PRIVACY SEALS: Tools of social accountability?

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EU POLICY ASPIRATIONS FOR PRIVACY SEALS

EC 2007 PETs COM

Article 29 DP WP Opinion 3/2010 on the principle of accountability


IMCO Opinion on A comprehensive approach on personal data protection in the EU (2011)

Proposed General Data Protection Regulation: Article 39

UK ICO
FINDINGS FROM THE EU STUDY ON PRIVACY SEALS

Nature: general trust marks, privacy/DP specific marks, e-commerce schemes, security provider seals.

Country: international, regional and local.


Three waves: Traditional broad-spectrum trust marks, trusted shopping and specialised seals.

Issuers and types: private companies, DP authorities, non-profit organisations, industry bodies.

Certified entities: organisations, individual websites/products and systems (300,000 to fewer than 3).

Validity: varies. One year, most common.

Objectives: build confidence and trust, signal compliance, provide guarantees, increase market transparency, resolve disputes.
FINDINGS FROM THE EU STUDY ON PRIVACY SEALS

Privacy and data protection elements: inconsistent.

Guarantees offered to data subjects: majority do not make specific guarantees.

Scope and steps in certification process: Initial application, assessment, decision, award of seal, follow-up.

Coverage of international transfers: majority do not cover.

Costs: borne by applicants. Vary depending on scheme. Many provide no information, leave these negotiable.

Revocation: occurs by exception.

Regulatory and compliance standards: legal and industry based or a combination (e.g. EU or national DP law or issuer set criteria).

Complaints mechanism: web form, e-mail or none. Complaint directly to member, or the certification authority.
THE BENEFITS OF PRIVACY SEALS

Government
- Support privacy accountability and oversight
- Privacy/data protection assurance, guarantee
- Reduce regulatory, enforcement burden

Industry
- Reputation, competition and market advantages
- Increase profits, boost trade
- Help maintain privacy and DP and prove fulfilment of legal obligations

Individuals, society etc.
- Easily able to see and verify privacy commitments
- Quick, accessible means of privacy or data protection dispute redress.
THE PROBLEMS WITH PRIVACY SEALS

- Close relationship with scheme members
- Relationship with members driven by commercial profit
- Bias towards accredited business members
- Disregard of complaints
- Counterfeited seals (false seals in circulation, use)
- Security flaws
- Inefficient evaluation and certification processes
- Weak privacy, data protection guarantees
- Inactive scheme elements, out-of-date websites
- Lack of interest and low uptake
- Poorly accessible policy and contact details
- Charges, cost structure
- Blurring between overlapping schemes
CORE REQUIREMENTS TO MAKE PRIVACY SEALS TOOLS OF SOCIAL ACCOUNTABILITY

- Transparency
- Accessibility
- Clarity of scope of scheme
- Specificity of assurance
- Credibility, reliability of issuer
- No conflict of interest
- Harmonised, uniform, sound standards and criteria
- Regulatory oversight
- Adequate monitoring & enforcement
- Effective dispute resolution
FUTURE STEPS IN RESOLVING THIS CHALLENGE

Concrete next steps: PRIVACY SEALS WORKSHOP

Who and with whom: Privacy seal stakeholders e.g., European Commission, privacy seal issuers, subscribers, regulatory authorities, academia, privacy organisations, other interested parties.

When and where: Brussels, February 2014.

BCS and IFIP: The BCS ethics group and IFIP’s working groups, special interest groups and members, could participate and provide feedback.
Questions?

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