

PRIVACY SEALS: Tools of social accountability?

Dr Rowena Rodrigues

Trilateral Research & Consulting LLP

www.trilateralresearch.com

rowena.rodrigues@trilateralresearch.com

EU POLICY ASPIRATIONS FOR PRIVACY SEALS

EC 2007 PETs COM

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

EC DG JFS Final Report on New Challenges to Data Protection (2010)

EC COM 'A comprehensive approach on personal data protection in the European Union' (2010)

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.

Inception: 1997-2013.

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

REGULATORY
OVERSIGHT

CLARITY OF
SCOPE OF
SCHEME

SPECIFICITY OF
ASSURANCE

ADEQUATE
MONITORING
&
ENFORCEMENT

CREDIBILITY,
RELIABILITY OF
ISSUER

NO CONFLICT
OF INTEREST

HARMONISED, UNIFORM, SOUND
STANDARDS AND CRITERIA

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?

rowena.rodriques@trilateralresearch.com