

# Ethics and Digital Technologies: Data

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# Sources of inspiration

- ▶ edX MOOC from the University of Michigan (2016): *Data Science Ethics*
- ▶ *Ethical IT Innovation* (2016). S. Spiekermann. CRC Press.
- ▶ *L'éthique aux interfaces entre biologie/santé et sciences de l'information* (2016). H. Chneiweiss. (with his approval)
- ▶ Wikipedia

## (some) Basics about Intellectual Property Rights

Ignorance of the Law is no Excuse

Free Copyright Licenses

"All your data are belong to us"

To finish

Law is not Ethics. . .

. . .but I want you to be aware of some basics about data

# Finding texts

Using your favorite browser, enter the following request:

"hitchhicker's guide to the galaxy pdf"

What can you find? Are you allowed to use it?

# Finding texts

Using your favorite browser, enter the following request:

"victor hugo les misérables pdf"

What can you find? Are you allowed to use it?

# Copyright

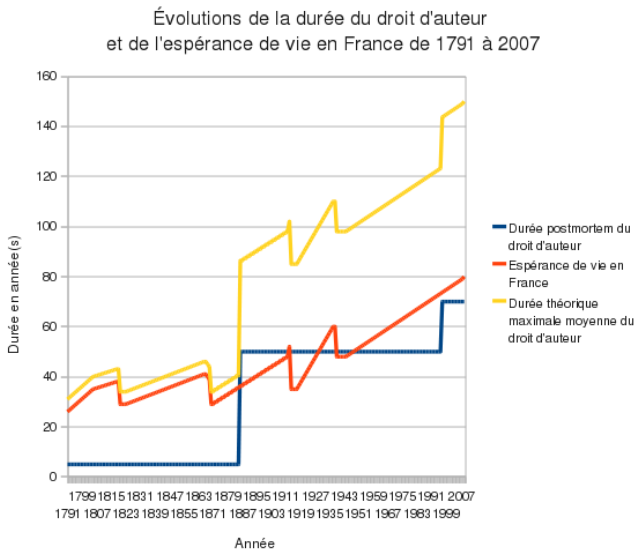
in the EU

Protection of the creations limited in time

- ▶ Directive européenne sur l'harmonisation de certains aspects du droit d'auteur et des droits voisins dans la société de l'information (1993)
- ▶ French law of March 27th, 1997

70 years after the death of the author(s)

# Copyright: evolution of the duration for France





# Exceptions

Concept of *fair use* in the United States (95 years of copyright) and *fair dealing* in the Commonwealth countries

- ▶ depending on the **use**: commercial or non-commercial (for example, educational or research purpose)

In France (Intellectual Property Code)

- ▶ free and private presentation of a creation within the family circle
- ▶ private copy (for your personal use or for relatives)
- ▶ short citation

# So what?

## The Hitchhiker's Guide to the Galaxy

- ▶ Douglas Adams
- ▶ English
- ▶ died in 2001

## Les Misérables

- ▶ Victor Hugo
- ▶ French
- ▶ died in 1885

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depends on the edition...

## Public Domain (*copyleft*)



All the books available for download on the Project Gutenberg Website are in the public domain

<http://www.gutenberg.org/>

# What about?

images found on the Web

# What about?

images found on the Web

To check (in Google image,  
*Tools, Usage Rights*)



# What about?

blogs

# What about?

blogs



# What about?

Doctissimo

# What about?

Doctissimo



# What about?

Twitter

# What about?

Twitter

?

work of art?

- ▶ originality
- ▶ form

[https:](https://scinfolex.com/2015/07/30/twitter-le-micro-plagiat-et-la-physique-quantique-du-copyright/)

[//scinfolex.com/2015/07/30/twitter-le-micro-plagiat-et-la-physique-quantique-du-copyright/](https://scinfolex.com/2015/07/30/twitter-le-micro-plagiat-et-la-physique-quantique-du-copyright/)

# What about?

Facebook

# What about?

Facebook





# Facebook

Date: Tue, 27 Oct 2015 22:31:12 -0700  
From: "Eric Ringger" <ringger@cs.byu.edu>  
Subject: [Corpora-List] Facebook's policy with regard to sharing content  
To: "'Manuel Burghardt'" <manuelburghardt@gmx.de>,<corpora@uib.no>

Greetings, Manuel.

Thanks for checking regarding the Facebook dataset you have gathered.

I followed up with folks here at Facebook and found that the short answer to your question is that publishing Facebook data is essentially not permissible. The written policy for external developers can be found here:

<https://developers.facebook.com/policy>

Two points from the policy regarding the API for data access are worth highlighting: one must both "Obtain consent from people before publishing content on their behalf" and "Protect the information you receive from us against unauthorized access, use, or disclosure."

As I'm sure you understand, user privacy is a top priority for everyone at Facebook. I also know the team is open to feedback from the research community regarding these policies. I'd be happy to pass along any feedback you may have.

Regards,  
--Eric  
Research Scientist, Facebook  
Associate Professor, CS, BYU

# An Open Source Heritage

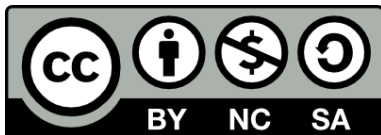
"Gnu's Not Unix"

"the users have the freedom to run, copy, distribute, study, change  
and improve the software"

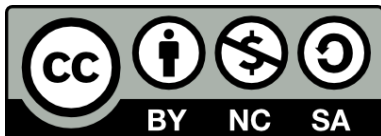
<https://www.gnu.org/philosophy/free-sw.html>



## CC licenses: example



## CC licenses: example



Creative Commons:

- ▶ by: attribution
- ▶ nc: *non commercial*
- ▶ sa: *share alike* → viral

<https://creativecommons.org/licenses/by-nc-sa/3.0/fr/>

## (some) Basics about Intellectual Property Rights

"All your data are belong to us"

Definition

What Happens to Data?

Back to Consent

To finish



SINCE 1828

JOIN MWU

GAMES

BROWSE THESAURUS

WORD OF THE DAY

VIDEO

W

data

DICTIONARY

THESAURUS

# data

noun, plural in form but singular or plural in construction, often attributive

da·ta | \ 'dā-tə,  'da- also 'dä-  \

## Definition of *data*

- 1 : factual information (such as measurements or statistics) used as a basis for reasoning, discussion, or calculation

// the *data* is plentiful and easily available

— H. A. Gleason, Jr.

// comprehensive *data* on economic growth have been published

— N. H. Jacoby

- 2 : information in digital form that can be transmitted or processed

- 3 : information output by a sensing device or organ that includes both useful and irrelevant or redundant information and must be processed to be meaningful

## Art. 4 GDPR Definitions

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For the purposes of this Regulation:

- (1) 'personal data' means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural 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, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;

<https://gdpr-info.eu/art-4-gdpr/>



# Sensitive Data

specifically protected ?

Art. 9 GDPR

## Processing of special categories of personal data

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1. Processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation shall be prohibited.

<https://gdpr-info.eu/art-9-gdpr/>

# Sensitive Data: exceptions

2. Paragraph 1 shall not apply if one of the following applies:
  - (a) the data subject has given explicit consent to the processing of those personal data for one or more specified purposes, except where Union or Member State law provide that the prohibition referred to in paragraph 1 may not be lifted by the data subject;
  - (b) processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller or of the data subject in the field of employment and social security and social protection law in so far as it is authorised by Union or Member State law or a collective agreement pursuant to Member State law providing for appropriate safeguards for the fundamental rights and the interests of the data subject;
  - (c) processing is necessary to protect the vital interests of the data subject or of another natural person where the data subject is physically or legally incapable of giving consent;

<https://gdpr-info.eu/art-9-gdpr/>

# Sensitive Data: exceptions again

- (d) processing is carried out in the course of its legitimate activities with appropriate safeguards by a foundation, association or any other not-for-profit body with a political, philosophical, religious or trade union aim and on condition that the processing relates solely to the members or to former members of the body or to persons who have regular contact with it in connection with its purposes and that the personal data are not disclosed outside that body without the consent of the data subjects;
- (e) processing relates to personal data which are manifestly made public by the data subject;
- (f) processing is necessary for the establishment, exercise or defence of legal claims or whenever courts are acting in their judicial capacity;
- (g) processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject;

<https://gdpr-info.eu/art-9-gdpr/>

# Sensitive Data: exceptions again again

- (h) processing is necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services on the basis of Union or Member State law or pursuant to contract with a health professional and subject to the conditions and safeguards referred to in paragraph 3;
- (i) processing is necessary for reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of quality and safety of health care and of medicinal products or medical devices, on the basis of Union or Member State law which provides for suitable and specific measures to safeguard the rights and freedoms of the data subject, in particular professional secrecy;

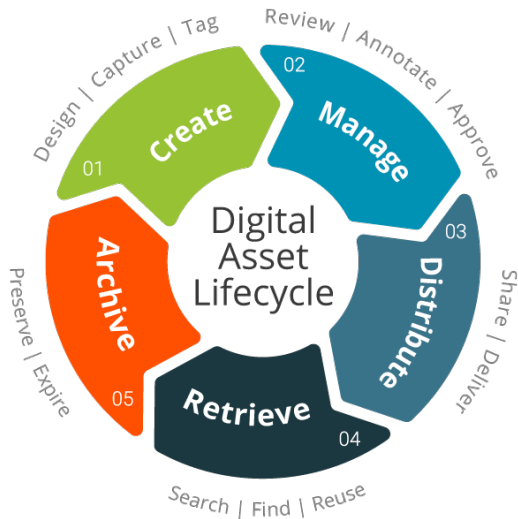
<https://gdpr-info.eu/art-9-gdpr/>

# Sensitive Data: exceptions again again again

- (j) processing is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with [Article 89\(1\)](#) based on Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.

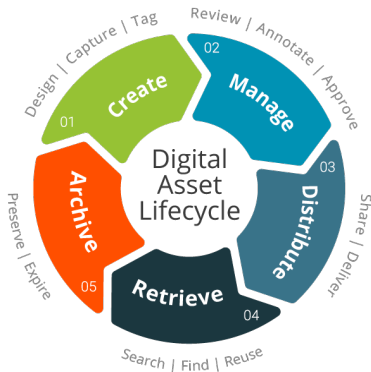
<https://gdpr-info.eu/art-9-gdpr/>

# Data Lifecycle



Haztowichp - CC BY-SA

# Ethical Hot Spots?



Haztowichp - CC BY-SA

Exercise your "ethical" brain

Identify the potential ethical "hot spots" in the data lifecycle (take a concrete example to illustrate)

# What Consent Means (or not), by ©Boulet





# Informed Consent

The Nuremberg Code (1947) states that consent can be voluntary **only if**:

- ▶ participants are **able** to consent
- ▶ they are **free from coercion**
- ▶ they **comprehend** the risks and benefits involved

# Art. 7 GDPR: Conditions for consent (1/2)

## Art. 7 GDPR Conditions for consent

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1. Where processing is based on consent, the controller shall be able to demonstrate that the data subject has consented to processing of his or her personal data.
2. <sup>1</sup> If the data subject's consent is given in the context of a written declaration which also concerns other matters, the request for consent shall be presented in a manner which is clearly distinguishable from the other matters, in an intelligible and easily accessible form, using clear and plain language. <sup>2</sup> Any part of such a declaration which constitutes an infringement of this Regulation shall not be binding.

<https://gdpr-info.eu/art-7-gdpr/>

## Art. 7 GDPR: Conditions for consent (2/2)

3. <sup>1</sup> The data subject shall have the right to withdraw his or her consent at any time. <sup>2</sup> The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal. <sup>3</sup> Prior to giving consent, the data subject shall be informed thereof. <sup>4</sup> It shall be as easy to withdraw as to give consent.
4. When assessing whether consent is freely given, utmost account shall be taken of whether, *inter alia*, the performance of a contract, including the provision of a service, is conditional on consent to the processing of personal data that is not necessary for the performance of that contract.

<https://gdpr-info.eu/art-7-gdpr/>

# Consequences in Practice

There is **no** consent if no decision is made:

- ▶ opt in vs opt out
- ▶ importance of the default settings
- ▶ possibility to withdraw one's consent at anytime



<https://www.grosbill.com/>

# Exercise

Exercise your "ethical" brain

Go on the [Facebook homepage](#) (disconnect if you are connected) and evaluate to what extent the consent of a new user is informed.

(some) Basics about Intellectual Property Rights

"All your data are belong to us"

To finish

WYHTR: What You Have To Remember



- ▶ basics about copyright
- ▶ data lifecycle and ethical hotspots
- ▶ consent, consent, consent