

Module 6 - Critical Thinking Assignment:
BIPA, GDPR's Right to Be Forgotten, and COPPA

Alexander Ricciardi

Colorado State University Global

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Dr. Mortoza Abdullah

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The Internet has brought easy access to information to the masses and transformed the way individuals communicate, interact, and do business. However, it also brought challenges, in particular to personal privacy. These personal privacy challenges brought about by the collection, use, and sharing of personal data online created the need for legal frameworks that safeguard individual privacy rights. Three of these legal safeguards are the Illinois Biometric Information Privacy Act (BIPA), the European Union's General Data Protection Regulation (GDPR) Right to Be Forgotten (Article 17), and the United States' Children's Online Privacy Protection Act (COPPA). Each of these legal safeguards addresses a different aspect of individual privacy rights within the context of the Internet. This essay provides overviews of these legal safeguards and their specific effects on individuals' privacy and internet use

The Illinois Biometric Information Privacy Act (BIPA)

BIPA (740 Ill. Comp. Stat. Ann. 14/10, 14/15(a), 14/15(b), 14/20) is a state law in Illinois that regulates the collection, use, storage, and destruction of biometric identifiers (retina/iris scans, fingerprints, voiceprints, hand/face geometry scans) and biometric information (Rustad, 2021). It was enacted in 2008, it requires private parties to acquire informed and written consent before collecting biometric identifiers data, as well as providing a public and easily available retention and destruction policy. It is important to note that this regulation excludes writing samples, written signatures, photographs, human biological samples used for valid scientific testing or screening, demographic data, tattoo descriptions, and physical descriptions such as height, weight, hair color, or eye color (Legislative Reference Bureau, 2008).

BIPA impacts internet use, particularly online services and social media platforms that use facial recognition. For example, in July 2023, Facebook's parent company Meta agreed to a \$68.5 million class-action biometric privacy settlement in connection with the company's alleged violation of Illinois' Biometric Information Privacy Act, 740 ILCS 14/1, et seq. (BIPA) (Francis, 2023). Facebook was accused of collecting and storing biometric data from facial scans of users without providing proper notice or obtaining consent, which is a violation of the BIPA Act. To strengthen privacy rights many are proposing to enact a countrywide biometric privacy law. A National Biometric Information Privacy Act of 2020 was introduced requiring covered entities to obtain consent prior to capturing biometrics (Senator Merkley, 2020). The proposed federal is currently still under review in the U.S. Senate.

General Data Protection Regulation (GDPR) - Article 17

Article 17 (Regulation (EU) 2016/679) from the European Union's GDPR titled the "Right to Be Forgotten," grants individuals the right to have information deleted after a preset period, to have a clean slate; and to be connected to current information and delinked from outdated information (Rustad, 2021). In other words, individuals have the right to obtain the erasure of personal data concerning him or her without undue delay from the controller (the information control) and the controller must erase personal data without undue delay (European Union, 2016).

The "Right to Be Forgotten" impacts internet use, particularly in European countries. For example, it has impacted the use of search engines, in the 2014 court case Spain versus Google, where a Spanish citizen, Mario Costeja González, brought a lawsuit against Google for refusing to remove outdated information about his debts (Global Freedom of Expression, n.d.). The Court of Justice of the European Union (CJEU) ruled that individuals have the right to request search

engines like Google to erase certain search results and queries related to their name if the information is inadequate, irrelevant, or no longer relevant, or excessive (Google, n.d.; DigWatch n.d.; Judgment of the Court, 2014). Improvement could be considered to widen the reach of legalization like Article 17. For example, the U.S. does not have a federal law that allows individuals to request the removal of links from search engine results as they can be seen as violating the First Amendment (Policinsky, n.d.). However, some legislation can be formulated that can provide U.S. citizens similar rights without violating the First Amendment. For instance, California's Consumer Privacy Act (CCPA), the California Privacy Rights Act (CPRA), and similar laws in states like Virginia, Colorado, Connecticut, and Utah, allow consumers the right to request the deletion of their personal information stored by businesses (CPPA, n.d.; Brown 2021).

Children's Online Privacy Protection Act (COPPA)

COPPA is a U.S. federal law that protects the online privacy of children under 13 years of age (Rustad, 2021). It requires online services and websites to have verifiable parental consent before collecting, using, or disclosing a child's personal information. It also requires that privacy policies, data security, and parental access to their child's information be implemented.

The COPPA impacts internet use, particularly for children under 13 years of age. It also impacts online services and websites targeting adults as they have to restrict access to children. As a result, this website and services have implemented age gate features that restrict access to children or require verifiable parental consent before children can use them (FPF, 2022). COPPA can be improved by implementing more robust verification systems for children preventing them from bypassing COPPA regulations. Another improvement that can be implemented to strengthen COPPA is to adopt federal legislation that probates the collection, use, and disclosure

of children's data in connection with online social media platforms and internet use (Thomson et al, 2025). If adopted, this will address the lack of federal legislation on this issue, as COPPA when it was drafted did not anticipate the destructive role social media can play in children's lives.

Conclusion

BIPA, GDPR's Right to Be Forgotten, and COPPA address issues about online privacy and internet use. BIPA addresses biometric data privacy issues within a single state, GDPR ensures that individuals' data is protected in the E.U., and COPPA addresses online and internet privacy issues by protecting children under 13 in the U.S. These regulations showcase the willingness of governments to address issues associated with privacy and internet use by implementing a varied of judicial approaches. However, with the emergence of AI which is getting more powerful by the day and when combined with the need and willingness to collect personal data by businesses brings significant new challenges that need to be addressed by improving existing laws or legislating new ones. This highlights the importance for governments to adopt a proactive approach to these issues and to ensure that individual rights are protected.

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