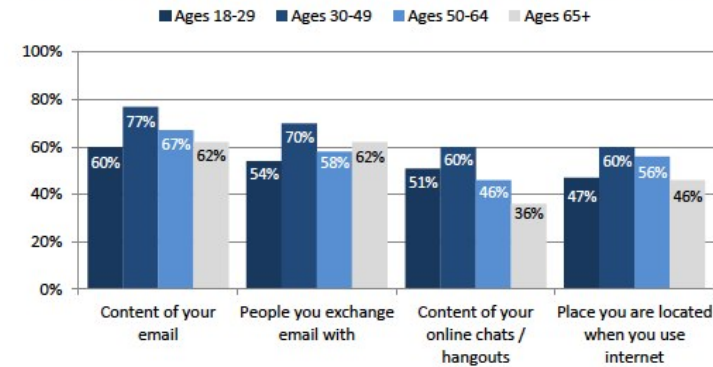
% of adult internet users in each age cohort who say they have tried to avoid being observed by these people or organizations



Source: Pew Research Center's Internet & American Life Project Omnibus Survey, conducted July 11-14, 2013, on landline and cell phones. N=792 for internet users and smartphone owners. Interviews were conducted in English on landline and cell phones. The margin of error on the sample is +/- 3.8 percentage points.

Those ages 30-49 are often most eager to control access to their personal information

% of adult internet users who say it is very important to them to control these pieces of information



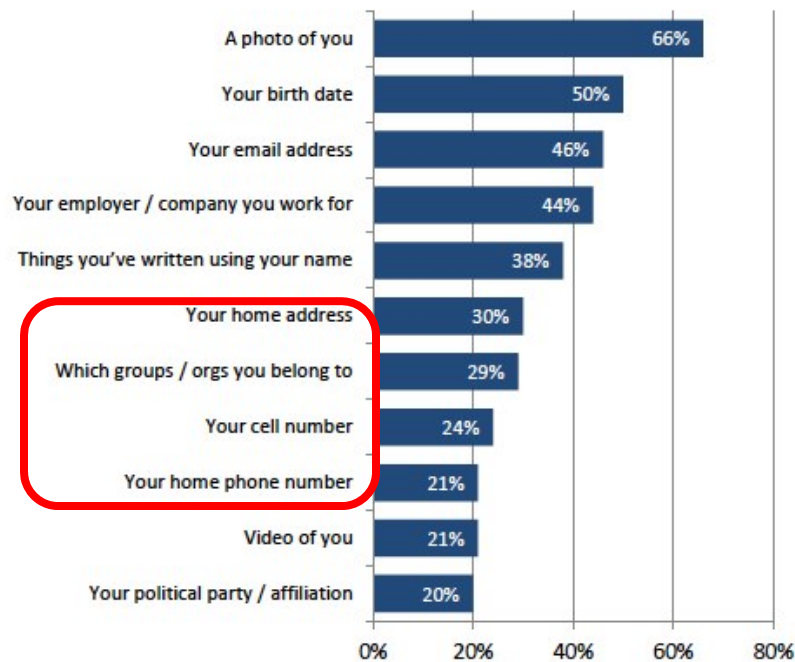
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Pew Research Center

Some Recent Data: The Status Quo

Personal information online

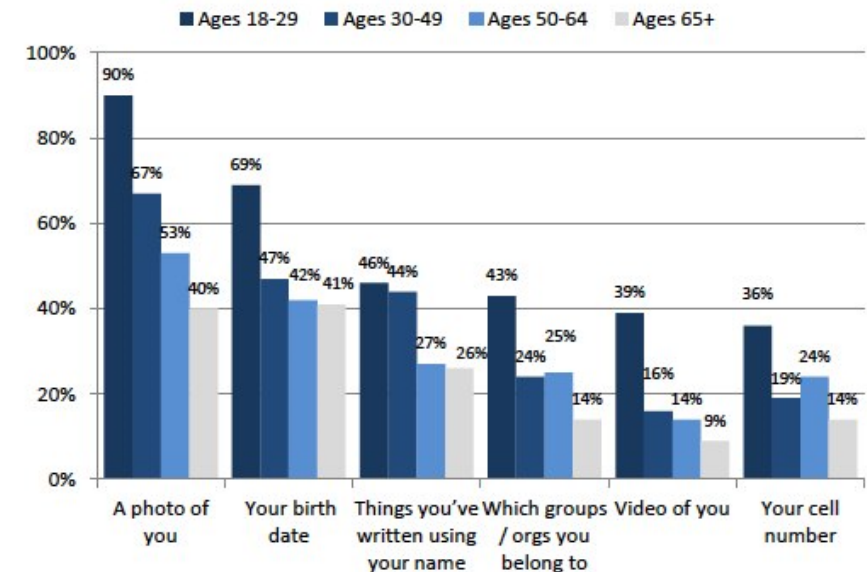
% of adult internet users who say this information about them is available online



Source: Pew Research Center's Internet & American Life Project Omnibus Survey, conducted July 11-14, 2013, on landline and cell phones. N=792 for internet users and smartphone owners. Interviews were conducted in English on landline and cell phones. The margin of error on the sample is +/- 3.8 percentage points.

Young adults are the most likely to have some key personal information about them available online

% of adult internet users in each age cohort who say these details about them are available online



Source: Pew Research Center's Internet & American Life Project Omnibus Survey, conducted July 11-14, 2013, on landline and cell phones. N=792 for internet users and smartphone owners. Interviews were conducted in English on landline and cell phones. The margin of error on the sample is +/- 3.8 percentage points.

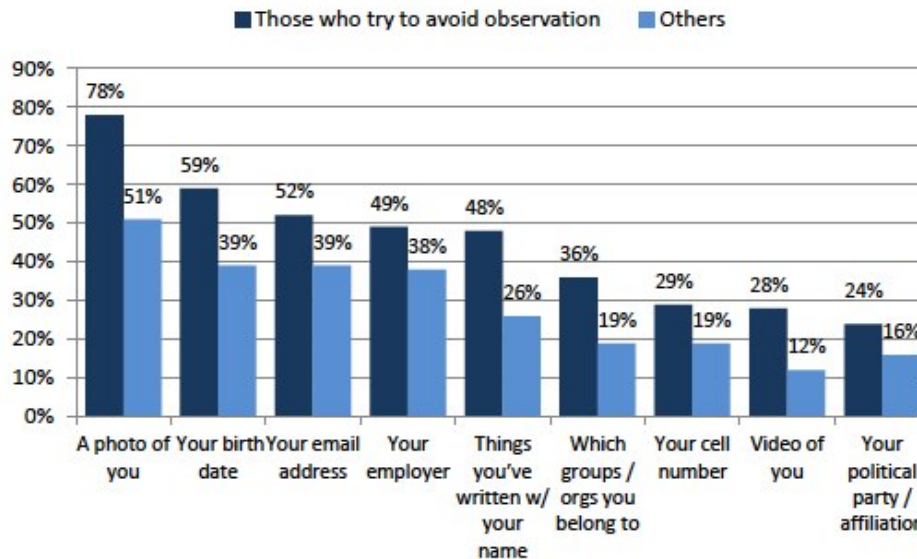
Image source: Anonymity, Privacy, and Security Online
Pew Research Center

Some Recent Data: The Status Quo



The internet users who try to avoid others also often have the most personal information available online

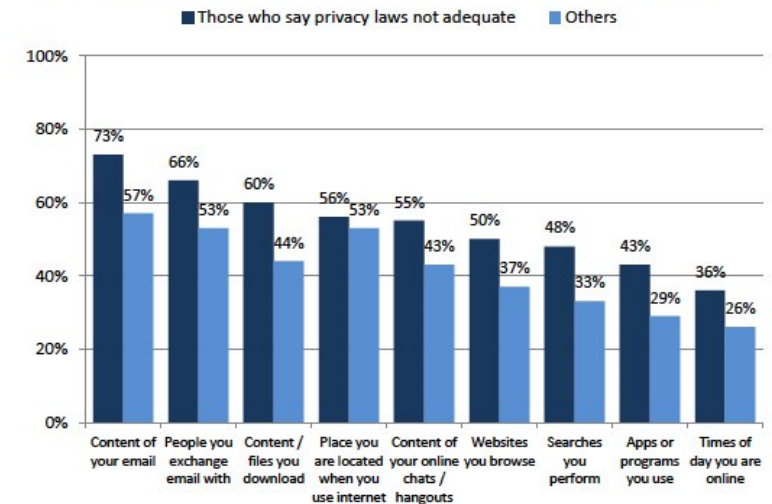
% of adult internet users who have taken steps to avoid observation by others compared with non-avoiders on the kinds of personal information that is available about them online



Source: Pew Research Center's Internet & American Life Project Omnibus Survey, conducted July 11-14, 2013, on landline and cell phones. N=792 for internet users and smartphone owners. Interviews were conducted in English on landline and cell phones. The margin of error on the sample is +/- 3.8 percentage points.

Those who say current privacy laws are not adequate are more likely to hold strong views about controlling personal data

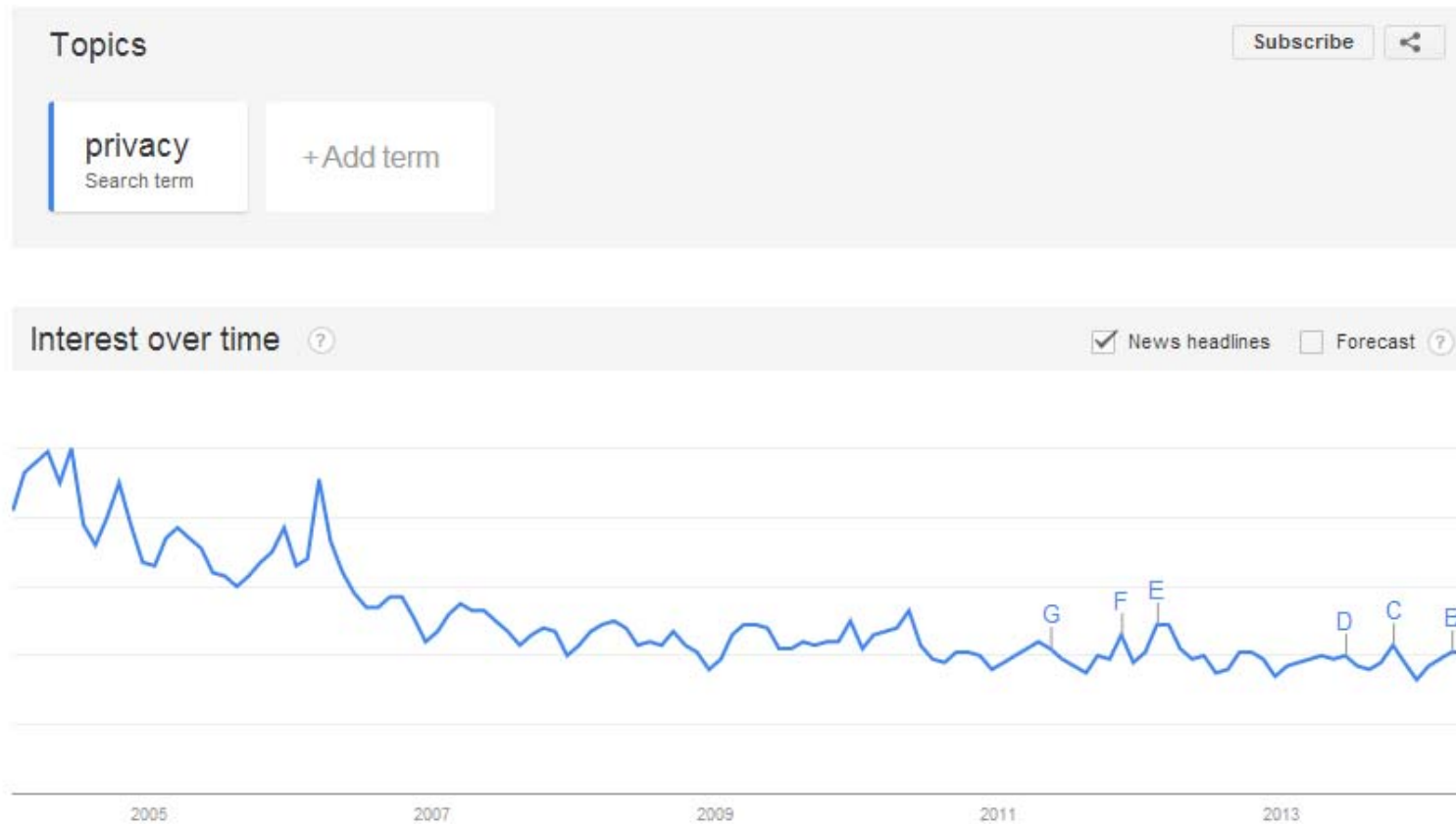
% of adult internet users who say it is very important to them to control these pieces of information



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More Interesting Trends



Similar downward trends for “privacy law”, “privacy online”, “privacy commissioner”

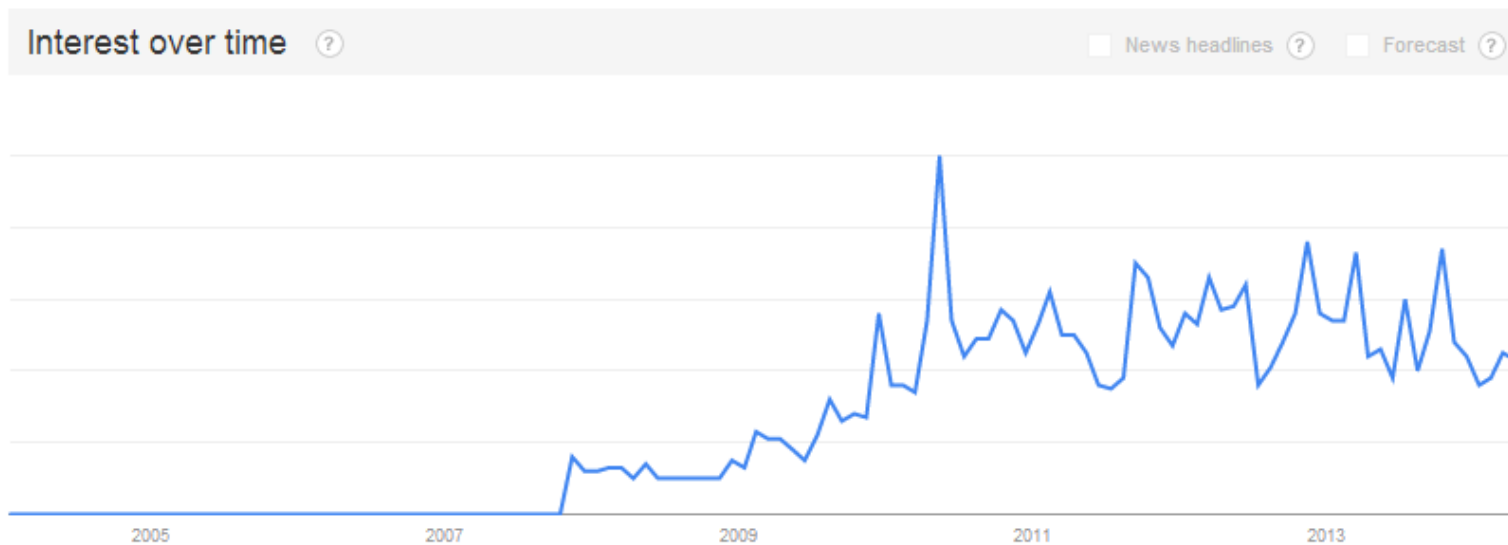
Let's Change A Little Bit



Topics Subscribe

privacy and facebook
Search term

+ Add term



Similar upward trends for “privacy twitter”, “privacy mobile”, “privacy Youtube”

Earlier Evidence (1)

- People value privacy statements but not seals (trust marks), but monetary benefit can facilitate disclosure (Hui, Lee, Teo, 2007)

Scenario	Probability
No treatment (baseline)	90.33%
Add a privacy statement	96.94%
Add a privacy statement and privacy seal	98.81%
Add \$5	98.48%
Request for mean number of items (as reported in Table 1), with mean information sensitivity	34.50%
Add all treatments together	97.03%

Earlier Evidence (2)

- People are willing to forego privacy in exchange for benefits (Hann, Hui, Lee, and Png, 2007)

Table 3. Value of Privacy (in U.S. dollars)

Web site privacy policy	Value	
	United States	Singapore
Review for error	\$11.18–16.36	\$10.45
Restriction against improper access	\$11.33–16.58	\$19.73
Secondary use not allowed	\$7.98–11.68	\$26.93

Why Such (Conflicting) Preferences?



- People make privacy (economic) tradeoffs
- But, they also prefer immediate gratifications (consumptions)
 - Hyperbolic discounting: valuations fall very rapidly for small delay periods, but then fall slowly for longer delay periods
 - Bounded rationality
- Other factors
 - Framing
 - Incomplete information and understanding
 - Economic (endowment) considerations

Implications

- Privacy as a human right that should be absolutely protected?
- Data as a property that can be traded?
 - How to set up the market?
 - How to ensure consumers are fully informed?
 - How to enforce subsequent control?
- Difference between privacy and security

A Bigger Challenge



- Peer disclosure of personal data
 - A particularly common phenomenon in online social networks
- Immediate task: The dual-use of technologies
 - e.g., facial recognition tools to identify disclosure
 - Social network analysis to identify unwanted or “dangerous” connections

Questions?



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