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The Regulation of data brokers in Europe: solutions presented by the new regulations

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V-Data Conference

Pavia, Italy

07/09/2021

What are data brokers?

Data sharing (or selling) services

Lack with direct interaction with subjects



60 MINUTES >

The Data Brokers: Selling your personal information

60

BY STEVE KROFT

MARCH 9, 2014 / 7:09 PM / CBS NEWS





Here is the FBI's Contract to Buy Mass Internet Data

The FBI previously purchased access to "netflow" data, which a company called Team Cymru obtains from ISPs. Team Cymru then sells it to the government.



By [Joseph Cox](#)

TECH [Help Desk](#) [Artificial Intelligence](#) [Internet Culture](#) [Space](#) [Tech Policy](#)

ETHICAL ISSUES

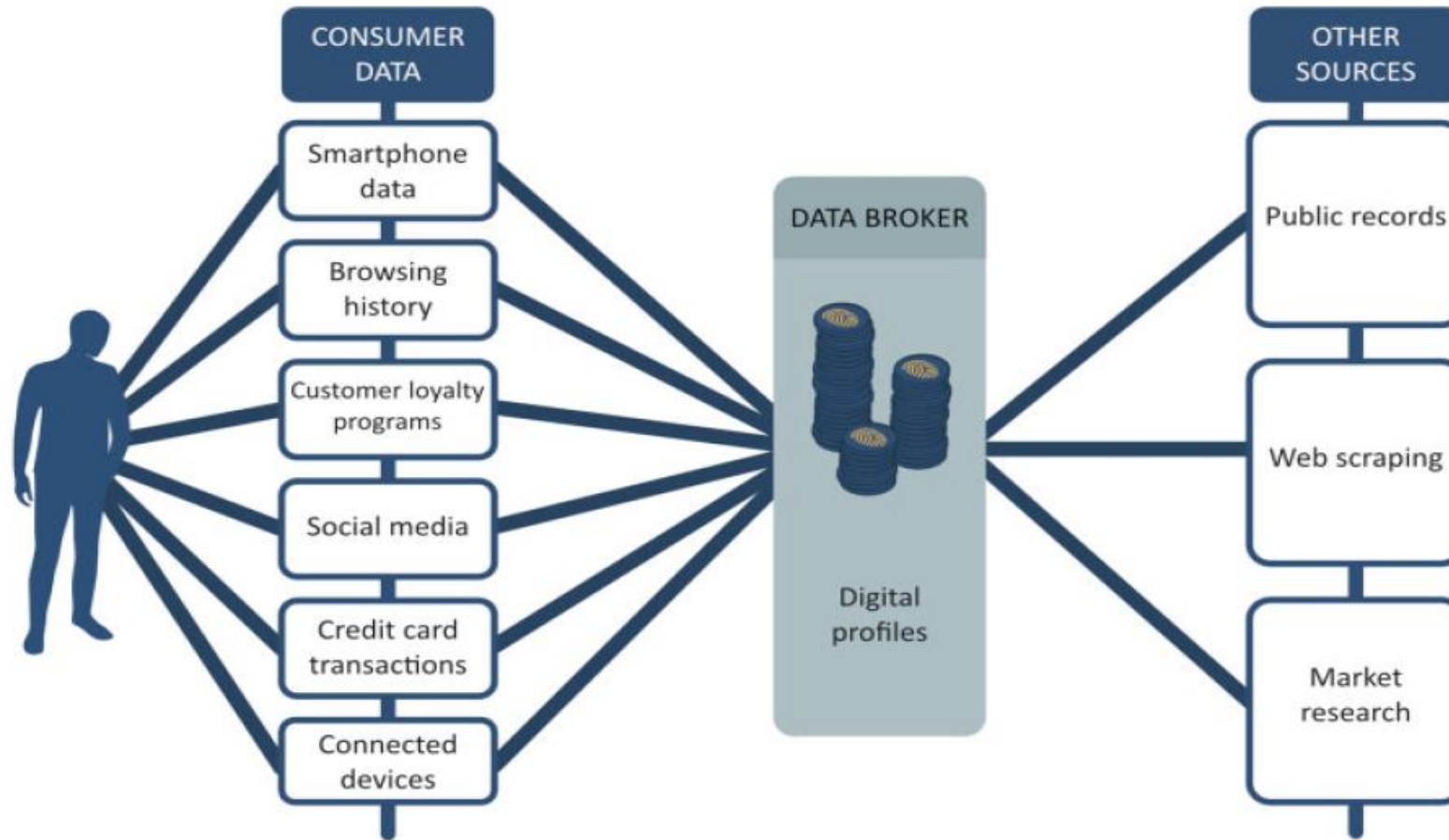
Now for sale: Data on your mental health

Capitalizing on the pandemic explosion in telehealth and therapy apps that collect details of your mental health needs, data brokers are packaging that information for resale, a new study finds. There's no law stopping them.



By [Drew Harwell](#)

Sources of data brokers: operating on gaps



MISHRA, S. (2021) The dark industry of data brokers: need for regulation? International Journal of Law and Information Technology, 2021, 29, 395–410

Some of the Challenges

- Legal gaps
 - Non-personal data
 - Cross referencing
 - Offline registers
- Relationship with big techs and use of third-party cookies
- Lack of registries
- Data subjects face challenges in exercising their rights
- Purposes of the transactions: marketing, scoring, preventing frauds
 - Digital dossiers



European Strategy for Data

Data Governance Act

Common European Data Spaces

Data Act

Implementing Act on High Value Datasets

Data Markets Act

Data Services Act

Future new Regulation on eCommerce (new eDirective)



Focus of the study: Data Governance Act



(OPEN) Concept of data intermediaries

DGA: a service which aims to establish commercial relationships for the purposes of data sharing between an undetermined number of data subjects and data holders on the one hand and data users on the other, through technical, legal or other means, including for the purpose of exercising the rights of data subjects in relation to personal data, excluding at least the following:

- (a) services that obtain data from data holders and aggregate, enrich or transform the data for the purpose of adding substantial value to it and license the use of the resulting data to data users, without establishing a commercial relationship between data holders and data users;
- (b) services that focus on the intermediation of copyright-protected content;
- (c) services that are exclusively used by one data holder in order to enable the use of the data held by that data holder, or that are used by multiple legal persons in a closed group, including supplier or customer relationships or collaborations established by contract, in particular those that have as a main objective to ensure the functionalities of objects and devices connected to the Internet of Things;
- (d) data sharing services offered by public sector bodies that do not aim to establish commercial relationships;

(OPEN) Concept of data intermediaries

HOWEVER...

DGA's concept is narrower than the concept of data intermediaries already developed by scholars

(a) data sharing services offered by public sector bodies that do not aim to establish commercial relationships;

Challenges related to the concept of data intermediaries

DGA: a service which aims to establish commercial relationships for the purposes of data

a service which aims to establish
commercial relationships

**PROHIBITION OF FURTHER
PROCESSING BY DATA
INTERMEDIARIES**

relationships;

Possible solutions

- Use of broader concepts
- Further development of the concept of commercial relationships
- Data brokers might become data marketplaces
- Data brokers can only act when a data intermediary is involved or when they receive direct instructions via the data subject

Can data brokers be considered (substituted for or influenced) data intermediaries?

- Literature already accepts it (e.g., Janssen & Singh, 2022; von Ditfurth and Lienemann, 2022)
- Intermediaries are:
 - Neutral and trustworthy parties
 - Prohibited of processing data
 - Under the control of data subjects
- Mandatory notification for the competent authority
- Protection of non-personal data
- More chances of sanctions for no-compliance

KEY REFERENCES

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THANK YOU!

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