

Investigating Deceptive Design in GDPR's Legitimate Interest

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Legitimate Interests... Are they being used legitimately?

← **r/assholedesign**

Posted by u/CoagulatedCockShot 1 year ago 2 5

17.1k **Even if you don't consent you consent**

AccuWeather needs your consent to use your personal data to:

- Personalised ads and content, ad and content measurement, audience insights and product development
- Store and/or access information on a device
- Learn more

What if I don't consent?

Your personal data won't be used for the above, unless we and our vendors determine that we have a legitimate interest to do so.

← **r/assholedesign**

Posted by u/p3rm3n4ntThr0w4w4y 6 months ago

3.8k **Every single "cookie permission" pop-up, If one option is "accept all", the other should be "decline all". Not "take me to another page to turn off 400 "legitimate interest" legal loophole abusers"**

We Care About Your Privacy

We and our partners store and/or access information on a device, such as unique IDs in cookies to process personal data. You may accept or manage your choices by clicking below, including your right to object where legitimate interest is used, or at any time in the privacy policy page. These choices will be signaled to our partners and will not affect browsing data. [Privacy and Cookies Statement](#)

We and our partners process data to provide:

- Use precise geolocation data. Actively scan device characteristics for identification. Store and/or access information on a device. Personalised ads and content, ad and content measurement, audience insights and product development.

List of Partners (vendors)

I Accept

Show Purposes

← **r/britishproblems**

Posted by u/mqh13 2 years ago

1.1k **Having to uncheck hundreds of "legitimate interest" cookies, giving up and thereby losing interest in the article you were interested in in the first place.**

97 Comments Share Save Hide Report 99% Upvoted

← **r/assholedesign**

Posted by u/10-2is7plus1 10 months ago 2 2

8.1k **Having to untick over 20 'legitimate interest' cookies with no way to just reject all.**

Manage Settings

Find out more about how your personal data is processed and set your preferences below

Accept All

Consent Legitimate Interest

To create a personalised ads profile vendors can:

- Collect information about a user, including a user's activity, interests, visits to sites or apps, demographic information, or location, to create or edit a user profile for use in personalised advertising.

Deceptive Design (Dark Patterns)

- User interfaces which influence users into making choices that benefit the service [1]

Before you continue...

HuffPost is part of Oath. Oath and our partners need your consent to access your device and use your data (including location) to understand your interests, and provide and measure personalised ads. Oath will also provide you with personalised ads on partner products. [Learn more](#). Select 'OK' to continue and allow Oath and our partners to use your data, or select 'Manage options' to view your choices.

OK

Manage options

The screenshot shows a settings interface with three sections, each with a toggle switch and a button:

- Select basic ads**: The toggle is turned off. Below it, text reads: "Ads can be shown to you based on the content you're viewing, the app you're using, your approximate location, or your device type." Below the text is a button labeled "Object to Legitimate Interests".
- Create a personalised ads profile**: The toggle is turned off. Below it, text reads: "A profile can be built about you and your interests to show you personalised ads that are relevant to you." Below the text is a button labeled "Object to Legitimate Interests".
- Select personalised ads**: The toggle is turned off. Below it, text reads: "Personalised ads can be shown to you based on a profile about you." Below the text is a button labeled "Object to Legitimate Interests".

[1] Arvind Narayanan, Arunesh Mathur, Marshini Chetty, and Mihir Kshirsagar. 2020. Dark Patterns: Past, Present, and Future: The evolution of tricky user interfaces. *Queue* 18, 2 (2020), 67–92

Study 1: Web Crawl

Methods

- Built a crawler using Selenium for Python to crawl 10,000 top sites
- Qualitative analysis of flagged privacy notices

Contributions

- Identified how legitimate interests are used in practice
 - Discussed the legal implications of these practices

Web Crawl: Results

- 474/10,000 (4.74%) of sites mention “Legitimate interest(s)” (LI)
 - Of this, 13.7% don’t specify their legitimate interest purposes
 - 31% of sites mentioning their LIs rely on both consent and LI for the same purposes
- IAB Europe’s Transparency and Consent Framework (TCF) has major impacts on how LIs are applied
- Deceptive practices reign in legitimate interest sections

Common Problematic Elements

The image shows a screenshot of a privacy settings interface for personalized advertising. The interface is contained within a rounded rectangle and includes the following elements:

- Create a personalised ads profile**: A bold heading at the top.
- A profile can be built about you and your interests to show you personalised ads that are relevant to you.**: A descriptive paragraph.
- [View details](#)**: A blue link below the paragraph.
- Consent**: A label next to a grey toggle switch that is currently turned off.
- Legitimate interest ?**: A label next to a blue toggle switch that is currently turned on.

Three external annotations with arrows point to these elements:

- An arrow from the left points to the **Consent** label, with the text: "Reliance on both consent and LI for the same data collection purposes".
- An arrow from the top right points to the **Create a personalised ads profile** heading, with the text: "Personalized advertising purposes".
- An arrow from the right points to the **Legitimate interest ?** label, with the text: "More difficult to opt out of LI compared to consent".

Study 2: User Survey of Legitimate Interest Practices

Methods:

- Surveyed 399 participants
- 4-part survey:
 - Privacy background questions
 - Vignette section
 - General Legitimate Interest questions
 - Respondent demographics questionnaire

Contributions:

- Investigated how respondents evaluated these practices
 - What respondents think should count as a LI, who they think LIs benefit

User Survey: Results

How comfortable are you with sharing data for the following purposes, without your consent?

Legitimate Interest Purpose	Mean	Median
Personalized content and measurement	2.07	2
Personalized ads and measurement	1.80	2
Analytics	2.42	2
Develop and improve products	2.85	3
Future innovations	2.47	2
Archiving data	2.80	3
Security and debugging	3.17	3
Fraud and law enforcement	3.03	3

Likert scale: 1 = Not comfortable at all; 5 = Very comfortable

User Survey: Results

Could these be potential legitimate interests?

Purpose	Mean Score	Median Score
Functional, strictly necessary	3.9	4
UX improvement	3.02	3
Sharing with third parties	1.7	1

Likert scale: 1 = Not comfortable at all; 5 = Very comfortable

When do you think your data is being collected?

Select basic ads

Ads can be shown to you based on the content you're viewing, the app you're using, your approximate location, or your device type. [View details](#)

Consent

Legitimate interest [?]

Select basic ads

Ads can be shown to you based on the content you're viewing, the app you're using, your approximate location, or your device type. [View details](#)

Consent

Legitimate interest [?]

Select basic ads

Ads can be shown to you based on the content you're viewing, the app you're using, your approximate location, or your device type. [View details](#)

Consent

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Consent

Legitimate interest [?]

When do respondents think their data is being collected?

Select basic ads

Ads can be shown to you based on the content you're viewing, the app you're using, your approximate location, or your device type. [View details](#)

Consent



Legitimate interest [?]



When both
toggles are
active:
355/399

Select basic ads

Ads can be shown to you based on the content you're viewing, the app you're using, your approximate location, or your device type. [View details](#)

Consent



Legitimate interest [?]



When only
consent is
active:
249/399

Select basic ads

Ads can be shown to you based on the content you're viewing, the app you're using, your approximate location, or your device type. [View details](#)

Consent



Legitimate interest [?]



When only
LI is active:
280/399

Select basic ads

Ads can be shown to you based on the content you're viewing, the app you're using, your approximate location, or your device type. [View details](#)

Consent



Legitimate interest [?]



No toggles
active:
56/399

User Survey: Results

- User acceptance of a LI is impacted by whom users believe the data benefits
 - Most respondents believe LIs are meant to benefit the service provider and third party vendors

User Group	Count
You (the user)	64
The company offering the service (service provider)	367
3rd party vendors (e.g., advertisers)	255
Society	46
Other users of the service	40
Unsure	26

Takeaways

- Legitimate interests are exploited through deceptive practices
 - There needs to be more transparency to users about the legitimate interest legal basis
 - Focus on deceptive designs beyond the UI
- Respondents are not fully aware of data practices
 - Users should have a bigger role in data protection discussions

Investigating Deceptive Design in GDPR's Legitimate Interest

- Lack of transparency disclosing Legitimate Interests
- Legitimate Interests are exploited through deceptive practices
- Respondents disagree with how Legitimate Interests are used in practice

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