

The commodification of privacy on the Internet

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This paper critically explores, from a political economy perspective on public policy, the commodification of privacy on the Internet as a practical-economic and a discursive process. On the one hand, dominant online business models conflict structurally with users' need for privacy and the users themselves work on their own powerlessness in this regard. On the other hand, there is a privacy discourse that is possessive individualistic in nature but broadly informs the public policy process. It is argued that this discourse is not suitable to prevent economic-practical commodification of personal data and its problems. Criteria and strategies for improvement are identified, and concrete legal, self-regulatory, and technical implications for public privacy policy are derived. This paper uses material from a qualitative interview study and the example of social networking sites to exemplify its theoretical claims.

Keywords: privacy; Internet; social media; social networking sites; commodity; commodification.

1. Introduction

Socio-economic approaches to public policy challenge the idea that all political interests are equally represented in the public sphere and are equally able to shape policy and politics (John 1998: 92). Rather social inequalities that are grounded in the economy have important effects on the public sphere (Habermas 1991). Not only are powerful economic players likely to enforce their interests in political processes, but neither is the public sphere, where different social interests should be articulated, a neutral battleground. Public policy debates tend to be discursively framed. In this respect, I adopt a normative and critical approach to public policy (Dryzek 2006), which takes the standpoint of the less powerful social interest, and tries to draw consequences for public policy from a political economy perspective on information (Gandy 1993; Mosco and Wasko 1988) and the Internet (Fuchs 2008).

Commodification processes are, as I will outline, perceived as problematic in this view. They entail not only practical-economic aspects but also discursive aspects. Commodification is a practice and a worldview:

...it elides literal and metaphorical markets.

And there is:

...no sharp divide between action and discourse. (Radin 1996: 2)

Commodification is the process of making things exchangeable on markets, either actually and/or discursively by framing things as if they were exchangeable.

First, I outline the dominant economic practices of using personal data on the Internet. It is concluded that these practices conflict structurally with the users' need for privacy and that the users themselves work on their own powerlessness in this situation. Second, I argue that the dominant privacy discourse, which broadly informs the public policy process, is not suitable to prevent or solve these problems. Third, from my analysis I derive criteria and strategies for improvement as well as concrete legal, self-regulatory, and technical implications for public privacy policy.

The paper uses the example of social networking sites (SNSs) and, in Sections 2 and 3, material from a qualitative interview study in order to make its theoretical claims more plausible. SNSs are:

...web-based services that allow individuals to (1) construct a public or semi-public profile within a bounded system, (2) articulate a list of other users with whom they share a connection, and (3) view and traverse their list of connections and those made by others within the system. (Boyd and Ellison 2007: 211)

The reference to the empirical study aims solely to demonstrate that the following theoretical analysis has

connections to (some of) the Internet user's attitudes.¹ Additionally I point, where possible, to other empirical research in order to strengthen my arguments.

2. Practical-economic commodification of privacy on the Internet

Today, most Internet sites are commercial and they need to be profitable if they want to sustain themselves. The most common way to achieve this on the Internet is by allowing advertising on web services. Within the top 15 Internet sites worldwide, which together attract a very significant share of the global Internet population, only one website is not commercial and has no advertising (see Table 1).

The advertising industry is interested in information about potential customers that is as accurate as possible. Internet services are able to provide such information for targeted advertising. While people use web sites for reasons, such as: obtaining news, answering queries, providing information, staying in touch with friends, making new relations, or organising events, they are watched in great detail. Profit-oriented web services develop massive systems of user surveillance and store 'literally everything', as a Facebook employee has admitted (Wong 2010). Internet users, willingly or unwillingly, provide commercial Internet services with information that is used for monetary exchanges with the advertising industry. The revenues finance the web services but also include profits for the owners of Internet corporations.

There is no agreement in the literature about how surveillance in general should be defined. All approaches have in common that they see surveillance connected to the systematic collection, storage, diffusion, processing, and use of personal data. I favour a negative or critical notion of surveillance that stresses surveillance's control function and its link to inequalities in social power (Fuchs 2011). Surveillance is understood here as a discriminatory process that sorts:

... individuals on the basis of their estimated value or worth. (Gandy 1993: 1)

It also generates consumer reputation profiles about the users (Turow 2011) from which the Internet corporations make profits.

Users are active participants in the profit strategies of the commercial web services (Andrejevic 2010; Fuchs 2011). The information that users provide to Internet services can be understood as produced by the users in their interactions with others and the service. Users are therefore also producers—the term used for the Internet is 'prosumer' and their 'produsage' expresses this quality (Bruns 2008). In the advertising financed commercial Internet the prosumer product is personal data. Internet

corporations make profits from prosumer activity and user data through massive surveillance systems.

The profits gained from user activity help to sustain, and even widen, a basal power inequality between the owners of Internet services and the majority of their prosumers. Owners of Internet corporations are able to accumulate financial power. In capitalist societies money is a universal equivalent and exchangeable in almost every activity. Financial power can also be transformed into other forms of power, including symbolic and discursive power (Bourdieu 1986). Castells foregrounds the relevance of network-making power in the Internet age but also its dependence on financial power (Castells 2009: 52). Network-making power is power:

...to constitute network(s), and to program/reprogram the network(s) in terms of the goals assigned to the network.

Furthermore it is power:

... to connect and ensure the cooperation of different networks by sharing common goals and combining resources, while fending off competition from other networks by setting up strategic cooperation. (Castells 2009: 45)

According to the Forbes 'World's Billionaires List 2013', there are seven billionaires among the world's 75 richest individuals who can be directly associated with the top 15 websites listed in Table 1 (Forbes 2013). Mark Zuckerberg, the founder, chief executive officer, and main stockholder of Facebook, is among them. In order to exercise network-making power, owners of commercial web services are afforded expensive technology, such as energy spending server parks, and buy labour power, such as talented programmers, who maintain and constantly develop the software for the network. They can also buy competing or complementing products and services to make their own services more attractive for users and the advertising industry.

Most importantly, in concert with their profit objectives, they are able to set the terms on which users can benefit from the services. For instance, Mark Zuckerberg once powerfully announced that the age of privacy would be over:

We decided that these would be the social norms now and we just went for it. (Johnson 2010)

Since Facebook is currently by far the most popular SNS, his words come with significant effects for Internet users. In the corporate Internet, prosumers have a double freedom since they are usually free from ownership of the Internet services, but they are at the same time free to exchange their prosumer product with commercial providers. For instance, the user must accept Facebook's data use policy and thereby grants extensive permission for his or her data to be used for advertising purposes. However, the power of the Internet corporations is contested, there

Table 1. Top 15 websites worldwide in 2012

Rank	Site	Category	Global reach (%)	Global page views (%)	Organizational form	Advertising
1	www.google.com	Search engine	48.318	5.3069	Commercial	Yes
2	www.facebook.com	Social networking site	45.094	5.7886	Commercial	Yes
3	www.youtube.com	Online video	32.698	4.0823	Commercial	Yes
4	www.yahoo.com	Web portal	21.533	1.3239	Commercial	Yes
5	www.baidu.com	Search engine	11.461	1.8525	Commercial	Yes
6	www.wikipedia.org	Web encyclopaedia	13.644	0.5224	Non-commercial	No
7	www.live.com	Web services	10.191	0.6783	Commercial	Yes
8	www.twitter.com	Social networking site	8.983	0.4971	Commercial	Yes
9	www.qq.com	Social networking site	7.506	0.6388	Commercial	Yes
10	www.amazon.com	Online marketplace	5.778	0.59674	Commercial	Yes
11	www.blogspot.com	Blogs	7.042	0.24974	Commercial	Yes
12	www.linkedin.com	Social networking site	5.253	0.45885	Commercial	Yes
13	www.google.co.in	Search engine	4.768	0.59051	Commercial	Yes
14	www.taobao.com	Online marketplace	4.177	0.7545	Commercial	Yes
15	www.sina.com.cn	Web portal	4.931	0.28853	Commercial	Yes

Sources: <www.alexa.com> accessed 11 April 2013; SiliconIndia 2012

are outcries about privacy and, to a lesser extent, organised resistance is increasing (see Section 3).

My point thus far is that the commodification of privacy and personal data contributes to exploitive social relations (Wright 1997: 10). **First, it enables an inverse interdependent welfare. The wealth of Internet services owners depends on users who profit less in terms of money and network-making power. Second, it fosters exclusion. Web service owners ensure that users are excluded from the profit generating conditions and the profit itself (through private property rights for instance in SNS software). Third, Internet service owners are able to appropriate the wealth that is mainly created by users in their online time.** Additionally, I conclude that the accumulated power of Internet corporations (financial, network-making, discursive) enable Internet privacy crises that are driven by surveillance-based business models. **Privacy is either declared to be obstructive or it must take the form of a commodity to fit into the corporate Internet. The latter implies that personal data are perceived as private property that is exchangeable for certain benefits.**

3. Discursive commodification of privacy on the Internet

I now deal with ideological aspects of the privacy debate, which I think are dominant and provide the framework for public policy processes. **I argue that privacy, if it is understood in the following way, is easily commodified and therefore contributes to the power inequalities outlined above and undermines itself.**

The starting point of the modern privacy debate was a contribution by Warren and Brandeis (1984). They defined privacy as the:

...right to be left alone. (Warren and Brandeis 1984: 76)

This is identical with the liberal core value of negative freedom (Rössler 2005: 6–7), and as such it has influenced most of the subsequent thinking on privacy. Informational privacy is most often defined as control over the flow of information in order to determine:

...when, how, and to what extent information about them is communicated to others. (Westin 1967: 7)

Some authors challenge the non-determination of ‘privacy as control’ definitions (Wacks 2010: 40–1; Solove 2008: 25). **They argue that these theories fail to define the content of privacy.** The critique makes clear that privacy is defined by what is subjectively seen as private and such a notion gives no hints about what privacy within a good society may be.

A resemblance between privacy and private property has often been noted (Westin 1967: 324–5; Habermas 1991: 74; Litman 2000; Samuelson 2000; Solove 2008: 26–8). Lessig (2002: 250) argues that in the age of the Internet:

...just as the individual concerned about privacy wants to control who gets access to what and when, the copyright holder wants to control who get access to what and when.

There are theories that draw consequences from the resemblance between the dominant privacy notions and private property by conceptualizing the right to privacy as a right to property. Privacy as property would strengthen the individual control of personal data and would prevent privacy invasions that occur when personal data is accessed non-consensually. The privacy-as-commodity approach demands that:

...everyone possesses information about themselves that would be valuable under some circumstances to others for commercial purposes. Everyone possesses his or her own reputation and data image. (Laudon 1996: 102)

To a considerable extent, the interviewees in my study hold an attitude that could be summarised as follows:

It is me who determines what privacy is; privacy is my right against others, I decide, whether or not, to give up privacy in exchange for benefits.

Most of those, who say that advertising on SNSs is not a privacy issue, stress that there was an actual, or at least a potential, informed consent by the user to the SNS's terms and targeted advertising. This influential line of argumentation refers to a conscious contractual exchange with the SNS that perfectly preserves individual control over personal data. Consequently, there is no reason to sue Internet services for doing what they have announced they will do. While not contradicting the dominant notions of privacy, some argue that targeted advertising indeed invades their privacy, but only because there is no actual informed consent to targeted advertising for different reasons, such as hyper-complex, deficient, or misleading privacy policies. In their view, SNSs failed to grant individual control and transparent contractual terms (Spiekermann et al. 2012).

I propose to think of these dominant privacy notions as being possessive individualistic (Sevigani 2012). Possessive individualism provides the basic category that all the stakeholders in the public policy process are likely to refer to. In a market society it is very useful and appropriate that the individual perceives herself or himself as essentially:

...the proprietor of his own person and capacities, for which he owes nothing to society...

and enters:

...into self-interested relations with other individuals. (Macpherson 1962: 263)

The possessive individualistic privacy discourse urges individual decisions instead of societal agreement about what should be deemed to be private and it directs public privacy policy to individualistic solutions, such as self-regulatory measures to establish trust by voluntary privacy commitments, standards and seals (Bennett and Raab 2006; Gandy 2003: 294–6) instead of suggesting collective prosumer activity.

It is crucial for understanding possessive individualism that, in modern market societies any commodification process presupposes rights that cannot be alienated or exchanged (Pateman 2002: 33; Sevigani 2012). The labourer and the prosumer have inviolable civic freedoms. Neither are forced to work for others, the prosumer has a right to privacy. However, in order to make ends meet, the labourer is dependent on selling his or her labour. In turn, the prosumer must use the civic right to privacy, which entitles individual control over personal data, to exchange contracts with Internet corporations. Only in this way can the user participate in the web's social advantages. In a social situation within

which the means of production and communication are privately owned and highly unequally distributed, civic freedoms, such as the right to privacy, and economic exploitation go hand in hand.

4. Implications for public privacy policy

Criteria of improvement can be deduced from the previous critical analysis of privacy on the Internet. That is the potential benefit of non-commercial Internet services since a privacy crisis is encouraged by profit pressure on the Internet, and that privacy should not be commodified. The latter also includes the ways in which we think of privacy.

Accordingly, strategies for meeting these criteria can be named. The first strategy aims at strong political and economical support for non-market organisational forms of Internet services. Already existing instances, which provide role models to build on, are the relatively well-known social networking site Diaspora (Sevigani 2012, 2013) and Wikipedia. My interview study suggests that alternative SNSs are very welcome, but rarely used. Political support could change the usage situation.

A survey conducted by Turow et al. (2009: 1) found out that:

...contrary to what many marketers claim, most adult Americans (66%) do not want marketers to tailor advertisements to their interests.

In my interviews, views on whether or not targeted advertising is a privacy issue were almost balanced. However, users typically have a deficient knowledge about how advertising actually works on the Internet and, in particular, on Facebook. I also found that, once they had been informed, a significant number switched to a negative perception of advertising as an invasion of their privacy. Again, this questions the general assumption that Internet users give an informed consent to advertising (Fernback and Papacharissi 2007; Sandoval 2011).

The second proposed strategy is a rethinking of privacy. As a first step, this includes conceptualizing privacy as an aspect of human dignity. There is an interesting difference in legislation and political culture between Europe and the USA (Greenleaf 2013; Whitman 2004). While in the US tradition, personal data is predominantly seen as a commodity and therefore exchangeable, in Europe there is:

...little room for propertization of personal data. (van Dijk 2010: 64)

This is perceived to contradict the individual's inalienable dignity. In my study, I found interesting arguments that break with the immediate privacy-as-commodity logic. For instance:

I believe such things... information should not be for sale. [...] In fact, I would then sell my privacy. I wouldn't do that [...] (Interviewee 25). Interviewee 9 assists when s/he argues that

selling personal data would *basically be a form of selling my own self*.

In these expressions the interviewees resist the:

... reconceptualization of privacy in the consumer's mind from a right or civil liberty to a commodity that can be exchanged for perceived benefits. (Campbell and Carlson 2002: 588)

However, as I have indicated earlier in this paper, there is a problematic relation between privacy as a civil liberty and privacy as a commodity in capitalist market societies. From this insight it can be understood that, although useful in ongoing political debates, the conceptualization of privacy as a civil right or liberty might not be sufficient to entirely break with the commodity logic. In contrast, a rethinking of privacy should aim at a more social conception of privacy. I think such a social conception will become more imaginable and useful the more non-market spheres on the Internet and society grow, but certain aspects can already be named.

There are privacy theories that hold that individual/private and societal/public goals are not necessarily contradictory but flourish mutually or dialectically (Cohen 2012). For instance interviewee 25 expresses the view that privacy must not be understood as directed against others and society and refers to the importance of mutual respects or recognition:

In my perspective privacy means that my attitudes and thoughts are respected by others.

Additionally, interviewee 4 provides an interesting opinion and argues that the freedoms linked to privacy are dependent on social equality (Bennett and Raab 2006; Marx 2007; Papacharisi 2010):

I think, the more a rule is valid for all society members the more privacy can be granted to the individual [...]. This situation is about a relation of disparity. The more uniform it is the less one should have to disclose.

Whereas the first identified strategy towards non-commercial Internet services is almost absent from the official political agendas, a process towards rethinking privacy faces powerful resistance. For instance, in 2012 the EU Commission launched a proposal for a renewed and uniform data protection law. In the following public debate massive lobbying, coming mainly from Internet corporations assisted by the US government, was directed against the European accentuation of data protection that was brought into discussion by the European Parliament. In 2013, the initiative 'Europe vs. Facebook' discovered that the corporate stakeholders had apparently been successful in decisively shaping the public policy process and were able to enforce their privacy-as-commodity interests against the privacy-as-dignity approach (Europe vs. Facebook 2013: 2).

Finally, concrete public policy instruments, which usually include technical, legislative, and self-regulatory measures and which are said to only be effective in combination (van Dijk 2006: 126), are briefly described.

First, in terms of legislation, the EU initiative for a general data protection regulation provides important elements which include more rights, in particular, opportunities for stronger sanctions, for independent data protection agencies, a commitment to data protection by design and by default, as well as the right to be forgotten (Mayer-Schönberg 2009). All these aspects would limit the commodification of privacy. Thus, it is crucial that exceptions to data protection due to 'legitimate interests' are narrowed so that economic interests do not automatically outdo consumer privacy interests. For instance, my study showed that users would overwhelmingly welcome a mandatory opt-out option from targeted advertising. At the same time, a legal commitment to alternative Internet services is needed as, for instance, exists for public broadcasting.

Second, when it comes to self-regulation it is crucial not to limit these measures to corporations and their privacy commitments, standards and seals (Gandy 2003). Self-regulation is possible not only beyond the state but also beyond the market. Civil society initiatives, such as the Electronic Privacy Information Centre (EPIC) or 'Europe vs. Facebook', deserve support from users and their positions deserve recognition by politicians and corporations. Digital commons (Benkler 2006), alternative Internet services, such as Free Software, Wikipedia, and Diaspora, are actual outcomes of self-regulation and could participate in state funding just as states support Internet corporations financially to attract their branches. For instance, in my study I was able to differentiate between two forms of user support for alternative SNSs. Whereas all interviewees support alternative SNSs at least theoretically, half of my sample would also support alternatives financially. Most of the supporters would pay or donate less or equal than €10 a year. If only one percent of the one billion Facebook users switched to an alternative SNS and supported it with €5 a year, this alternative SNS would be equipped with €50 million a year. This shows that—against network effects that currently work in favour of commercial SNSs—alternatives are, in principle, practically possible and also welcomed.

Privacy enhancing technologies, such as automatic disabling of 'like' buttons, which convey user data to commercial social networks, through Internet browser applications are meaningful measures. Digital commons are forms of self-regulation but have also technical aspects. For instance, decentralization of Internet services on behalf of peer-to-peer technology can help to avoid undemocratic power aggregations in states and corporations. For example, Diaspora, the alternative SNS promises that no big corporation will ever gain control over its users' data.

All of these concrete public policy instruments could help to make alternative, non-commercial Internet services more powerful and popular. By these means, structural threats to privacy could be avoided. At the same time the plausibility of possessive individualism on the Internet would decrease and a social notion of privacy become more imaginable.

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Note

1. The research methods employed were semi-structured interviewing (N = 30) and qualitative content analysis informed by thematic coding. The sample includes similar and different cases, a group of interviewees who are especially critical of (economic) surveillance and are well informed about privacy issues, as well as a group of less concerned (standard) users. It eventually consisted of 30 Austrian students in the age range 20–34 (mean = 24.9 years; standard deviation = 3.33 years; two-thirds women and one-third men) from the area of Salzburg, Austria, who have used or were using SNSs. Participants came from a wide range of academic disciplines. The study aimed to conceptualize privacy and surveillance and new hypotheses about these issues in the context of a theoretical framework; it was explanatory in that sense. As qualitative methodologists (Miles and Huberman 1994) stress, the theory-directed design of my research and the applied sampling strategy contributes to the study’s external validity/generalizability.

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