



WOJCIECH RAFAŁ WIEWIÓROWSKI
ASSISTANT SUPERVISOR

[...]
Data Protection Officer
European Commission
1049 Brussels

Brussels, 08 March 2017
WW/CG/sn/D(2016)0516 C 2017-0080
Please use edps@edps.europa.eu for all
correspondence

Subject: Prior-checking notification regarding “Social-Biking: a field study on physical activity and social networks” at Joint Research Centre (JRC) (EDPS case 2017-0080)

Dear [...],

On 16 January 2017, the European Data Protection Supervisor (EDPS) received a notification for prior checking under Article 27 of Regulation (EC) No 45/2001¹ (the Regulation) on “Social-Biking: a field study on physical activity and social networks” from the Data Protection Officer (DPO) of the European Commission.

After careful consideration of the notification, the privacy statement and the additional documents and information received, we consider that the processing is **not subject to prior checking**. Please find our conclusions and recommendations as follows.

1. Facts

The field study will be conducted by the Joint Research Centre (JRC), Directorate Health, Consumers & Reference Materials, Health in Society Unit. The JRC with the project BeHEALTHi (Behavioural Health-Interventions) is looking to support the Childhood Obesity Action plan by promoting physical activity. The specific Social-Biking project aims at motivating European citizens to move more and use more environmentally sustainable forms of transport.

The Social Biking field study is based on a preliminary study developed and coordinated by the JRC “Individual vs. Peer rewards for increasing children’s physical activity: A school based study”, for which the EDPS issued a non-prior checking opinion on 9 January 2014². This

¹ OJ L 8, 12.1.2001, p. 1.

² Notification -DPO-3669.1 and Non Prior Checking opinion of the EDPS of 9 January 2014 (Case 2013-1229).

preliminary study was focusing at children, while the Social Biking project is expected to cover a broader population, including both adults and underage mobile users.

JRC will measure, in different cities (in Germany during the pilot in 2017) and in other Member States (in 2018), the impact of different peer incentive schemes on cycling activities of people. A randomized trial will be set through the use of the Bike-Prints mobile application and a web platform that will be developed to measure the physical activity and the social interactions of the participants. Social based incentives, based on the existing social networks and different behavioral nudges, will be used to incentivize participants to exercise more with their friends or partners. A detailed experimental design has been developed, based on behavioral economics methodologies that will allow the JRC-researchers to measure the behavioral change achieved by the different incentives.

In the first phase of the intervention (2017), the JRC will develop the Bike-Prints mobile application and web-platform for data collection and analysis respectively. The software and the intervention protocol will be tested in a pilot intervention study in different cities in Germany for 4 months in the Spring-Summer 2017, in collaboration with local authorities, sports and bicycle associations and educational institutes. During the second phase (in 2018), JRC will further disseminate and scale up the project, hopefully in different Member States. The role of JRC in this phase will be to coordinate the different projects, process the data and provide any technical support related to the Bike-Prints mobile application and web platform. The data will be collected through the Bike-Prints mob application and exclusively processed by the Health in Society Unit of Directorate F – Health, Consumers and Reference Materials, Joint Research Centre.

Participation in the study is voluntary. The registration will be electronic after the installation of the application. It will contain detailed information related to Social Biking rules and instructions. All adult participants (smart phone users) who sign the informed consent form and comply with the general rules of Social Biking will be eligible to participate.

Underage smart-phone users will be eligible to jointly participate in Social Biking with their schoolmates, given that the school authority will undertake the joint registration of all interested students after having collected the informed consents (hard copies) of the students' parents. Teachers will participate in the registration process of underage but they will not have access to any recorded or self-reported data. However, as they will provide students with the passwords, underage could be indirectly identified by the JRC researchers. Teachers will be requested to sign a confidentiality declaration.

Any participant has the right to quit the experience at any time. Participants will be asked to provide some general information (email address, gender, age, nationality, height and weight) and a nickname. Besides, the study involves the measurement of Physical Activity and movement tracking through the Bike Prints mobile application, which can qualify, along height and weight data, as personal data relating to health under article 10 of the Regulation. These data will be recorded by the app only upon voluntary activation of the app by the users.

However, the notification specifies that participants' identity will never be asked. This implies that the JRC will conduct the whole study based on pseudonymised data.

The data will be kept throughout the lifetime of the study (the normal duration of the study will be 6 months). Once the study is completed, they will be used for drafting the study results which will be ready within 6 months after the completion of the study. The personal data gathered will be deleted one year after completion of the report summarizing the study results, except in cases

where a follow-up study is foreseen since the beginning and referred to in the Privacy Statement.

2. Need for prior checking

Article 27 of the Regulation subjects a number of processing operations “likely to present specific risks” to prior checking by the EDPS. Paragraph 2 of that Article lists processing operations likely to do so. JRC’s notification indicates Article 27(2)(a) of the Regulation as legal basis for prior checking.

Indeed, according to the notification, the field study will involve the processing of data relating to height and weight of the participants and measurement of physical activity and movement tracking through the Bike Prints mobile application, which can qualify as data relating to health. The processing could therefore present specific risks to the rights and freedoms of the participants by virtue of its purpose under Article 27(2)(a). In addition, due to the fact that the processing aims at evaluating the physical activity (conduct) of the participants, the processing could be subject to prior checking under Article 27(2)(b).

Nevertheless, the processing operations are carried out exclusively for the purposes of scientific research and the field study to be conducted appears to be framed by appropriate safeguards³: the participation is voluntary; the information provided is wholly satisfactory; the collection of data appears to be clearly limited; the retention period is limited to the purpose; and the study is carried out exclusively on the basis of pseudonymised data, which constitutes a major safeguard⁴.

The EDPS therefore considers that the scientific purpose of the processing associated with appropriate safeguards does not present any specific risks under any of the categories of Article 27(2) of the Regulation and should therefore not be subject to prior checking.

That being said, the EDPS still has a few recommendations in order to ensure that the “Social-Biking field study” will fully comply with the Regulation. The analysis below does not cover all aspects of the Regulation, but only those that require improvements or otherwise give rise to comments.

3. Analysis

3.1. Pseudonymisation

Participants’ identity will not be collected by the Bike-print application. If users of the Bike-Prints application should, in principle, be anonymous for JRC researchers, the data generated, collected and processed through the application does not exclude identification of the participants and therefore cannot be considered as anonymous data. This is why the field study involves the processing of pseudonymised data and therefore falls under the scope of application of the Regulation.

However, the consent form notice is a bit misleading in this respect. It states: “*as the game is designed to be anonymous, participants’ identity will never be disclosed by the researchers either during or after the conduct of the study.*” This statement suggests that participants’ identity is known, somewhat, by the JRC researchers although they commit not to disclose this

³ Use of personal data for scientific purposes should be subject to appropriate safeguards following Article 4.1 (b) of the Regulation. The purpose of the safeguards is typically to ‘rule out’ that the data will be used to support measures or decisions regarding any particular individual.

⁴ Anonymisation or partial de-identification techniques have generally been considered as important primary safeguards when processing personal data in the context of research activities. While full anonymisation is increasingly difficult to achieve (see Working Party 29 Opinion [WP216 on anonymisation](#)), partial de-identification techniques remain appropriate solutions in many cases (see [WP203 on the purpose limitation principle](#), section III.2.3 on “Further processing for historical, statistical or scientific purposes”, pp. 30-31).

information. Besides, reference to anonymous participation can be confusing from a data protection perspective.

1. The EDPS recommends modifying the consent forms and notifications to delete the misleading reference to an “anonymous game” and instead clarify that although JRC does not collect participants’ identity, the field study is carried out on the basis of pseudonymised data (allowing identification of individuals only with additional information).

3.2. Information of volunteers

The privacy notice satisfies the obligation of information under Article 11 of the Regulation. Besides, the consent form provides essential information regarding the field study and wholly satisfies the duty to provide volunteers with relevant information in an intelligible and simple form. We also welcome positively the fact that the consent form explicitly refers to the possibility, for volunteers, to withdraw at any time without explanation. However, because the consent forms do not contain all the detailed information available in the privacy notice, they should include a direct link toward the privacy notice.

2. The EDPS recommends that both consent forms (for adult participants and parents) should contain a direct link towards the privacy notice.

4. Conclusion

Although “Social-Biking: a field study on physical study on social activity and social networks” appears to be framed by appropriate safeguards and therefore does not present specific risks to the rights and freedoms of volunteers subject to prior checking under Article 27 of the Regulation, the EDPS has identified two minor recommendations to make. Provided that both recommendations are implemented, the EDPS sees no reason to believe that there is a breach of the Regulation.

In particular, the EDPS expects **implementation**, but does not require documentary evidence:

1. Modify the consent forms and notification so as to delete the misleading reference to an “anonymous game” and instead clarify that although JRC does not collect participants’ identity, the filed study is carried out on the basis of pseudonymised data.
2. Include, in the consent forms, a direct link towards the detailed privacy notice.

In light of the accountability principle, the EDPS expects JRC to implement the above recommendations accordingly and has therefore decided to **close the case**.

Yours sincerely,

Wojciech Rafał WIEWIÓROWSKI

Cc.: [...], Data Protection Coordinator, JRC