

Case Study on Terms of Service Ethical Issues

Alla Topp

Regis University

The terms of service became a big part of our lives that we face almost every day. Every social network, software, applications on our devices, online stores or software will ask to agree to some conditions or services. Before we click the “Agree” button we should read those TOS, so we know what we will give in return to those services. But sometimes there are hundreds of pages that we need to go through in order to understand them, and most people give up and click the “Agree” button without reading it. This is what I do as well, I agree and proceed to use what I am signing for.

This case study “Clicking through the ethics of social media” by Irina Raicu provide a few examples about issues with social networking and their TOS. The first example “Facebook: I want my friends back” is providing the information about issues with changing Facebook`s algorithms. Richard Metzger (publisher of the blog “dangerous minds”) noticed a reduction of the “fans” who would post in his blog because Facebook limited the number of showings of the posts to his “fans”. After Facebook started using “promoted post”, Metzger and others (who are affected) argued that it is unfair because they were using the same services for free and now they must pay some fee to promote their posts.

Another example “Twitter: I want my handle back” is introducing the issue with the Twitter`s user names. When Barshack joined the Twitter, he agreed to the TOS and created the name @Sun Valley just like Sun Valley`s corporation name. He was accused in engaging in a “nonparody impersonation” of the corporation. Barshack sued Twitter claiming that he never violated Twitter`s rules and did not impersonated the corporation.

The third example “Instagram: I want the rights to my photos back” is discussing the issue about some changes to TOS that which give Instagram the right to license user`s protos to

advertisers without giving the photographers any compensation. Instagram removed those changes after losing some users(photographers).

Questions:

Are TOS agreements like the ones discussed above unethical in their treatment of consumers who use those companies' services? Why, or why not? Does the answer change in cases where the user is a corporation, not an individual?

I think that those TOS agreements are unethical because they are not appropriately created for a regular user. Those TOS are hundreds of pages long and sometimes are not explained well, so most people can't even understand them. It seems like they are created in the way that user will not want to read them. Yes, they have valuable information that every user should know about, but it is time consuming to read and is confusing to understand. It creates a lot of issues because people scroll down and give up on the reading long pages. I think it is unethical. Additionally, a user agrees to the TOS to use cool features of the social networks, but in return they agree to "sell" their personal information that those social networks will use in the way they want. The answer would change in case if the user is a corporation. I would say that a corporation has more possibilities to deal with TOS because they have different departments with professionals who are knowledgeable enough to deal with it. They could make it a company's lawyer duty to read the terms of service and make a decision to agree or not.

In their call for a "people's TOS," the scholars acknowledge that the problem of one-sided, non-negotiable, opaque contracts is not limited to the social media context. Is there something about this context that would justify giving users more—or fewer—rights than they would have under different contracts?

Indeed, those contracts are not limited to the social media. Here, we are talking about giving away our privacy, photos, personal information and freedom for using free software. This problem is about confusing traditional contracts with TOS. There is a big difference between those, and it gives us some rights. It affects teenagers because they can freely agree to the TOS without limit of the age, there is no serious legislation behind it that would protect our rights as with a traditional contract. Maybe one day social media would have its own strong policies like “People’s Term of Service Agreement”.

Do consumers have a duty to read TOS statements before they click the "Agree" buttons that enable them to start using the services? Is it ethical to hold consumers responsible for the agreements that they signed?

I think that every consumer should read TOS before agreeing to the services if the TOS is clear enough and is written in understanding language and focused on the most important facts. Technically, users are responsible for everything they sign and if they will do something that against the TOS, then they would be responsible for that wrongdoing. But can we blame people for not reading the TOS? I would feel safer reading TOS before agreeing to the services, but then seeing 50 pages of TOS is demotivating. Nowadays we don’t have that luxury of free time to sit and read it. They are long and complicated to read and understand, it has an issue of transparency. I think it would be great if TOS had the most important information for users in bold, so when they scroll down they would notice the information they should pay attention to.

As noted above, some TOS include the claim that the company that drafted the TOS has the right to incorporate changes to those terms even after a user has agreed to a particular set of terms-and that the user would be bound by the revised terms. Would that practice be ethical? Why, or why not?

In my opinion it is unacceptable and unethical. It does not make sense as well. How would we know that something would change in TOS? We read the contract and then safely agree to the services, but one day we realize that our accounts are frozen because we did something wrong based on the TOS. There is no way to know, unless we are refused in using services. We simply would not have a chance to avoid it without knowing that the additions were made. The example with Twitter showed that such cases might be resolved through the court.

References

- Melber, A., Hartzog, W., & Selinger, E. (2015, June 29). Fighting Facebook, a Campaign for a People's Terms of Service. Retrieved from <https://www.thenation.com/article/fighting-facebook-campaign-peoples-terms-service/>
- Santa Clara University. (n.d.). Clicking Through to the Ethics of Social Media Terms of Service. Retrieved from <https://www.scu.edu/ethics/focus-areas/internet-ethics/resources/clicking-through-to-the-ethics-of-social-media/>
- Santa Clara University. (n.d.). Occidental Engineering Case Study: Part 8. Retrieved from <https://www.scu.edu/ethics/focus-areas/more/engineering-ethics/engineering-ethics-cases/occidental-engineering-case-study-part-8/>
- Why Do We Blindly Sign Terms Of Service Agreements? (2014, September 01). Retrieved from <https://www.npr.org/2014/09/01/345044359/why-do-we-blindly-sign-terms-of-service-agreements>