

Privacy, Data-Protection & Location Data

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Session of the Product Law and Advertising Committee



Mobile Marketing

- Movie alerts at nearby theatres
- Offers from restaurants and stores
- Location-based, time specific coupons
- On-the-fly offers
- Etc...



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- Movie alerts at nearby theatres
- Offers from restaurants and stores
- Location-based, time specific coupons
- On-the-fly offers
- Your imagination set the limits.



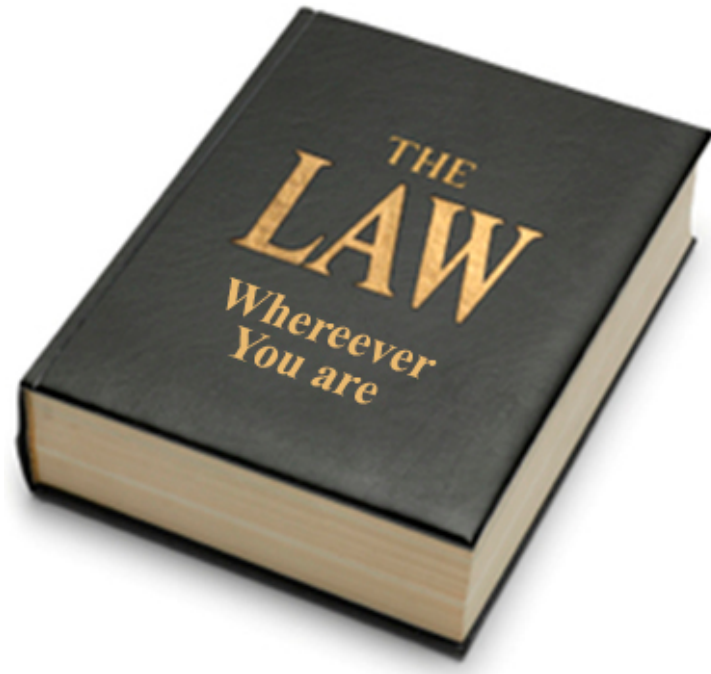
Privacy concerns

- Collection of consumer identifying data
- Use
- Disclosure
- Processing of location based data, previous behaviour and other data create new possibilities and privacy threats.



Legal regulation

- Mobile carriers' use of location based data regulated by federal law
- Use of personal data must comply with European data protection legislation
- Breach of own Privacy Policy may be considered as unfair trade practices under the Federal Trade Commission Act
- Anti-spam legislation



Solution - anonymous?

- Make data anonymous?
- "personal data" shall mean any information relating to an identified or identifiable natural person;
- "an identifiable person is one who can be identified, directly or indirectly..."



Solution - exceptions?

- Any exceptions applicable?
- Established business relations
- Consideration of integrity interests compared to legitimate business interests



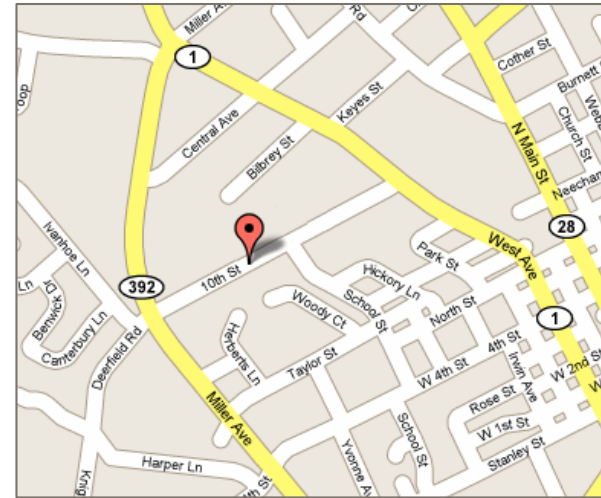
Solution - consent?

- What's the Privacy Price-Tag?
- How to obtain consent?
- European law requires voluntary informed consent.



Apple iAd Congressional concerns

- Request for information by congress:
- "Who are the unspecified "partners and licensees" with which Apple shares this location data, and what are the terms and conditions of such information sharing?"
- "Does Apple believe that legal boilerplate in a general information policy, which the consumer must agree in order to download applications or updates, is (...) sufficient to inform the consumer that the consumer's location may be disclosed to other parties?"



Fair and lawful processing



Storage of data

- Personal data may be stored "for no longer than is necessary for the purposes for which the data were collected or for which they are further processed".



Sensitive data?

- Personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, and the processing of data concerning health or sex life.



How to avoid 1984 and step into the future of Mobile Advertisement?

- Should users have the right to be informed when location tracking is used?
- Should they have the right to turn it off?
- Should users have the right to control storage of data?



How to avoid 1984 and step into the future of Mobile Advertisement?

- Sanctions against serious breaches of privacy
- Self regulation





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