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Compliance of crowd-oriented educational systems with new EU regulations

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Overview of the presentation

- New EU regulations affecting EnetCollect
- Examined crowd-oriented educational systems
- Privacy regulations important for EnetCollect
 - Rights of data subjects
 - Article 85
- Security regulations
 - EU-wide legislation on cybersecurity
 - Data breaches in crowd-oriented education
- Intellectual property
 - Accessibility and copyright
 - Intellectual property infringement in EU and in UK
- Recommendations for EnetCollect

New EU regulations affecting EnetCollect

- Privacy protection
 - EU General Data Protection Regulation
 - Effective from May 2018 GDPR
- Security protection
 - The Directive on security of network and information systems (NIS Directive)
 - EU countries had to transpose their national laws by May 2018
- Intellectual property
 - WIPO-administered Marrakesh Treaty from September 2016
 - Digital Single Market: effective from October 2018
 - 2018: Intellectual property after Brexit

Examined crowd-oriented learning systems

- Blackboard (blackboard.com) Commercial LMS
- Canvas (canvaslms.com) LMS for K-12 and university students
- Duolingo (duolingo.com) Multilingual CsS
- Edmodo (edmodo.com) LMS for K-12
- EdX (edx.org) OS MOOC
- FutureLearn (futurelearn.com) OU MOOC
- Khan Academy (khanacademy.org) Multilingual MOOC
- Mechanical Turk (mturk.com) CsS marketplace
- Moodle ([Moodle.org](https://moodle.org)) OS LMS
- SAP SuccessFactors (successfactors.com) Cloud LMS

COOKIES CONSENT UNDER THE GDPR

February 14, 2018 | in Compliance, GDPR and Business | by Laura Vegh | 0 Comments

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consent and cookies under the GDPR have been everywhere. We
another article that you can find here. This time we are going more in
the GDPR.
to your device when you visit a website. Most websites use some form of
in data like the site's name and a unique user ID. Most commercial
the publishers, blogs or e-commerce. They are used a wide variety of
visitors and their behavior, targeted advertising, recording user

- GDPR Checklist – Part 3 – IT Governance and control procedures
- Interview With The Belgian State Secretary For Privacy Philippe De Backer
- GDPR Checklist – Part 2 – (Re)gain control of your business landscape

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✓ WHERE ARE WE AT NOW?

At the moment there is in place the EU Cookie Law. It applies to all member states of the European Union and websites

<https://eugdprcompliant.com/cookies-consent-gdpr/>

Necessary modification

- “ The users must have a choice. The fact that they use a website does not mean they agree to all cookies. **The type of phrase used at the moment is barely informative enough and it certainly doesn't give a choice.** A website owner will not be able to constrict users to accept cookies in exchange for information.
- Like all other consent under the GDPR, consenting to cookies needs to be a clear affirmative action. An example is clicking through an **opt-in box** or choosing settings from the menu. Pay attention to not have pre-ticked boxes on the consent form!
- Let's not forget about **opt-out**. The GDPR clearly states that a data subject should be able to withdraw consent as easily as they gave it. With cookies this will generally mean that they should be able to revoke consent through the same action as when they gave consent. For example, if they consented by clicking through some boxes, they have to be able to find the same form to revoke consent.”

<https://eugdprcompliant.com/cookies-consent-gdpr/>

Rights of data subject

- Transparency and modalities
- Information and access to personal data
- Rectification and erasure
- Right to object and automated individual decision-making
- Restrictions

Transparency and modalities

- Appointed controller
- Provided written or oral information related to data processing
- Provided information related to data transfers to a third country or to an international organisation
- Controller's duty to protect data processing
- Protection of data subject from any legal effects based solely on automated processing
- Implementation of suitable measures to safeguard the data subject's rights and freedom, and legitimate interests.

Information and access to personal data

- Purpose of data collection
- Contact details of the controller
- Recipients of collected data
- Period of storing the data
- Right to access the data
- Right to demand an erasure of personal data
- Right to restrict processing
- Detailed information of accessing data
- Direct access to collected data.

Rectification and erasure clauses

- Right to demand a rectification (correction) of inaccurate personal data
- Right to erasure ('right to be forgotten')
- Right to restriction of processing
- Notification that any of the three later actions have been performed
- Right to receive the personal data

Right to object and automated individual decision-making

- Rights to object data processing at any time
- Rights to object data processing for direct marketing purposes.

Restriction

- Limited scope of obligations in special circumstances related to the fundamental rights and freedoms
- Safeguarding of democratic society.

Rights of data subject

Rights of data subject / C-OLS	Transparency and modalities	Access to personal data	Rectification and erasure	Right to object	Restrictions
Blackboard	Partial	Complete	Complete	Complete	Complete
Canvas	Partial	Complete	Complete	Partial	Partial
Duolingo	Complete	Complete	Complete	Complete	Complete
Edmodo	Partial	Complete	Not designated	Not designated	Complete
EdX	Complete	Complete	Complete	Complete	Not designated
FutureLearn	Complete	Complete	Complete	Complete	Complete
Khan Academy	Complete	Complete	Complete	Complete	Complete
Mechanical Turk	Partial	Not designated	Not designated	Not designated	Not designated
Moodle	Complete	Complete	Complete	Complete	Complete
SAP SuccessFactors	Complete	Complete	Complete	Complete	Complete

Article 85: Processing and freedom of expression and information

- Right to freedom of expression and information
- Special cases:
 1. Processing for journalistic purposes
 2. Additional purposes directly related to EnetCollect:
 - academic expression
 - artistic expression
 - literary expression

Marrakesh Treaty:

- Intended for people with visual impairments or other print disabilities
- Allows access to more books and other print material in formats that are accessible to them
- Digital content is NOT covered so far
- Effective from October 2018
- Related Regulation establishes a mandatory exception to copyright and related rights
- It permits the cross-border exchange of copies made under that exception between the EU and third countries that are a part of the Marrakesh Treaty

Intellectual property protection in education

- “The objective of the proposed directive is to modernize the EU rules applicable to key exceptions and limitations in the areas of teaching, research and preservation of cultural heritage, focusing in particular on digital and cross-border uses
- Mandatory exceptions:
 - Teaching activities
 - Text and data mining
 - Preservation of cultural heritage.”*

* <https://ec.europa.eu/digital-single-market/en/modernisation-eu-copyright-rules#Improved%20copyright%20rules%20on%20research,%20education%20and%20cultural%20heritage>

Intellectual property after Brexit

- February 2019: “Parts of UK intellectual property (IP) law will change when the UK leaves the EU.”*
- After 29 March 2019: “The UK’s continued membership of the main international treaties on copyright will ensure that the scope of protection for copyright works in the UK and for UK works abroad will remain largely unchanged.
- The EU cross-border copyright mechanisms extend only to member states of the EU or EEA. On exit, the UK will be treated by the EU and EEA as a third country and the reciprocal element of these mechanisms will cease to apply to the UK.
- The EU Directives and Regulations on copyright and related rights will be preserved in UK law as retained EU law under the powers in the EU Withdrawal Act 2018. The government will make adjustments under the powers of the Act to ensure the retained law can operate effectively.”*

* <https://www.gov.uk/guidance/intellectual-property-after-brexit>

Article 85, Marrakesh Treaty and Copyright

Regulations and directions / C-OLS	Freedom of speech	Marrakesh Treaty	EU copyright protection	Copyright after Brexit
Blackboard	Not specified	Fully committed	Copyright under Creative Commons	Only GDPR
Canvas	Not specified	Fully committed	Not specified	Not specified
Duolingo	Not specified	Not specified	Digital Millennium Copyright Act	Not specified
Edmodo	Not specified	Not specified	No warranties	Not specified
EdX	Not specified	Web Content Accessibility	Digital Millennium Copyright Act	Not specified
FutureLearn	Not specified	Not specified	Strict Copyright Infringement Policy	Not specified
Khan Academy	Not specified	Not specified	Digital Millennium Copyright Act	Not specified
Mechanical Turk	Not specified	Not specified	No warranties	Not specified
Moodle	Explicit within their blog	Fully committed	Copyright for plugins	Digital and cross-border uses
SAP SuccessFactors	Not specified	Not specified	Copyright protected user content	Not specified

Security regulations (NIS)

- “The NIS Directive is the first piece of EU-wide legislation on cybersecurity. It provides legal measures to boost the overall level of cybersecurity in the EU.”*
- “The ‘NIS toolkit’ provides practical information to Member States, e.g. by presenting best practices from the Member States and by providing explanation and interpretation of specific provisions of the Directive to clarify how it should work in practice.”*

* <https://ec.europa.eu/digital-single-market/en/network-and-information-security-nis-directive>

Data breaches in education

- 2005 – 2009: More than 2800 data breach incidents occurred, 549 of them in educational organizations
- 2010: More than 10 million data breached records in education due to the lack of monitoring systems that might prevent the malicious use of student data
- 2018: Larger universities, universities with more financial resources, and universities with weak privacy policies were more susceptible to data breaches
- 2019: DLA Piper study reports / 60000 data breaches in Europe after the introduction of GDPR, more than one sixth in UK
- At least 10000 belong to educational establishments

Compromised data in crowd-oriented learning systems

- Duolingo is blamed for “third-party advertising or tracking services”
- In May 2017, Edmodo suffered a severe data breach, which affected 77 million users
- Mechanical Turk’s together with Amazon harvested Facebook profiles and manipulated people
- January 2019: Moodle experienced an outage due to lack of reliability
- Abuse of users’ confidence occurred and might occur again in the popular crowdsourcing systems

Recommendations for EnetCollect's prospective crowdsourcing system

- Adjustment of self privacy policy to new EU regulations
 - Enabling partial anonymity to avoid potential bullying
 - Very careful exposure of personal data
 - Eliminated data sharing with third-parties
- Adjustment of the terms of use to cover:
 - Freedom of expression
 - Enabled access to people with visual impairments
 - Implementation of sound copyright policy
 - Adjustment to after Brexit regulations
- All these adjustments should be not only declarative

Thank you for your attention

